

JOINT REGIONAL PLANNING PANEL (SYDNEY EAST REGION)

JRPP No	2014SYE073
DA Number	DA14/0598
Local Government Area	Sutherland Shire
Proposed Development	Stage Two Residential Development comprising 178 Dwellings within Two (2) Residential Flat Buildings (Buildings G & H), Cafe, Construction of Part of the Central Boulevarde, and Associated Works
Street Address	Part Lot 20 DP 529644 - 471 Captain Cook Drive, Woollooware
Applicant/Owner	Bluestone Capital Ventures N1 Unit Trust
Number of Submissions	4
Regional Development Criteria (Schedule 4A of the Act)	3. General Development over \$20 million
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"> • 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 • Council's Section 94 Contribution Plans for Public Open Space & Community Facilities
List all documents submitted with this report for the panel's consideration	<ul style="list-style-type: none"> • Draft Conditions of Consent • Concept Plan Approval (MP10_0299) • Concept Approved Stamped Plans • Modified Concept Plan Approval (MP10_0299 MOD1) • Modified Concept Stamped Plans • Report from Architectural Review Advisory Panel

	<p>dated 24 June 2014-</p> <ul style="list-style-type: none"> • Office of Environment & Heritage response dated 16 July 2014 • Office of Environment & Heritage response dated 22 September 2014
Recommendation	Approval
Report by	Kylie Rourke, Environmental Assessment Officer - Planner Sutherland Shire Council

Assessment Report and Recommendation

1.0 EXECUTIVE SUMMARY

1.1 Reason for Report

This development application (DA) 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 \$59,189,235.00, which exceeds the \$20,000,000 threshold.

1.2 Proposal

The proposal relates to the second stage of the residential component of the approved Concept Plan for a mixed use development at the Cronulla-Sutherland Sharks site (MP10_0229). The development includes the construction of two residential towers (1 x 15 storey building and 1 x 9 storey building, both over above ground carparks), a cafe, construction of part of the Central Boulevard, and associated works.

1.3 The Site

The site is located off the northern side of Captain Cook Drive and forms the north western portion of the land within the approved 'Cronulla-Sutherland Sharks Concept Plan'. The overall site adjoins the Woolloomare Bay and its wetlands to the north.

1.4 The Issues

The main issues are:

- Consistency with the terms of the Concept Plan, specifically in relation to Office of Environment and Heritage requirements required by condition 22.
- Staging of drainage works.

1.5 Conclusion

Council has assessed the application and the proposed development is considered to be reasonable and worthy of support, subject to conditions of consent.

2.0 DESCRIPTION OF PROPOSAL

The DA seeks approval for:

- Site preparation works, including demolition of minor existing improvements;
- Construction and use of two Residential Flat Buildings (Buildings G and H) over a two storey podium;
- Provision of 178 dwellings comprising 52 x 1 bed, 105 x 2 bed and 21 x 3 bed apartments (see figure 2 below);
- Construction of the northern portion of the Central Boulevard, including 24 visitor parking spaces;
- Provision of 236 car parking spaces within the two storey podium;
- Provision of associated landscaping and public domain works;
- Extension/augmentation of services and infrastructure
- Provision of a commercial tenancy (a café) at the north-eastern corner of Building H. The proposal does not include the fitout or operational details of the cafe, such as hours of operation.

The foreshore landscaping, the eastern drainage channel works and the remaining residential stage (stage 3) will be subject to future development applications as illustrated below:

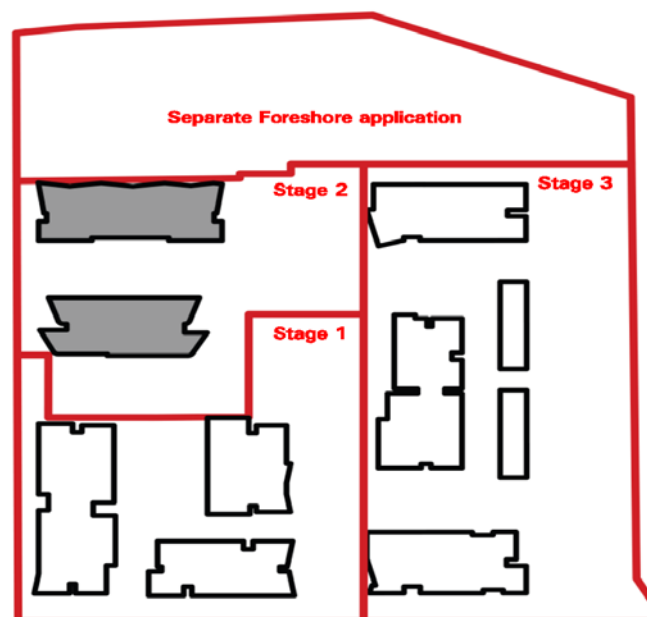


Figure 1- Indicative Staging Plan (source: Applicants SEE)



Figure 2: Computer generated image- western elevation of Building H (left) and Building G (right) (source: Applicants SEE).

3.0 SITE DESCRIPTION AND LOCALITY

The subject site (the site) is located at 471 Captain Cook Drive, Woollooware, and forms part of Lot 20 DP529644. The site has recently been subject to a land subdivision, leading to an alternative street address being allocated to the Lot than was shown for the previous Stage 1 application, referred to as No. 461 Captain Cook Drive.

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

The land is situated off the northern side of Captain Cook Drive, a four lane arterial road which provides the primary vehicular access to the site. There is no vehicular access from or via the car park associated with Council's sports fields (Solander Fields), which are located to the west of the site.

'Shark Park' (Remondis Stadium), the home ground of the Cronulla Sutherland Sharks National Rugby League team is located to the east beyond a tidal mangrove lined drainage channel. Directly to the south and on the opposite side of Captain Cook Drive is Woollooware Golf Course (public), and to the south-east of 'Shark Park' is Woollooware High School.



Figure 3: Site's local context.

The land subject to this application is located in the north western quadrant of the recently former western playing fields (Endeavour Fields, owned by the Sharks) and comprises about 20% of the residential component of the concept plan approval, referred to in MP10_0229 as the *residential master planned estate*.

The site is largely turfed, comprising the area of the western most playing field and surrounding open areas, covering a total area of 6,621m². No existing improvements are located on this portion of the overall site, apart from two light poles associated with the playing fields. A stand of trees and a soil berm is located along the western boundary, separating the site from the adjoining Solander playing fields (public).

The immediate context of the site is bound by the Stage 1 residential site to the south, the existing Solander Fields and associated access road and parking spaces to the west, Woollooware Bay to the north and the recently former Endeavour Field No.1 (private) to the east.



Figure 4: Cronulla Sharks Concept Plan and site for stage 2 of the residential works (Source: Applicant's SEE)

Directly adjoining the site to the north is the Woolooware Bay foreshore, which is heavily lined with Mangroves. Woolooware Bay 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.

Along the northern edge of the site is a 35m wide electricity easement, which contains high transmission 132kV overhead power lines. 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 was until recently serviced by Sutherland Shire Council's Recycled Water Scheme Infrastructure.

The site is a landmark site in the Sutherland Shire given its history, proximity to Woolooware Bay and association with the Cronulla-Sutherland Rugby League Club.

4.0 BACKGROUND

A history 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 (Appendix B & C). 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. On 14 July 2014 the Department of Planning and Environment (DP&E) approved a modification to the concept plan (MP10_0229MOD1)(Appendix D & E). Importantly to the subject application, the amendment included a modification to the building envelope for building G, and modifications to the future environmental assessment requirements.
- The JRPP determined the first stage of the residential component of the concept plan on 22 August 2013 (2013SYE033). This development comprised the demolition of the existing car park and two playing fields and construction of three residential buildings over a two storey podium containing car parking, commercial and communal facilities.
- The Retail Project Application (MP10_0230), for the club/commercial/retail precinct to the east of the stadium (Stage 1 of the Concept Plan) was approved on 20 August 2013 by the PAC. On 10 February 2014, approval for the modification of this application was granted by DP&E (MP10_0230MOD1). The modifications included amendments to the configuration of the retail and Club development and modifications to the stratum subdivision. At the time of writing, a second modification to the Concept Plan to amend the stratum subdivision plan is currently with the DP&E for assessment (MP10_0230MOD2).
- Approval has been granted, and works have substantially commenced, with regard to the Concept Approval requirement for the relocation of the two sports fields existing on the site (DA13/0926). The new fields have been located at Cronulla High School.
- Currently with Council are two s.96 modification applications to Stage 1 of the residential component. The modifications relate to the timing of drainage requirements, parking amendments and various changes to the residential apartments. The applications are yet to be determined.
- The subject application was submitted on 12 June 2014.
- The application was placed on exhibition and 4 submissions were received. Those submissions were considered by Council's Submissions Review Panel on 23 July 2014.
- A public Information Session was held on 8 July 2014, two people attended.
- Council officers met with the Applicant and their consultants on various occasions to discuss the proposal, specifically the parking, stormwater and access arrangements.
- Amended plans were lodged on 26 August, and 6, 10 and 13 November 2014.

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 assessment and determination 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).

Over 800 owners of properties within the broader catchment of North Woollooware and North Caringbah were notified of the application. The application was also advertised in the local press (the *Leader*). A Public Information Session was held on 8 July 2014 and 2 persons attended.

A total of 4 written submissions were received. The submissions raise various issues, including the timing of the development, traffic, environmental implications, parking, out of character and loss of recreation space.

Key issues raised are listed below:

Author's Address	Date of Letter	Issues
corner Captain Cook Drive & Gannons Road Caringbah	10 July 2014	Road safety- Gannons Road/Captain Cook Drive roundabout during construction.
Taren Point	12 July 2014	Size of development, traffic, parking, proximity to public transport, loss of recreation space, increase in crime.
Cronulla	20 July 2014	Timing of construction of retail element, replacement playing fields, parking, shuttle bus, traffic.
30 Castlewood Ave Woollooware	22 July 2014	Construction of retail element, traffic, environmental requirements.

The issues raised in these submissions are discussed below:

6.1 Road Safety

The impact on the Gannons Road/Captain Cook Drive roundabout was raised as an item of concern by an objector. Council acknowledges that it is important that the construction phase of the project is undertaken in a safe

and considered manner to avoid impacts on the local road network. A condition of consent is recommended to require that a Construction Traffic Management Plan be prepared and adopted.

6.2 Size of Development

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 each building. As discussed in further detail in the “Assessment” section of this report, the proposal is generally consistent with the concept plan building envelopes.

6.3 Parking, Traffic & Proximity to Public Transport

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, and that the site is not adequately serviced by public transport.

The approval of the use under the concept design and the conditions of that approval that relate to parking and traffic have, in essence, established the degree of parking and traffic impact that will result from the overall development. The parking volume has been provided as per the concept plan requirements and a game day management plan has been submitted to Council. Parking and traffic matters as they relate to the subject application are discussed in further detail below in the “Assessment” section of this report.

6.4 Loss of Recreation Space & timing of field replacement

Objection was raised regarding the loss of public recreation land as a result of the development and the timing of the replacement fields. The Concept Plan essentially has approved the use of the land for the purpose of the subject development. To address the loss of the (privately owned) playing fields, the DP& E applied a condition of consent to the Concept Plan which prevents the construction of the residential component until such time as replacement sports fields have been constructed at an alternative site.

The applicant has addressed this requirement, with an agreement in place with the Department of Education to construct the fields at Cronulla High School. Those fields and ancillary works are currently under construction.

6.5 Property Value

The closest residential property is 380m from the site. Nonetheless, the change in land use and the building envelopes were approved under the Concept Plan. Approval of the detailed design sought by the Stage 2 application is unlikely to result in a tangible impact on land value.

6.6 Crime

One submission raised concern that the proposal would increase crime. There is no correlation between changing the use of land to a residential use and increasing crime. The development incorporates safety and crime mitigation design solutions and measures to minimise crime within and around the

development are also reinforced through the recommended conditions of consent.

6.7 Timing of Construction of the Retail Development

Submissions received indicated that the timing of the construction of the retail element was an item of concern. The basis provided was that the retail portion was indicated as “stage 1” of the concept plan and that this part of the concept plan was required for the development to constitute a “town centre”. The initial approval on the site was the retail/club development, with project approval granted by the PAC on 20 August 2013. Other than a recent ‘turning of the soil’ no work has commenced over the entire Concept Plan site, including the residential component.

6.8 Environmental Requirements

The public submissions raise concerns with the potential environmental impact of the proposal upon Woollooware Bay, and the Office of Environment and Heritage (OEH) requirements. These matters are considered in further detail in Section 9 (“Specialist Comments and External Referrals”) and Section 10 (“Assessment”) of this report.

6.9 Shuttle Bus

The ongoing operation of the shuttle bus was raised as an item of concern by residents. The provision of an effective and reliable shuttle bus is a key component of ensuring all stages of the development, including stage 2, are 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.

Evidence was provided as part of Stage 1, and also the subject application demonstrating that an agreement has been reached with the Leagues Club, confirming the provision of a bus to this effect.

7.0 STATUTORY CONSIDERATIONS

Sutherland Shire Local Environmental Plan 2006 (LEP 2006) applies to the site. Under LEP 2006, the stage 2 footprint is contained entirely within Zone 15 - *Private Recreation* land.

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

Notwithstanding this, 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 (EPIs), Draft EPI, Development Control Plan (DCP), 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
- Council’s Section 94 Contribution Plans for Public Open Space & Community Facilities

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.

The consistency of the development with the approved Concept Plan is 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 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. The Assessment 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 for the Stage 2 works on the basis of this information which states that the site will be suitable for the proposed use providing the recommendations of the RAP are implemented. The RAP suggests that an on-site capping and containment solution is the most appropriate strategy for the remediation of the site.

A condition of consent has been recommended to ensure the implementation of the RAP and the supporting Acid Sulfate Management Plan, Gas Management Plan and Asbestos Management Plans throughout construction and that a copy of the Site Audit Statement be forwarded to Council prior to the issue of the Construction Certificate. With the implementation of this condition, Council is satisfied that the proposal would be acceptable with regard to the provisions of SEPP 55.

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) seek to improve the design quality of residential flat development through the application of a series of 10 design principles. An assessment against these principles is provided below.

Design Quality Principles	Assessment
Principle 1: Context	The proposal involves two separate multi storey residential flat buildings including a two storey podium level comprising parking, a cafe and 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 and Stage 1 approval.
Principle 2: Scale	The proposal involves 1 x 9 and 1 x 15 storey building. 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 gross floor area (GFA) parameters approved under the concept plan and are therefore consistent with the desired 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 future character envisaged for 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 the maximum height and GFA. 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 in mind, the proposed density is deemed acceptable.
Principle 5: Resource, Energy & Water Efficiency	<p>The proposed development satisfies the minimum BASIX requirements in addition to the following sustainability measures:</p> <ul style="list-style-type: none"> • The project has integrated Photovoltaic Panels on the roof of building H. • All apartments are supplied with a smart energy meter. • Timber used on the project will be from a recycled source or FSC certified timber. • Drainage swale. <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 'Central Road' frontage. In addition, a pocket park, and two communal landscaped areas are provided. As discussed below Council's Landscape Officer recommends a higher proportion of indigenous plantings and the rationalisation of

	the central courtyard paths to improve amenity for residents. A condition of consent is considered capable of addressing these items. With the adoption such a condition, the landscape design would provide a practical and usable space with social opportunities and a high degree of amenity for future residents.
Principle 7: Amenity	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.
Principle 8: Safety and Security	The applicant has considered Crime Prevention Through Environmental Design (CPTED) principles in the design of the project, and a CPTED report has been prepared. The development provides increased activation and passive surveillance of the future foreshore park and common spaces across the site. Residential entry and lobby areas are to be secured and well lit. A path along the western boundary connects the development to Captain Cook Drive and will facilitate activity and direct access to the western ground floor units, contributing to safety and security around the site.
Principle 9: Social Dimensions & Housing Affordability	The proposal provides a mix of apartment types, which would encourage diversity in the future occupation of the development in terms of social mix. Affordable housing is not proposed as part of this development however, the mix of apartment types and the inclusion of adaptable apartments have merit. The development includes facilities to encourage social interaction including the construction of two common areas and a pocket park.
Principle 10: Aesthetics	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.

8.6 Residential Flat Design Code (RFDC) – Detailed Guidelines

The Residential Flat Design Code (RFDC) is akin to a DCP and 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'.

In general, a maximum building depth of 10-18m is recommended under the RFDC. Building G proposes a depth of 18.6-20.4m and Building H proposes a depth of 15-21.7m. Each building provides a stepped façade with large recesses. Each building also meets the minimum solar access and ventilation recommendations. Despite the minor inconsistency with the depths suggested in the RFDC, the proposal will provide a high level of residential amenity, consistent with the objective of the building depth recommendation.

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.

The development meets the minimum building separation requirements between the two Stage 2 buildings, providing a separation between building G (15 storeys including podium) and Building H (9 storeys including podium) of 21.8m- 26.4m.

The development also meets the minimum separation between the Stage 2 and the approved Stage 1 buildings, providing a separation between Building G and Building F2 (9 storeys including podium) in the adjacent Stage 1 building of approximately 25.77m. The separation between building G and Building E1 (15 storeys including podium) in the adjacent Stage 1 building is 25.75m.

The buildings have been designed to account for the angle of separation between apartments and placement of solid walls and window arrangements to avoid visual access between opposing apartments.

The subject DA is also generally consistent with the Concept Plan building envelopes, which positions buildings G & H with a minimum 22m separation.

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 Ecologically Sustainable Design Report has been prepared by ARUP, and indicates that each of the two residential buildings satisfy the minimum sustainability benchmarks 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 GMREP2.

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	The proposal is consistent with objective (c), providing a bulk and scale that supports the introduction of a new centre and that is consistent with the future surrounding urban form established by the Concept Plan.	Yes
19	Biodiversity - Wetlands	Discussed in the “Assessment” section of this report.	Yes
20	Flood Planning- Flood risk to life, property and the environment to be minimised.	Council is satisfied that the recommended conditions of consent would enable the flood risk to life and property associated with the use of land to be minimised.	Yes
22 & 23	Environmental risk- Contaminated Land	Council is satisfied that, with the imposition of a	Yes

	Management & Acid Sulfate Soil	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.	
33	Building Height	These requirements have been set in the concept plan approval.	N/A
35	Building Density		
36	Landscaped Area		
48 & 49	Urban design-general & residential buildings	Proposal demonstrates a high quality design, with private open spaces of sufficient area and dimensions. See discussion under SEPP 65 assessment.	Yes
53	Transport Accessibility, traffic impacts and car parking	Council is satisfied that, with the imposition of recommended conditions, the provisions of Clause 53 is satisfied.	Yes

8.10 Draft Sutherland Shire Local Environmental Plan 2013

DSSLEP 2013 was placed on exhibition on 19 March 2013 and re-exhibited to 1 November 2013. On 10 November Council adopted a final version of Draft SSLEP2013 (DLEP3). The draft plan has since been forwarded to the DP&E for final review. At this stage DLEP3 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	Balconies, communal and private open space. Min. 100m ² communal open space provided. Min 12m ² private open space to be provided/unit.	The landscaped podium complies with the minimum size communal area requirements. Each unit has been provided with POS consistent with the min. dimensions and RFDC requirements.	Yes
7	Waste storage area to be provided in convenient location.	A garbage holding area has been provided in lower ground floor level.	Yes
10	6m ³ space set aside exclusively for storage	All units are provided with a utility room or media area which may be used for storage.	Yes
11	Clear, direct and safe pedestrian access must be provided from the street and onsite parking to any public entrance to a building.	Direct entrances into units, and shared lobbies are readily identifiable.	Yes
12	Landscape must include 8m canopy trees. Water efficient irrigation system to be installed.	A condition of consent has been recommended to require additional native plantings and irrigation.	Yes
13	Locate and orientate dwellings to maximise privacy between buildings	Privacy has been maximised by providing screening,	Yes

	and private open space.	and offsetting windows, while working within the parameters of the concept plan.	
16	Continuous barrier free access incorporated into design.	An Accessibility Report has been provided which indicates the development provides access in accordance with the BCA and DDA.	Yes
17	30% of dwellings to be designed as adaptable housing (53 dwellings)	36 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.	Yes
18.b.5	Swimming pools- safety barrier and signage.	Proposal is capable of compliance.	Yes
Chapter 7: Vehicular Access, Traffic, Parking and Bicycles			
1.b.5	Developments with 10 or more dwellings require one designated carwash Bay. Additional carwash bays are required in development in excess of 30 dwellings at a rate of 1 per 20 dwellings.	1 space provided.	No - see discussion in "Assessment" section.
5.b.2	Bicycle parking shall be provided at the rate of 1 per 5 dwelling units plus 1 visitor space per 10 units- a total of 53 spaces required.	21 spaces provided.	No – Readily addressed by condition.

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. Sydney Water

Sydney Water has reviewed the proposal and provided details regarding the water and wastewater system requirements to accommodate the additional density proposed by the development. A condition of consent has been recommended to ensure these requirements are addressed as part of the detailed infrastructure design phase.

9.2. Roads and Maritime Services

Roads and Maritime Services (RMS) has provided comment to Council regarding the impact of the development on existing road infrastructure, car parking and road design requirements. The RMS response requested that design detail for the traffic signals at the intersection of the internal road with Captain Cook Drive, the hydraulic calculations of any changes to the stormwater drainage system, and the details of excavation works be forwarded to RMS for assessment.

The submission of a Construction Traffic Management Plan and the design of the parking areas in accordance with AS2890.1-2004 and DA2890.2-2002 was also recommended.

Conditions of consent have been recommended to address the above, with the exception of the submission of the intersection design detail. The access arrangements for the site including the intersection works were approved as part of the retail Project Application approved by DP&E, for which the RMS was consulted. In the opinion of Council, the design and review process for the traffic signals been appropriately addressed as part of this approval.

The RMS also recommended consideration of noise impacts under Clause 102 (3) of the Infrastructure SEPP. The RMS traffic volume map indicates that the section of Captain Cook Drive adjacent where the development is located has an Annual Average Daily Traffic volume of less than 20,000 vehicles. The development therefore does not trigger the need to consider noise mitigation measures under the Infrastructure SEPP. Notwithstanding, in their submission, the applicant has addressed noise impacts in the submitted Acoustic Report (Acoustic Logic, April 2014), which concludes that with the recommended noise attenuation measures, internal noise levels will comply with the relevant Australian Standards.

9.3. 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, the Police recommend a condition of consent to address the above through requiring appropriate lighting, CCTV, and security access be installed to the development.

9.4. Ausgrid

Council requested comment from Ausgrid regarding conditions 26-28 of the concept plan approval as these relate to minimising electro-magnetic field (EMF) from the overhead powerlines to the northernmost buildings. Ausgrid has provided Council with confirmation that design work regarding the re-phasing of the powerlines in order to reduce the EMF, is currently underway. This matter is discussed in further detail in the “Assessment” Section of this report.

9.5. Architectural Review Advisory Panel (ARAP)

Council engages an independent panel for the review of large projects. The ARAP considered this application on 24 June 2014. A copy of the ARAP report is attached in Appendix F of this report.

In general terms, ARAP acknowledged the merits of the development, recognising that the buildings are suitable for their context, providing a well handled built form which appears to comply with the concept plan density and building envelope requirements. ARAP was also supportive of the applicant's commitment to liaising with Council to ensure the design of the public domain elements would permit public access to avoid the feel of a private enclave. ARAP commented that the apartments are generally well designed with the inclusion of two storey units on the western edge effectively activating the (Solander Fields) frontage and screening the two storey carpark.

The Panel provided the following comments to assist in the further refinement of the proposal:

- “Building G is imposing upon the communal pool area to the south, exacerbated by the detailed façade treatment which feels “vertical, solid and heavy”.
- There is an opportunity to “go the extra mile” with environmental initiatives beyond those required by compliance with planning controls and guidelines.
- Further detail should be provided regarding the landscape concept.
- A more legible address should be provided for all apartments entered directly off the streets.
- Further thought should be given to resolution of the northern face of building H to achieve a better sense of autonomy and privacy within each balcony, as well as the desired external architectural effect.
- The two apartments on the podium with private open space adjoining the central boulevard are not satisfactorily integrated with the public open space.”

The lack of architectural diversity amongst the residential buildings and over-

reliance on painted finishes was also raised by the Panel.

In response to the ARAP comments, the applicant provided revised architectural plans and amendments, which include the following:

- Sliding doors replaced with hinged entry doors at the entry from the external terraces into the street level apartments along the eastern and western elevations to provide a more legible entry.
- Units G12.04, G11.05, G10.05 provided with louvers to the west facing windows to provide additional privacy.
- Height of the glazed dividing screens between balconies on the north elevation of Building H extended to meet the underside of the soffit overhead.
- South facing windows to unit H1.01 reconfigured to sliding door suites.
- Increased size of the cafe tenancy.

During the design review process some of the issues raised by ARAP have been addressed, however, the applicant chose not to develop the design to respond to many of the other architectural recommendations made by the Panel. Amongst other things, building G remains an imposing structure as viewed from the communal area and the façade of the building when viewed from the foreshore park remains largely unchanged.

In the context of the SEPP65 considerations, discussed in further detail in part 8 of this report, the proposal has been developed in a competent manner within the constraints set out by the Concept Plan. Although some recommendations of the ARAP were not adopted, it is Council's opinion that overall, the architectural design of the proposal is of a high standard.

9.6. Office of Environment and Heritage

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

In the Concept Plan report, the PAC noted the special environmental significance of the site's surrounds and sought to address 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.*

OEH also raised a number concerns with regard to the Stage 1 proposal. These matters remained unresolved at the time of the JRPP determination meeting, leading Council to recommend deferral of that application. The JRPP subsequently approved that application, subject to conditions of consent.

With regard to the Stage 2 works, the OEH forwarded two letters of correspondence to Council (Appendix G & H). The original letter, dated 16 July 2014, indicates that the OEH still has concerns regarding the adequacy of environmental assessments provided as part of the application.

At Council's briefing to the JRPP, the Panel referred to Condition 22 of the Concept Plan. The Panel advised Council that in view of the wording of that condition, OEH should be asked for a clearer statement as to whether the current proposal complied with its requirements or not, and if any conditions, and/or evidence were required to ensure compliance with OEH's requirements, and that the OEH be asked to advise what those requirements were.

The OEH was requested to provide this statement, and in response, an additional letter dated 21 August 2014, was forwarded to Council by the OEH. In their letter, the OEH advised that the PAC imposed condition 22 on the Concept Plan without the consent of, or consultation with, the OEH, and that the OEH did not have an assessment or approval role in this project. In their response, it was reiterated that the PAC approval did not address all of the OEH's issues and that OEH remained concerned that additional ecological surveys were required to better assess impacts of the development on national and internationally listed migratory and endangered shorebirds.

The OEH indicated that they remain concerned that the requirements of the Threatened Species Assessment Guidelines had not been met and that the foreshore setback and vegetated riparian buffer were insufficient.

The JRPP Chair was forwarded this response. The Chair advised that under such circumstances, the assessment would need to be carried out by Councils staff, or external experts if necessary. Council has a specialist Environmental Science Unit, and therefore it was determined that the assessment would be undertaken by Council staff.

The applicant also sought comment from DP&E on the intended interpretation of condition 22 (referred to below as FAR22). The following comment was provided:

FAR 22 was included as a result of issues raised by OEH during the consideration of the Concept Plan which are to be addressed in subsequent Development Applications to construct the development. It is not the intent of the FAR to require OEH to signoff the details of FAR 22 and / or confirm whether the information submitted in the subsequent application addresses the FAR. Rather it is for the consent authority to be satisfied that the requirements of the various FARs have been met and that the proposal is consistent with the Concept Approval.

This would appear consistent with the Joint Regional Planning Panels minutes of 22 August 2013 to DA13/0270.

Council reviewed the concept plan requirements and the documents submitted as part of the application in the context of the OEH and DP&E correspondence. Council has determined that the information submitted as part of the development application is satisfactory in addressing condition 22 within the limitations of the Concept Plan Approval.

Further discussion on the specific requirements contained in condition 22 is provided in the 'Assessment' section of this report.

9.7. Engineering

Council's Engineers have undertaken an assessment of the application. Concern was raised with regard to the timing of the drainage and flood mitigation works given the flood and drainage documentation submitted to Council is not specific to the Stage 2 development, but rather the entire Concept Plan site.

Conditions of consent have been recommended, which would ensure that Council has certainty regard to the implementation of flood mitigation works contained in the submitted flood study. Conditions have also been recommended for relatively minor amendments regarding improvements to vehicle manoeuvrability.

Further discussion regarding drainage and flood mitigation works is contained in the "Assessment" section of this report.

9.8. 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, access provided as per the recommendations of the Accessibility Report, and protection against vandalism. Conditions of consent have been recommended to ensure measures are implemented to address these matters.

9.9. Environmental Science

No objection to the development was raised by Council's Environmental Scientist subject to the imposition of conditions of consent to ensure the mitigation measures identified in the submitted Environmental Management Plans. A condition of consent has been recommended which requires the recommendations of these reports be adhered to. Further discussion of Council's review of the environmental assessments required by condition 22 of the Concept Plan is provided in the 'Assessment' section of this report.

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 to provide consistency with Council's Greenweb strategy for Greenweb 'support' areas. The amendments include:

- Rationalisation of the main path in the central courtyard.
- The provision of additional canopy trees.
- The provision of a water efficient irrigation system.
- Selection of a higher proportion of local tree species.

A condition of consent requiring the modifications be adopted into the detailed landscape plan is capable of addressing the above.

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, the following matters are considered important to this application.

10.1 Consistency With Concept Plan

The approved Concept Plan includes gross floor area (GFA), gross building area (GBA), building envelopes, maximum height (parapet), maximum height (top of plant), and minimum setbacks for Building G and H. As discussed above, a variation to the maximum height limit and building envelopes was approved by the DP&E in July.

Floor Space

The proposal's compliance with the GBA and GFA requirements contained in the concept plan is provided below:

	Max Permitted under Concept Plan	Provided by Stage 1	Provided by stage 2	Total Remaining (%)
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Gross Building Area - residential precinct	104,419m ²	36,897m ²	27,419m ²	40,103m ² (38%)
Gross Floor Area - residential precinct	58,420m ²	20,173m ²	17,759m ²	20,488m ² (35%)

The proposed buildings are within the residential precinct density controls contained within the concept approval. On completion of the Stage 1 and 2 works, 35% of the overall maximum GFA permitted by the concept plan will be remaining for use for the Stage 3 component.

Building Envelope & Height

Building G and H are within the maximum top of plant height limits established under the concept plan (as modified). Condition A8, imposed as part of the 75W modification, permits “*minor*” variations to the maximum parapet height to facilitate the provision of private/communal open space on rooftop areas or the provision of apartments.

Building H proposes variations to the maximum parapet height, and the applicant seeks to enact the exemptions within condition A8 to permit these variations. The variations comprise stairwell canopies and balustrades beyond the maximum parapet height to facilitate access from four apartments on level 7 below to their private rooftop terraces - see figures 5 & 6 below.



Figure 5: Building H- parapet variations- North Elevation.

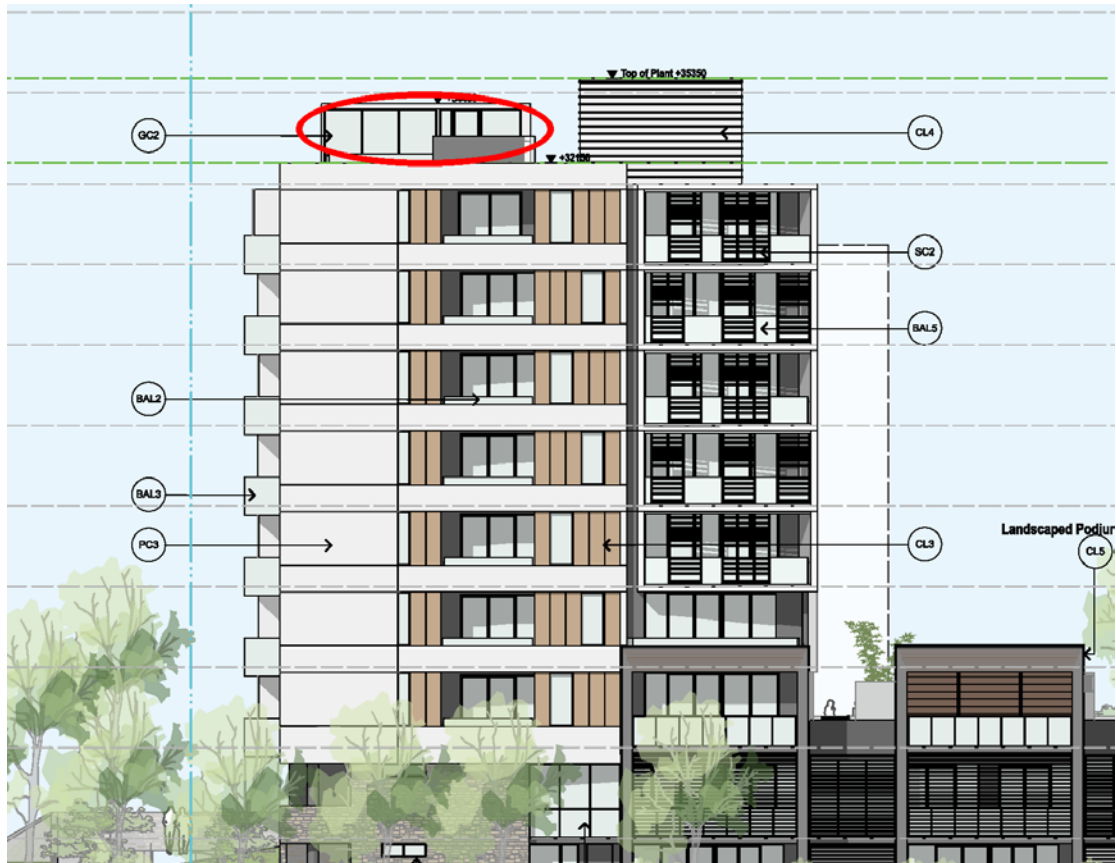


Figure 6: Building H- parapet variation- west elevation.

Condition A8 specifies that when considering if a variation is “*minor*”, the consent authority is to be satisfied that:

- *No portion of the building exceeds the maximum plant height;*
- *The protrusion is well integrated into the design of the building;*
- *Where possible the protrusion is to screen plant material; and*
- *The variation does not result in any adverse environmental impacts; such as significant overshadowing or an adverse visual impact.*

No portion of Building H exceeds the maximum plant height. The stairwell canopies are predominantly glazed, enabling them to integrate into the design of the building without dominating the façade. The position of the canopies will screen the plant room when viewed from the north. Given the location and scale of the protrusions, there will be no additional overshadowing impacts. In the context of the overall building the additional 25m² in area proposed for each canopy is considered minor, and is not considered to result in adverse environmental impacts. The variations are deemed acceptable.

Building floor plate variations

Minor protrusions are proposed within the approved envelope floor plates for both buildings. An example of these variations is illustrated at figure 7 below:



Figure 7: Floor Plate variations to Concept Plan envelopes.

Although both buildings are largely compliant with the building envelopes established under the Concept Plan, as a result of the development of the building designs small portions of the buildings extend beyond the envelope boundaries. Both buildings will be substantially lower in density than that which could be achieved under the Concept Plan if the building envelope was to be literally interpreted.

The protrusions to the envelope are minor, and provide the benefit of increased amenity through improved cross ventilation and solar access and a visually interesting building. The proposal is generally consistent with the building envelopes approved under the Concept Plan and the overriding intent of the control. The minor protrusions to the building envelope are therefore considered acceptable.

10.2 Riparian Setback

The Concept Plan requires a setback of 57m from the boundary of Stage 2 to the Mean High Water Mark (MHW). The Concept Plan also calls for a vegetated riparian buffer corridor of a minimum of 40m in width, applicable to

all works subject to the Concept Plan. A setback of 57m has been provided to the MHW, consistent with the Concept Plan. The subject application enables a 40m vegetated riparian buffer to be honoured, however as discussed above, details regarding the treatment of the foreshore will be subject to a future Development Application.

10.3 Natural Environment Impacts & Condition 22

As discussed in detail above, eight environmental assessment requirements are included within the Concept Plan approval (condition 22). Condition 22 requires additional details to be provided to ensure that the development does not negatively impact upon the flora and fauna of Woollooware Bay. As discussed previously in this report, comments received from the OEH raise issues with the level detail provided by the applicant's environmental reports.

Council acknowledges the importance of the environmental impacts as a result of the development, but also accepts that the DP&E approval of the building envelopes under the Concept Plan has already established a degree of impact that cannot be meaningfully addressed at the detailed design phase.

Notwithstanding this, Council's Environmental Science Unit has responded to each of the items listed in condition 22, in the context of the parameters set by the Concept Plan approved envelopes and the OEH commentary. A detailed response to each matter is provided below.

10.3.1 Stormwater Quality

The response from the OEH contends that the Stormwater Management Plan is not a 'standalone' document and that the Residential Civil Infrastructure Report does not detail how improvements in water quality will be achieved.

The applicant has addressed stormwater quality in a number of documents including the Construction Management Plan (Parkview Constructions, 16 April 2014) (CMP) and Residential Civil Infrastructure Report (AT&L, March 2013). Although a 'standalone' Stormwater Management Plan was not submitted, the CMP includes specific details relating to stormwater quality during the construction phase of the development. These include the containment of all site waters on site during construction and landscaping, and their release only when suspended solids are less than 50mg/L in order to avoid pollutants entering the Council's stormwater drainage system.

A condition of consent is capable of ensuring the mitigation measures detailed in these reports to ensure stormwater runoff will be appropriately collected and treated. The design of the stormwater system is discussed in further detail below.

10.3.2 Mangrove Removal

The OEH comment to Council raised concern that the Microbat Monitoring Report fails to comment on the removal of the mangroves in the drainage channel. The removal of mangroves and the resultant impact of the removal on fauna is an important consideration, however mangrove removal is not proposed as part of the Stage 2 works.

The intended treatment of the drainage channel does require further assessment in order for Council appropriately assess the impacts, and this assessment will be considered in detail as part of the relevant future Development Application for works to the Foreshore and Drainage Channel.

10.3.3 Noise

The OEH again raised concern that the Noise Management Plan (NMP) is not a 'standalone' document and that it is the same report that was submitted to the department as part of the retail application. Clarity on which of the Noise, Light and Bird Strike Potential (NLBSP) Report (Ecological, August 2014) recommendations are being adopted was also raised.

In Council's opinion, the format of the noise assessment is less relevant than ensuring the pertinent matters have been properly addressed to mitigate noise impacts on fauna.

The NLBSP report includes recommendations that will reduce the impact of the construction and future development on the fauna using the adjacent habitat. The report suggests that the greatest risk of noise impacts on fauna species would be during the construction phase and that construction hours should be restricted to daylight hours so that peak fauna foraging periods are avoided. Avoiding activities within 50m of habitat areas during October to January was also recommended. The OEH has indicated that this recommendation is supported.

Given the Stage 2 development is in close proximity to the mangroves and Woollooware Bay these restricted construction hours are considered relevant, and a condition of consent has been recommended to ensure this mitigation measure is adhered to.

10.3.4 Lighting

The Concept Plan calls for a Lighting Management Plan to demonstrate that the impacts of light spill on threatened fauna is minimised. The applicant has addressed light spill in the NLBSP report. OEH's criticism was that this report was not 'standalone', that it was identical to the version which accompanied Stage 1 and that how the mitigation measures would be implemented was unclear.

As per the noise assessment, light impacts have been assessed as part of the NLBSP report. The report provides that bats can be affected by artificial lighting and provides recommendations for measures to minimise adverse ecological impacts, including the installation of UV filters and hoods to lighting. Given the proximity of the development to the mangrove communities, compliance with these measures will be an important part of the design and ongoing use of the site.

With the implementation of a condition of consent to ensure these measures are adhered to, Council is satisfied that light spill impacts have been addressed as far as practical within the context of the concept plan approval.

10.3.5 Bird Strike

The Concept Plan calls for a Bird Management Plan to investigate the potential for bird strike from reflective surfaces and provide details of measures to minimise the likelihood of bird strike. Similarly to lighting and noise, bird strike has been addressed in the NLBSP report. OEH's criticism was again that this report was not 'standalone', that it was identical to the version which accompanied Stage 1 and that the manner in which the mitigation measures would be implemented was unclear.

The NLSBP report identifies measures to minimise bird strike, including glass treatments and the use of window furnishings. The Concept Plan has approved the envelopes for two residential towers up to 50m in height, within close proximity to known migratory bird roosting habitats. With this Approval, comes an increased risk of bird strike, which will, at this stage of the design process, will be unavoidable. The NLBSP report has identified measures which will minimise these impacts as far as practical with this caveat.

The implementation of the minimisation measures will assist in reducing this impact, and a condition of consent has been imposed to ensure the recommendations of the NLBSP are adhered to. Council considers that under these circumstances, the applicant has addressed bird strike as far as required under the Concept Plan.

10.3.6 Flood Impacts on Towra Point

The Flood Impact Assessment concludes that no increased flooding impacts to Towra Point Nature Reserve are expected as a result of the proposed development. A condition of consent has been recommended to ensure the mitigation measures detailed in the Flood Report are adhered to. With the imposition of this condition, Council is satisfied that the proposal will not result in unreasonable flood impacts on Towra Point Nature Reserve.

10.3.7 Leachate & Acid Sulfate Management

Council's interpretation of condition 22(f) of the Concept Plan is that it requires the address of acid leachates as a result of the presence of Acid Sulfate Soils on the site. Testing undertaken as part of the Acid Sulfate Soils Management Plan (ASSMP) concluded that the site conditions were not indicative of leachate generation. Council is satisfied that mitigation measures contained in the ASSMP and RAP are adequate to ensure acid leachates have been addressed in accordance with the intention of the Concept Plan requirements.

10.3.8 Aboriginal Heritage

An Aboriginal Assessment (Godden Mackay Logan, February 2013) has been submitted to Council. The report concludes that historically, the entire study area would have been covered by mangrove swamps, was located in the inter-tidal area and that the potential for the area to possess intact Aboriginal Archaeological deposits was low to nil. The comment provided by the OEH on this report, was that the investigation was adequate.

Conclusion to Condition 22

The applicant has adequately addressed the environmental assessments required by condition 22, within the constraints of the approved Concept Plan approval.

10.4 Flooding and Stormwater Management

The Applicant has provided flood and drainage documentation, including a Flood Assessment Report (WMA Water, March 2013) for the consideration of Council. Pre- and post-development modelling has been undertaken and Council is generally satisfied with the reports submitted, however, similar to the Stage 1 development, the documents submitted are not specific to the Stage 2 works. It is therefore unclear how the flood mitigation measures will be implemented given the studies and assessments have been undertaken on the assumption that the entire development will be constructed in a single stage.

Council addressed this previously with the Stage 1 application by imposing a condition of consent (condition 5) which requires a detailed flood design to be prepared, consistent with the recommendations of the flood study provided to Council for approval, and prior to the commencement of any works on the site.

The applicant has recently submitted a Section 96 modification (MA14/0253) to condition 5 of the stage 1 consent, which has yet to be determined. Essentially, the modification seeks more flexibility be built into this condition to enable the detailed flood design be based on the submitted flood study recommendations, in addition to, any subsequent flood studies that may be prepared in the future. These studies are proposed to be returned to Council for review and approval.

The justification provided by the applicant was that due to the staged nature of the project that design changes are ongoing, and flexibility in this condition would remove these ongoing modifications in the DA process. The modification also requests that the details be provided to Council prior to above ground site works, to allow preliminary construction works to commence.

Negotiations regarding the specific wording of condition 5 of the stage 1 consent, is still ongoing, and at the time of writing, an agreement between both parties had not been reached. Essentially, Council's engineers (Shire Infrastructure Division) are hesitant to approve the condition as requested as it would remove the flood considerations from the DA process and enable works to commence without the flood design being finalised. The concern is that outside of the DA process, Council would not have the authority to impose additional conditions or to consider the impact of such measures on the environment or other aspects of the development.

The condition recommended to address this matter on the stage 2 application, reflects the most recent wording accepted by Councils Engineers.

Although it does not accept the degree of flexibility that the Applicant would seek, Council is satisfied that the recommend draft condition provides certainty regarding the environmental impact of the development with regard to flooding.

10.5 Groundwater

The concept approval requires future applications to demonstrate that the development does not impact upon the health of the groundwater dependent ecosystems. The proponent has addressed groundwater contamination in their contamination assessment, which indicates that no significant groundwater contamination was encountered.

Groundwater volume can also affect the freshwater/saltwater interface and impact on non-estuarine wetland and salt marsh communities. However, the concept plan approval, as modified, has approved the footprint of the buildings above a two storey podium. The contamination reports submitted with the concept and Stage 2 development also acknowledge that capping would be used to manage the onsite contaminants.

This method of site remediation will prevent the infiltration of stormwater/rainwater at the site. Infiltration would normally recharge the groundwater. With the impermeable coverage of the site already set, the capacity of the detailed design stages that follow the concept plan are therefore limited in their capacity to address groundwater volumes through recharging the groundwater, by using treated stormwater for example.

Notwithstanding the above, it is Councils opinion that no significant groundwater dependent ecosystems are located in the near vicinity of the site, thus minimising any impacts caused by the reduced infiltration at the site. Groundwater is still present at the site and it is likely that recharge to groundwater will occur in adjacent areas, such as the foreshore landscaped area where capping is not being installed. Council is satisfied that the proposed development for Stage 2 will not result in a significant effect on groundwater dependant ecosystems.

10.6 Bioswale Construction and Tree Protection

The proposal intends to remove of the existing earth mound (berm) along the western side of the site and construct a new Bioswale and pedestrian footpath in its place.

These earthworks are proposed within the tree protection zones and structural root zones of a stand of twenty-two (22) primarily Swamp-Oak and Spotted Gum trees located on Councils property adjacent to the western boundary of the site. The bioswale works therefore have the potential to impact on the survival of these trees.

The submitted arborist report (Earthscape Horticultural services, May 2014) indicates that the degree of impact is dependent on whether the plant roots are located above ground, within the berm. The report provides various tree protection measures including the construction of the footpath using a

permeable material and measures to minimise root disruption during excavation.

It is acknowledged that the Bioswale has been aligned to minimise encroachment to the Tree Protection Zones (TPZ) and the path is intended to be installed above grade to minimise excavation within the TPZ's of nearby trees. With the adoption of the tree protection measures identified in the arborist report, the impacts of the construction of the berm and footpath can be minimised as far as practical. Council has recommended a condition of consent that these measures be adhered to.

10.7 Parking

The proposal includes 178 apartments and 63m² of commercial floor space (café). Parking is provided on site and within the verge of the new boulevard to accommodate a total of 237 vehicles, the majority of which are allocated as resident spaces. Access to the Stage 2 parking area is via the Stage 1 vehicular access point, located adjacent to the southern boundary of the Stage 2 development.

The breakdown of spaces is provided below:

Parking type	Required Under Concept Plan	Provided	Complies?
Residential	199	199	Yes
Commercial	2	2	Yes
Visitor	36	36	Yes
Total parking provision	237	237	Yes

21 bike parking spaces, including 5 wall mount spaces are provided within the upper ground level parking area.

Parking volume

Based on the rates provided in the concept plan, the proposal generates a total minimum requirement of 237 parking spaces. The proposal is fully compliant with this requirement.

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 Stage 1 and Stage 2 developments provide a total of 554 parking spaces, well below the maximum permitted and constitutes 63% of the overall parking provision, which is a reasonable allocation relative to the overall residential component of the concept plan.

Car Wash Bay

One shared car wash bay/visitor parking space is provided on the lower ground floor level. Although Council's DCP requires 8 car wash bays be provided for the development based on Council's DCP, 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 acceptable.

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 178 dwellings provided, 36 visitor spaces are required. The proposal provides 12 spaces within the upper ground level, and 24 spaces within the central boulevard.

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 53 bicycle parking spaces is generated by the development and 21 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. A condition of consent has therefore been recommended to require a minimum of 53 bicycle spaces be provided.

Disabled Parking

A total of 37 disabled parking spaces are provided, including a disabled visitor parking space within the central boulevard.

10.8 Adaptable Housing

Council's DCP requires 30% of all dwellings (53 units for Stage 2) 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 36 adaptable apartments/parking spaces are proposed, constituting 20% of the total units. 44 units are provided as part of the Stage 1 development, bringing the total volume of adaptable housing provided as part of Stage 1 and 2 to 80 units.

The applicant has justified the 17 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.

It is accepted that 36 units for a single residential flat building development is a substantial quantum of units. In this respect, Council accepts that the proposal is unique, in that the development is of a scale that generates the

requirement for a relatively 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 (AS4299-1995). With the addition of 36 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, in the context of the proposal, the provision of 36 adaptable units, in addition to the 44 units provided by Stage 1 and units to be provided as part of Stage 3, the development meets the overriding intent of the DCP requirement for to provide adaptable housing and the variation to the numerical control is acceptable.

10.9 Wind Effects

A wind report has been prepared in conjunction with the application (Windtech, April 2014). The results of the study indicate that the site is generally exposed to relatively strong north-north-easterly and westerly winds, largely due to the close proximity of the site to Woollooware Bay. 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 5-6m, along the northern and western frontages of the site. The trees are recommended to have a densely foliating canopy with a diameter in the range of 4-5m.
- Provide screening/ additional planting to the upper ground level footpaths, pocket park and level 1 communal area.
- Provide additional screening to some balconies and retain solid balustrades (as proposed) on the perimeter of all private balcony areas.

A condition of consent has been recommended to ensure the recommendations of the wind report are adopted.

10.10 Transmission Lines

Double Circuit 132 kV overhead transmission lines, owned and operated by Ausgrid traverse the northern portion of the Residential Masterplan site. For the subject application, the works to reduce EMF exposure are particularly relevant to building H, the closest building of the development to the powerlines.

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 (conditions 26-28). 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. As above, Ausgrid have confirmed that design work for the rephrasing of 916, which is electrically equivalent to re-phasing 917, is

currently underway, and the applicant has indicated that these works will be completed prior to the construction of the development.

A confirmation letter prepared by Magsheild Products(Aust) International, submitted with the application indicates that providing the recommendations outlined in the report dated 7 June 2012 are implemented, the power frequency electric and magnetic fields will be below than the maximum level of exposure recommended by the national and international standards and guidelines.

A condition of consent has been recommended to reinforce the implementation of the mitigation measures recommended in the Magshield report, including the re-phasing of the power lines, prior to the issue of any Occupation Certificate.

10.11 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, which 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 provide services to/from 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 minimum bus service level was enforced as a condition of approval for the Stage 1 development, to ensure an effective, reliable bus service that provides confidence for users, particularly commuters is provided.

10.12 Public Domain and Landscaping

Similar to the building form, the public domain treatment 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. Consistent with the Concept Plan, street plantings are proposed at in the central road, existing trees on the Solander Field frontage are proposed to be retained and a gravel footpath is proposed to provide pedestrian connectivity from Captain Cook Drive to the foreshore.

The proposal differs from the Landscape Concept Plan drawings, providing a communal landscaped podium to the south of Building G in place of an access road. The modified landscape design is however reflected on the modified architectural plans which were approved by DP&E as part of the recent 75W amendment to the Concept Plan (MP10_0229MOD1). The

substitution of a communal landscaped area in this space provides the benefit of an improved relationship to the Level 1 units, and given the consistency with the most recent version of the approved Concept Plans, is supported.

As discussed in Section 9 above, minor 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 selection is of critical importance.

With the implementation of the recommended conditions, Council is satisfied that the proposal is satisfactory with regard to the terms of the concept approval, and the objectives of Council's DCP requirements for landscaping and Greenweb sites.

10.13 Active Frontages

The Concept Plan requires future applications for the Residential Precinct to demonstrate that the frontages to Solander Fields, the central boulevard and the riparian zone are activated at ground level. The Concept Plan approval also requires that all ground floor units are provided with individual and direct street access and sufficient articulation.

The approved Concept Plan scheme includes an elevated Central Road and two levels of above ground parking for the Stage 2 buildings. The design of the Stage 2 development provides two storey terraces along the western boundary facing Solander Fields (these have direct access from the terraces to the adjacent public walkway) and apartments at the Upper Ground Floor Level provided with direct access via private courtyards to the central road and adjacent pocket park. A café and pocket park are also provided at the north-east corner of the development, activating the private street and providing a congregation point for residents and visitors.

Due to the topography of the site and level difference with the adjacent foreshore future parklands, the north facing units on the lower ground floor (one only) and upper ground floor units do not have direct pedestrian access to the riparian zone. The riparian zone is activated however, by the presence of the private open space and living areas adjacent to the foreshore parkland for each of the north facing units. The parkland itself (subject to a future DA) is also proposed to be activated by passive and active recreation uses incorporating a cycleway link and a playground. Council is satisfied that the development, and the future uses of the parkland will effectively activate the surrounding public domain as far as practicable within the constraints of the site.

10.14 Travel Access Guide/Green Travel Plan

A Travel Access Guide (TAG) was submitted as part of the Stage 1 development. The Stage 1 approval also included a condition of consent to ensure a Green Travel Plan (GTP) was also provided to Council prior to the issue of any Final Occupation Certificate. No additional information, such as a GTP, has been provided to Council to address the Stage 2 development.

A condition of consent, to the same effect as that imposed on the Stage 1 approval is recommended to ensure that a GTP is prepared for the future users of the Stage 2 development.

10.15 Ecologically Sustainable Development (ESD)

The site is an area of high 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 part of a new town centre to be built largely on land that is unencumbered. The DP& E 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.

This requirement was also applicable to the Stage 1 development, for which the JRPP imposed a condition of consent which required the following:

- 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 applicant has taken steps to address ESD for the Stage 2 development indicating a commitment to the initiatives required by the Stage 1 consent. The development has dedicated 150m² of rooftop area on both Building G and H for the purpose of PV panels to power the communal areas of the buildings. In addition, the proposal includes a Bioswale along the western boundary to treat stormwater.

The implementation of these measures reasonably addresses the ESD requirements contained in the Concept Plan. A condition of consent is recommended to ensure their implementation.

10.16 Waste Management

Waste shutes are provided for the upper level residents for waste disposal, whilst lower level residents will dispose of waste directly into the waste room on the lower ground level. A commercial waste store for the café is proposed in a room on the upper ground level, adjacent to the café. The waste is proposed to be collected by a private contractor from a garbage holding area adjacent to the loading dock which adjoins the car park driveway off the Central Boulevard (approved as part of Stage 1).

A Waste Management Plan (WMP) has been submitted (Leigh Design, 2014). This provides recommendations and measures to manage waste during the operational phase of Stage 2 of the Residential Precinct. The WMP also provides measures to address sustainability and waste avoidance and improve the amenity of future residents in regards to waste storage, transportation and collection. The measures contained in this report are recommended to be enforced through a condition of consent.

11.0 SECTION 94 CONTRIBUTIONS

In accordance with Council's development contributions plans, the proposed development generates requirements for Section 94 contributions. The contribution requirements are reflected in the recommended conditions of consent.

Various discussions have been undertaken with the applicant in relation to undertaking "works in kind" in lieu of monetary contributions. While Council is supportive of this arrangement in part, an agreement has not been reached at the time of writing. Regardless, a consent condition has been recommended which would allow for a partial "works in kind" arrangement to be agreed to 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 second stage of the residential development for the Woollooware Bay Town Centre, including the construction of a two level above ground podium containing car parking, a café, two residential flat buildings containing 178 dwellings, provision of infrastructure and services including access roads, associated landscaping and public domain works at 471 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. Under the LEP, the proposal is prohibited in the zone. The approval granted under the 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 compliant with the Concept Plan approval. The protrusions beyond to the maximum building height and floor plate are accepted as very minor and are satisfactory with regard to the concept plan considerations.

The OEH was requested to provide clarity on whether the proposal was successful in addressing condition 22 of the Concept Plan. Although a comment to this effect was not provided, commentary on each of the eight future environmental assessment requirements was forwarded for consideration. In lieu of any conclusive recommendation from the OEH, a detailed assessment of the OEH comments in the context of the Concept Plan requirements has been undertaken by Council, as directed by the JRPP. Council's interpretation of the condition 22 requirements is that each matter has been addressed as far as is practical, within the limitations established by the Concept Plan approval.

In response to public exhibition four 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 and construction and operational impacts. 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.

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. Following detailed assessment it is considered that Development Application No. DA14/0598 may be supported for the reasons outlined in this report.

14.0 RECOMMENDATION

- 14.1 That Development Application No. DA14/0598 for is for the second stage of residential development for the Woollooware Bay Town Centre, including the construction of a two (2) level podium containing car parking, a café, two (2) residential flat buildings containing 178 dwellings, provision of infrastructure and services including access roads, associated landscaping and public domain works at 471 Captain Cook Drive, Woollooware be approved, subject to the draft conditions of consent detailed in Appendix "A" of the Report.