

JOINT REGIONAL PLANNING PANEL (Sydney East Region)

JRPP No:	2015SYE074
DA No:	DA15/0462
Local Government Area:	Sutherland Shire
Proposed Development:	Demolition of existing structures and construction of mixed use development of up to 12 storeys comprising ground floor commercial and shop top housing, with strata subdivision into 67 residential units and 5 commercial tenancies
Street Address:	Lot 8 DP 13642, Lot 9 DP 13642, Lot 10 DP 13642 - 680 Old Princes Highway, Sutherland, 682 Old Princes Highway, Sutherland, 684 Old Princes Highway, Sutherland
Applicant/Owner:	Innovative Architects Pty Ltd
Number of Submissions:	Nine (9)
Regional Development Criteria (Schedule 4A of the Act)	General Development over \$20 million
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"> • State Environmental Planning Policy (Infrastructure) 2007 • State Environmental Planning Policy No. 1 – Development Standards (SEPP1) • State Environmental Planning Policy No. 65 (Design Quality of Residential Flat Development) • Greater Metropolitan Regional Environmental Plan No. 2 – George River Catchment • Sutherland Shire Local Environmental Plan 2006 (SSLEP 2006) • Sutherland Shire Local Environmental Plan 2015 (SSLEP 2015) • Sutherland Shire Development Control Plan 2006 (SSDCP 2006) • Residential Flat Design Code • Section 94 Contribution Plans
List all documents submitted with this report for the panel's consideration	<ul style="list-style-type: none"> • Draft Conditions of Development Consent • Pre-Application Discussion (PAD) letter • Public Submissions • Architectural Review Advisory Panel (ARAP) comments • Applicant's SEPP1 Objections Building Height / Building Density
Recommendation:	Approval
Report By:	Evan Phillips - Environmental Assessment Officer (Planner) Sutherland Shire Council

Assessment Report and Recommendation Cover Sheet

1.0 EXECUTIVE SUMMARY

1.1 Reason for Report

The application is referred to the JRPP as the development has a capital investment value of more than \$20 million and is nominated under Schedule 4A (3) of the Environmental Planning and Assessment Act 1979. The applicant's submission indicates that the proposed development has a value of \$26,600,000.

1.2 Proposal

The proposed development is for the demolition of existing structures and the construction of a 12 storey mixed use development building accommodating 5 ground level commercial tenancies and 11 storeys accommodating 67 residential units located above. Four (4) levels of basement car parking accommodating 134 parking spaces are accessed from Belmont Street.

1.3 The Site

The land is irregular in shape and is located on the corner of the Old Princes Highway and Belmont Street in Sutherland. The site has a total area of 1761.4m², a primary northern frontage to the Old Princes Highway of 49.95m and a western frontage to Belmont Street of 45.54m. There is a slight fall of approximately 2m from the rear (south) of the site to the front (north). The site is located at the periphery of the Sutherland Centre and is within close proximity to major public transport nodes, community facilities and public services.

1.4 The Issues

The main issues identified are as follows:

- Timing of lodgement and contrasting reliance on development standards in a newly adopted Local Environmental Plan.
- Non compliances: including building height, density, setbacks, separation etc.
- Suitability of site for scale of development and general urban design.
- Residential amenity including overshadowing, privacy and view loss.
- Traffic impacts, parking provision, waste services and pedestrian safety.
- Environmental impacts including tree removal and retention.

1.5 Conclusion

Following assessment of the proposal and having regard to the Heads of Consideration under Section 79C of the Environmental Planning and Assessment Act, 1979, the development is generally considered worthy of support as it reflects the desired future character of development within the Sutherland Centre as envisaged under SSLEP 2015, particularly for an identified 'gateway site'. There are several significant departures from the applicable SSLEP 2006 numeric standards and relevant controls being mainly the building height, density, separation and setbacks. On balance, this assessment considers that the site is suitable for a building of the type, use and size proposed, subject to the imposition of appropriate conditions of consent.

The applicant has modified the building as originally proposed in order to reduce streetscape impacts and improve its fit with the desired built form envisaged under Council's new planning scheme for the Sutherland Centre.

2.0 DESCRIPTION OF PROPOSAL

The proposal is for the demolition of existing structures and the construction of a 12 storey mixed use development accommodating 5 ground level commercial tenancies and 11 storeys accommodating 67 residential units located above. The development includes a mix of 1, 2 and 3 bedroom apartments. Four (4) levels of basement car parking accommodating 134 parking spaces are accessed from Belmont Street, including 110 residential, 9 visitor, 15 commercial and 2 car wash spaces.

The development is of a modern contemporary design and is massed at 12 storeys at the north-western corner of the site stepping down to 7 storeys at the eastern side, and 9 storeys to the south. Three (3) communal open space areas are provided within the development at level 1, level 7 and level 9. All trees are to be removed within the building footprint and a strip of deep soil is maintained along the eastern side boundary. Stormwater is proposed to be discharged to the Old Princes Highway.

3.0 SITE DESCRIPTION AND LOCALITY

The land is irregular in shape and is located on the corner of the Old Princes Highway and Belmont Street in Sutherland. The site has a total area of 1761.4m², a primary northern frontage to the Old Princes Highway of 49.95m and a western frontage to Belmont Street of 45.54m. There is a slight fall of approximately 2m from the rear (south) of the site to the front (north).

The site is located at the periphery of the Sutherland Centre and is within close proximity to major public transport nodes, community facilities and public services. Currently under construction on the site adjoining to the south is a 9 storey mixed use development accommodating 46 apartments which is to be operated as affordable rental housing. A large mixed use building containing Council's public library on the lower floors with residential apartments above it is located further to the south. Immediately to the east is a 7 storey mixed commercial/residential building which has a primary frontage to the Old Princes Highway and vehicular access via right of carriageway along the rear boundary from Glencoe Street.

Opposite the subject site and located on the western side of Belmont Street is a small scale industrial/commercial building (JAX Tyres), a residual single dwelling site, and higher density commercial and mixed use developments. Development opposite the Old Princes Highway and Sutherland overpass to the north includes detached dwellings, a child care centre and townhouse development.





4.0 BACKGROUND

A history of the development proposal is as follows:

- Pre-application consideration from the Architectural Review Advisory Panel on 20 November 2014 for a similar development scheme.
- A pre-application discussion (PAD) was held on 16 February 2015 regarding the proposed development.

It was generally concluded that the concept exhibited merit in some areas and the design has progressed since its inception to reduce impacts. However, it is often the case that the full utilisation of permitted built form within a site (height and FSR) is difficult to realise due to site constraints and the need to mitigate impacts on neighbouring land. Any future redevelopment of this land will need to carefully consider the importance of the streetscape, height of the development adjoining site boundaries and amenity of adjoining properties, and if based on the content of the new LEP, to “not be lodged until plan is in effect and full urban design parameters of a new DCP be known”.

A full copy of the advice provided to the Applicant is contained within “Appendix B” of this report.

- The current application was submitted on 19 May 2015.
- An information session between Council Officers and interested residents was held during the exhibition period on 16 June 2015. The meeting was attended by 3 parties.
- The application was placed on exhibition with the last date for public submissions being 23 June 2015. Nine (9) submissions were received including 1 outside of the exhibition period.
- The application was considered by the Architectural Review and Advisory Panel on 4 June 2015.
- Council officers requested additional information on 30 July 2015.
- Final amended plans and additional information were lodged between 14 and 17 August 2015.

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 an assessment of this application, including a SEPP 1 Objection requesting a variation to the building height and building density development standards.

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).

Three hundred and fifty (350) adjoining or affected owners were notified of the proposal and 9 submissions were received as a result. A full list of the locations of those who made submissions, the dates of their letters and the issues raised is contained within "Appendix C" of this report.

A summary of the main issues is provided below:

- 6.1 Urban Design - Building height, density and scale of development not in keeping with existing character of Sutherland Centre and adjoining built form. Larger buildings should not be located at periphery of Sutherland Centre.
- 6.2 Non Compliances – SSLEP 2006 (8 storeys/3:1 FSR), DCP & RFDC (building setbacks, separation and building depth) and Draft DCP (20m height with provision of 40m tower at corner).
- 6.3 Traffic and Parking - Adequacy of parking (including visitor) within site and surrounding road network to accommodate increase in population and traffic.
- 6.4 Residential Amenity- View loss, overshadowing and overlooking of adjoining apartments, noise arising from use of communal courtyards and impact on air quality and natural air flow.
- 6.5 Environmental Impacts - Tree removal and the protection of the vegetation adjoining the site to the east.
- 6.6 Construction - Impacts on surrounding development from excavation works.

Comment: These matters are discussed in the assessment component of this report and where appropriate suitable conditions of development consent have been recommended to reduce impacts of the development to the adjoining properties.

Revised Plans

The applicant lodged revised plans between 14 and 17 August 2015. Amongst others, the changes included a height reduction from the 'secondary tower' stepped element on the northern frontage facing Old Princes Highway (from 10 to 9 storeys and from 8 to 7 storeys), and an increase in height of the 'secondary tower' element on the western frontage facing Belmont Street (from 8 to 9 storeys). As the southern adjoining property has already made a formal submission regarding the mass of the development and associated impacts to the property are subject to assessment, these plans were not publicly exhibited however the operator of the community housing group behind the development has been notified of the changes.

Should the JRPP be of the opinion that full exhibition of the amended plans and documentation is warranted in light of the height increase, Council would recommend that the matter not be deferred pending exhibition, but rather a design change condition be included in the development consent requiring the 2 additional units Nos. 801 & 802 within the Level 8 floor plan be deleted from the development proposal.

7.0 STATUTORY CONSIDERATIONS

The subject land is located within Zone 8 – Urban Centre pursuant to the provisions of Sutherland Shire Local Environmental Plan 2006 (although the 2015 LEP has been gazetted on 23 June 2015, the DA was lodged under the 2006 LEP). The proposed development, being a mixed use development, is permissible within the zone with development consent.

The following Environmental Planning Instruments (EPIs), Development Control Plans (DCPs), Codes or Policies are relevant to this application:

- *State Environmental Planning Policy (Infrastructure) 2007*
- *State Environmental Planning Policy No. 1 – Development Standards (SEPP1)*
- *State Environmental Planning Policy No. 65 (Design Quality of Residential Flat Development)*
- *Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment*
- *Sutherland Shire Local Environmental Plan 2006 (SSLEP 2006)*
- *Sutherland Shire Local Environmental Plan 2015 (SSLEP 2015)*
- *Sutherland Shire Development Control Plan 2006 (SSDCP 2006)*
- *Residential Flat Design Code*
- *Section 94 Contribution Plans*

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 No. 65 – Design Quality of Residential Flat Development – Design Quality Principles

The provisions of SEPP 65 apply to the proposed mixed use development. Sutherland Shire Council engages its Architectural Review Advisory Panel (ARAP) to guide the refinement of development to ensure design quality is achieved in accordance with SEPP 65. A brief assessment of the proposal having regard to the design quality principles of SEPP 65 is set out below:

Design Quality Principles	Assessment
Principle 1: Context	This proposal, being a mixed use development, is an appropriate response to the site and Sutherland Centre and is anticipated to contribute positively to the identity of the area. The development is consistent with desired future character as envisaged under the new LEP and respects adjoining lower density development.
Principle 2: Scale	The proposed scale is a positive response to the site and setting having regard to the balance of adjoining residential development, centre building typologies and desired future building form.
Principle 3: Built Form	The built form is distributed appropriately across the site and acknowledges the land as a gateway/entry point to the Sutherland Centre with a vertically expressed building form on the corner of the site. The development responds appropriately to the streetscape and scale of buildings on adjoining land.
Principle 4: Density	The proposed density is distributed appropriately across the site.
Principle 5: Resource,	The development incorporates BASIX requirements and

Energy & Water Efficiency	sustainability measures into its overall design so as to enhance water and energy efficiency and to provide suitable amenity to the building's future occupants.
Principle 6: Landscape	The proposed development includes adequate deep soil areas for planting/retention, podium landscaping within common/terrace areas and balcony edge plantings which reinforce the existing and desired future character of the locality.
Principle 7: Amenity	The proposal adequately satisfies the provisions of the Residential Flat Design Code in terms of residential amenity, including appropriate building and floor plan layout, solar access, and visual/acoustic privacy.
Principle 8: Safety and Security	The proposed development incorporates suitable Crime Prevention Through Environmental Design (CPTED) Principles in the design.
Principle 9: Social Dimensions & Housing Affordability	The proposal provides a mix of apartment types including an adaptable dwelling, which encourages diversity.
Principle 10: Aesthetics	An appropriate composition of building elements, textures, materials and colours within the development has been generally achieved.

8.2 Residential Flat Design Code (RFDC) – Detailed Guidelines

The application has been lodged prior to the commencement of the Apartment Design Guide which has replaced the RFDC. The applicable design guidelines are contained within the RFDC, which respects the 10 design quality principles set out in SEPP 65. The RFDC controls are largely replicated in SSDCP 2006. The proposed development has been reviewed by ARAP and Council's Architect and the proposal adequately satisfies the RFDC with regards to the 'rules of thumb' including internal and open space areas, circulation, ventilation, accessibility, adaptability and solar access. Reasonable internal amenity will be afforded to future occupants. There are several variations, being mainly building separation, single aspect apartments and overall plan depth. The reasonableness of the variations, including impacts presented to adjoining properties, is discussed in further detail in the assessment component of this report, but they were largely considered acceptable by Council's design review panel and internal Architect.

8.3 Local Controls – SSLEP 2006 and SSDCP 2006

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

Standard/Control	Required	Proposed	Compliance
Sutherland Shire Local Environmental Plan 2006			
Building Height/ Storeys cl.33	8 Storeys (approx 32m)	12 Storeys (40m)	No (See Assessment Section of report)
Floor Space Ratio cl.35	Max. 3:1	3.96:1	No (See Assessment Section of report)

Sutherland Shire Development Control Plan 2006			
Amalgamation Ch 3.1	Five sites	Three sites	Amalgamation previously broken by Community Housing Developer (see report)
Setbacks Ch 3.2	Building Envelope Plan	Departure Proposed	N/A - Building Envelope previously broken
	7m to Old Princes Highway	Min 1.7m (balcony)	No
	Nil Setback to Ground (Belmont Street)	Min 2m	Yes
	2m Setback for Upper Floors	Min 1.7m (balcony)	No
Side and Rear Setbacks Ch3.3	Building Envelope Plan	Departure Proposed	N/A
	4m Setback - Default due to envelope departure	East) Minimum 3m South) Minimum 7.75m	No Yes
Landform Ch3.6	Excavation contained to footprint	Basement excavation generally contained within footprint	Yes - acceptable
	Earthworks to minimise impacts on vegetation	Impacts minimised to retain adjoining vegetation	Yes
Communal Open Space Ch3.7	Area: 100m ² Dimension: 10m	3 Communal Areas – exceed controls	Yes
Primary Balcony Ch 3,.7	Min Area and Dimension 12m ² / 2.5m	Min 12m ² with width / depth min 2.5m	Yes
Internal Plan Depth Ch 3.7	Max.18m	Building / Unit exceeds 18m	No – acceptable
Dwelling Design Ch 3.7	2.7m Min Ceiling 3m Min Bedroom Dimension	Min 2.7m Min 3.0m or >	Yes Yes
Cross Ventilation Kitchen Access to Ventilation Ch 3.7	Min 60%	70% cross ventilated / 40% kitchens naturally ventilated	Yes – acceptable
Active Frontages Ch 3.8	Active street frontage to be provided.	Active street frontages provided.	Yes
Floor Space Mix Ch 3.9	100% Ground Commercial.	100%	Yes
	First Floor “Flexible”	Nil – Residential only	No - but could be retrofitted

Secure Storage Ch3.10	6m ³ each, min dim 1m ²	Not all allocated storage.	Yes – conditioned accordingly
Daylight Access Ch 3.14	Min 70% get 3 hours 9am–3pm & 10% max to be south facing	Min 70% achieved None solely oriented south	Yes Yes
Adaptable Housing Ch 3.17	Min 30%	Min 30% (including parking)	Yes
Car Parking Residential Ch 7 (Sutherland Centre - Parking area 2 map)	1 space per 1 bed (24) 1.5 spaces per 2 bed unit (11) 1.5 spaces per 3 bed unit (32) Max 67	24 spaces 17 spaces 48 spaces Max 89	No – exceeds max yet is acceptable (see report)
Visitors	1 space per 5 for visitors (17)	9 spaces	
Commercial	1 space per 30 m ² (14)	15 spaces	
Motor Cycle/ Bicycle Parking Ch 7	1 per 25 cars (6) 1 per 5 dwelling units plus 1 visitor per 10 units (20)	5 spaces 2	No – acceptable Yes – condition accordingly
Entry Driveway Ch 7	Max 6m (combined entry/exit)	6m	Yes

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. NSW Transport - Roads & Maritime Service (RMS)

Comment: Given the proposed development adjoins the Old Princes Highway and is also subject to State Environmental Planning Policy (Infrastructure) 2007 with respects to road noise, the application has been referred to the RMS for specialist comment. No objections to the development proposal have been raised subject to the application of suitable conditions of development consent.

9.2. Architectural Review and Advisory Panel (ARAP)

Comment: The development has been the subject of both pre - development considerations of ARAP in which general support for the development scheme, including building massing and separation, solar access, privacy and internal amenity, and architectural quality has been given subject to minor design refinements.

The current application was considered by ARAP on 4 June 2015. The Panel confirmed that the general form of the building is acceptable and the scale is generally well handled, and supports the tallest element being located at the corner with lower overall heights to the east

and south. The setback non-compliances to both of the street frontages are considered reasonable. The Panel concluded that the following key matters require further resolution:

- Ensure that permanent visual privacy is provided to adjacent neighbours where building separation guidelines are not achieved.
- Develop the southern and eastern facades in a way that is aesthetically consistent with the architectural expression of the western and northern facades.
- Reconsider the façade design of the podium levels to create a more pronounced articulation and a more urban character.
- Address the internal planning comments noted.
- Ensure that the various landscaped communal areas are appropriately designed for their orientation and exposure.”

A copy is attached as Appendix “D”

9.3. Architect

Comment: A review of the amendments made to the proposal in response to the recommendations of ARAP has been undertaken by Council’s Architect. Overall, the revised design has adequately adopted the recommendations of ARAP. The development proposal is appropriate in its site planning, mass and design and reasonable amenity will be afforded to future occupants and adjoining properties. The application is supported on its urban design quality and architectural merits.

9.4. Landscape Architect

Comment: Council’s Landscape Architect has undertaken an assessment of the application with respect to landscaping, tree removal and retention and general site planning. No objections to the development proposal have been raised subject to the imposition of appropriate conditions of development consent including the requirement for a detailed landscape plan, tree retention and replacement, along with frontage improvements.

9.5. Traffic Engineer

Comment: Council’s Traffic Engineers have undertaken an assessment of the proposed development with regards to parking provision, traffic impact, pedestrian safety, waste services and site access. No objections have been raised with regards to external traffic and safety impacts and adequate on-site parking is provided in conjunction with the proposed development. Resolution to the provision of visitor and bicycle parking has been requested.

9.6. Engineering (Assessment Team)

Comment: Council’s Engineer has undertaken an assessment of the application with respect to stormwater disposal, car parking design, provisions, access arrangement and manoeuvrability, site management and excavation. Generally, no objections to the development proposal have been raised, subject to suitable conditions of development consent.

9.7. Communities Unit

Comment: Council’s Communities Unit has undertaken an assessment of the proposed development with respect to social impact, crime risk and prevention, adaptable housing and general accessibility. Generally, no objections to the development proposal have been raised, subject to suitable conditions of development consent.

9.8. Environmental Health

Comment: Council's Area Environmental Health Officer has undertaken an assessment of the application with respect to noise and amenity impacts and ventilation and advised that no objection is raised to the development proposal, subject to the imposition of suitable conditions of development consent.

10.0 ASSESSMENT

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

10.1 Sutherland Shire Local Environmental Plan 2015 (SSLEP 2015)

The proposal is lodged under SSLEP 2006 yet is based largely on the new provisions of SSLEP 2015, which commenced on 23 June 2015. This application has been assessed and determined in accordance with the savings provisions contained within Clause 1.8A of SSLEP 2015. This clause requires applications to be determined as if SSLEP 2015 has not commenced.

The site has been rezoned to B3 –Commercial Core and the proposed development remains permissible in the zone. Large SEPP1 Objections accompany the application regarding the proposed departures from the 2006 development standards for building height and density. The development seeks to utilise the increased height and density for the development site from 8 storeys to 40m (12 storeys), and from 3:1 to 4:1.

SSLEP 2015 commenced during the initial assessment stage and at the end of the public consultation period for the application. Whilst the application is required to be assessed and determined as if SSLEP 2015 has not commenced, Council's recommendation is to afford determining weight to the SSLEP 2015 standards in light of the desired future character for the Sutherland Centre and the strategic identification of the site as a 'gateway' to the Sutherland Centre. There is no apparent benefit in the application being withdrawn and resubmitted in terms of anticipated built form and development potential of the Sutherland Centre Land.

The Draft DCP prepared to support SSLEP 2015 has been adopted as policy for the purposes of assessing applications which are lodged under SSLEP 2015. Whilst the Draft DCP is not specifically applicable to the application, as it is reliant on development standards contained within SSLEP 2015, consideration of the plan content with respect to its eventual built form and relationship with the surrounding development within the Sutherland Centre is considered appropriate. Specific components of the Draft DCP as they relate to the site are discussed throughout this report.

10.2 Compliance with Sutherland Shire Local Environmental Plan 2006 and Sutherland Shire Development Control Plan 2006

The site is located within Zone 8 - Urban Centre and the objectives of the zone are as follows:

- a. to identify appropriate land for the provision of a wide range of retail, business and professional activities,*
- b. to promote viable businesses through increased economic and employment activity,*
- c. to provide for an integrated mix of commercial, office, retail and residential buildings,*
- d. to create attractive, vibrant and safe establishments and facilities as a focus for community spirit.*

The provision of additional housing is consistent with Council's current planning direction and the broader planning agenda for Metropolitan Sydney. The development promotes a pedestrian friendly environment, commercial floor space and scale of development that is generally consistent with the desired future and changing form of the Sutherland Centre. The development is consistent with the zone objectives contained within Clause 11 of SSLEP 2006.

There are several departures from the numeric standards/controls contained within Council's Policies and Standards (refer to compliance table), being mainly the building height, density and setbacks. On balance, this assessment considers that the site is suitable for a building of the type, use and size proposed, subject to the imposition of appropriate conditions of consent.

10.3 Building Height & Building Density

The proposed development fails to comply with the development standards for building height and building density. Clauses 33 and 35 of SSLEP 2006 stipulate a maximum height of 8 storeys and maximum building density of 3:1 (FSR) for this site. The development proposes a building which measures 12 storeys and achieves an FSR of 3.96:1.

To support these variations the applicant has lodged separate Objections pursuant to the requirements of SEPP 1 (Attached as Appendix "E"). An assessment of the submitted SEPP 1 Objections have been undertaken in accordance with the convention established in Justice Lloyd in Winten Property Group Limited v North Sydney Council (2001), and with regard to Wehbe v Pittwater Council (2007).

The underlying objects of the building height development standard are set out in Clause 33 of SSLEP 2006 as follows:

- "(a) to ensure the scale of buildings:*
 - (i) is consistent with the desired scale and character of the street and locality in which the buildings are located, and*
 - (ii) complements any natural landscape setting of the buildings,*
- (b) to allow reasonable daylight access to all buildings and the public domain,*
- (c) to minimise the impacts of new buildings on adjoining or nearby properties from loss of views, loss of privacy, overshadowing or visual intrusion,*
- (d) to ensure that the visual impact of buildings is minimised when viewed from adjoining properties, the street, waterways and public reserves,*
- (e) to ensure, where possible, that the height of non-residential buildings in residential zones is compatible with the scale of residential buildings on land in those zones."*

The underlying objects of the building density development standard are set out in Clause 35 of SSLEP 2006 as follows:

- "(a) to ensure that development is in keeping with the characteristics of the site and the local area,*
- (b) to provide a degree of consistency in the bulk and scale of new buildings that relates to the context and environmental qualities of the locality,*
- (c) to minimise the impact of buildings on the amenity of adjoining residential properties,*
- (d) to ensure, where possible, that non-residential buildings in residential zones are compatible with the scale and character of residential buildings on land in those zones."*

Analysis: The development is reliant upon and consistent with the desired future character of development within the Sutherland Centre as envisaged under SSLEP 2015 (40m building height and 4:1 FSR). The applicable 'building envelope plan' specified within SSDCP 2006 depicts the 8 storey height limit in an "L" shaped corner building which engages both street frontages and extends over the adjoining site to the south. The main mass of the building which exceeds both SSLEP 2006 and SSDCP 2006 is concentrated to the north-west corner of the site in a prominent tower element. This architectural facet and vertical expression is an appropriate response to the site and reinforces the gateway/entry nature of the land to the Sutherland Centre. The form of site planning in terms of general massing of built form to the corner of the site is acknowledged within Council's Draft DCP. Of specific relevance is the Draft DCP guideline to limit building height to the edges of the site to 5-6 storeys (20m). This appears contrary to the applicable DCP/LEP height control/standard, yet is informative as a guide with regard to appropriate building massing and transitions in built form for future development.

It is anticipated under SSLEP 2006 that a building of 8 storeys is likely to adjoin the southern and eastern site boundaries. The height of the proposed building steps down to 9 storeys along Belmont Street, which is consistent with the approved 9 storey building adjoining the site (under construction). Whilst a deficiency in the separation distance to this southern development is proposed from the RFDC (as discussed later in report) the development adequately reinforces the character and scale of buildings within the Belmont Street streetscape. The height of the building has been modified to step down to 7 storeys adjoining the eastern side boundary, which provides an appropriate transition and response to the scale of the eastern adjoining development.

It is difficult to provide a development which is fully consistent with the height of existing buildings when a new LEP is introduced promoting a significant up-lift in height/densities. Impacts presented to adjoining properties within dense urban/Centre areas are anticipated. The reasonableness of the impacts in terms of daylight access, overshadowing, privacy, and view loss are discussed further in this report and are considered to be acceptable. The potential visual impacts associated with the built form are generally ameliorated through the architectural design and proposed variation in building treatment. The development incorporates suitable landscaping and maintains deep soil zones (7.8% of site area) consistent with the character of adjoining lands, and urban/natural landscape setting of the existing Sutherland Centre. The provision of landscaping further provides relief between properties and enables the development to relate to the context and environmental qualities of the locality in this regard.

The development is of a height and density consistent with Council's indicated desired form of development within the Sutherland Centre. A reduction in building height and density via design change condition (i.e. reduce corner tower to 9 storeys & and building to 8 storeys where adjoining the southern boundary) would provide a development which aligns closer to the SSLEP 2006 numeric provisions. Such a drastic design modification is not considered warranted in light of the development's ability to satisfy the relevant objectives and compliance with the newly adopted standards adopted by Council within SSLEP 2015. The proposed massing and distribution of built form within the site is generally in keeping with the capacities of the site.

The submitted SEPP1 Objections provide evidence to demonstrate that compliance with the applicable standards would be unreasonable or unnecessary in the circumstances of the case. The proposed variations are considered to be consistent with the aims of SEPP1 and the objects of the Act. A variation to Council's building height and building density development standards prescribed under SSLEP 2006 is considered to be reasonable in the circumstances of the case.

Having regard to the object and the purpose of the development standard for maximum number of storeys and building density in the development it is considered that:

- (i) Compliance with the development standards is unreasonable and unnecessary and the objections are well founded.
- (ii) Variations to the development standards contained within Clauses 33 and 35 of SSLEP 2006 would be consistent with the aims of SEPP1 as set out in Clause 3 of the Act.
- (iii) Variation to the development standard would not raise matters of significance for state or regional planning, or be contrary to the public interest.

10.4 Street Setbacks

The provisions of SSDCP 2006 require a minimum 7.0m setback to be provided from the primary Old Princes Highway frontage and a 2m setback to upper floors on the secondary Belmont Street frontage. The proposed development is sited at a minimum of 1.7m from the Old Princes Highway with the external face of the building (not including balcony edges) located between 3m to 4m (ground floor commercial). The upper floor balconies on the Belmont Street frontage are located a minimum 1.7m from the street (external face of the building exceeds 2m).

As previously noted, the 'ideal-type' of land amalgamation and building envelope as set out in SSDCP 2006 has previously been varied in an acceptable and logical way. Maintaining the full envisaged setbacks as nominated in both SSDCP 2006 (7.0m) and the Draft DCP (5.0m) is difficult with any reasonable development of the land. The deficiency does not inhibit the development's ability to satisfy the objectives of the clause and enables the development to maximise building separation and improve residential amenity to neighbouring buildings.

The development is compatible within the established streetscape character and street edge pattern in that the commercial building (Audi motor dealership) located to the east on the corner of the Old Princes Highway and Glencoe Street is positioned on a nil setback. The development contributes to the desired future streetscape character as it is anticipated that should redevelopment occur on the immediately eastern adjoining property, a similar setback will be provided. In terms of street alignment, the development responds appropriately to the development under construction on the land adjoining to the south on Belmont Street. The frontage design and façade treatment incorporate suitable fenestration, articulation and architectural detailing maintaining appropriate perceptions of openness and transition between public and private spaces. An active frontage engaging the Sutherland Centre as a pedestrian friendly 'gateway' site is provided.

10.5 Building Separation & Setbacks

The break in the amalgamation pattern resulted in the approval of the southern adjoining building being located on a reduced setback to the shared boundary. It was anticipated at the time of approval that some level of burden would be borne by the approved built form with and future development on the subject lots. Development would not be unduly inhibited or restricted in this regard and this has become more increasingly apparent in light of the increased height and density for the subject lots envisaged under SSLEP 2015. Requesting full compliance with building separation is unreasonable should impacts presented to the property be considered acceptable. Further, the design of the southern adjoining building provides balconies and windows on the northern elevation to obtain solar access and outlook. The individual units are generally orientated to the west and east (not over the subject site) and would benefit from "borrowed amenity" should there be no re-development of the subject lots.

For buildings 5 to 8 storeys/up to 25 metres the RFDC recommends the following separation distances between buildings:

- 18 metres between habitable rooms/balconies
- 13 metres between habitable rooms/balconies and non-habitable rooms
- 9 metres between non-habitable rooms

For buildings 9 storeys and above/over 25 metres the RFDC recommends the following separation distances between buildings:

- 24 metres between habitable rooms/balconies
- 18 metres between habitable rooms/balconies and non-habitable rooms
- 12 metres between non-habitable rooms

The lower 8 storeys of the proposed development are set back between 7.75m – 9.3m from the southern boundary and achieve a minimum separation distance of approximately 10.6m (balcony) and 11.5m (external wall) to the adjoining future building. The elevation provides a mixture of non-habitable and habitable areas (including balcony). Highlight windows and passive use areas are utilised, which minimise direct amenity impacts to the adjoining property. A suitable condition is recommended requiring frosting/opaquing to the vertical lounge room windows, and fixed louvered screens to the southern balcony edges of residential levels 3 – 8. Whilst the development does not strictly comply with the recommended separation, an appropriate balance is achieved.

The two (2) additional units provided with the amended development scheme on Level 8 (801 & 802) require a greater separation distance according to the RFDC. Whilst not necessarily warranted, a height reduction to eight (8) storeys where adjoining the southern boundary (i.e. delete 2 units) would provide a development better in line with the RFDC and would marginally improve solar access. The 12 storey tower component of the development is set back 17.05m (18.5m balcony) from the southern boundary and provides an appropriate minimum separation distance of approximately 20m.

The building on the eastern adjoining property is not sited in a traditional manner (i.e. not parallel to the site boundaries). Individual units are oriented in a north-westerly direction immediately over the site and towards the subject development. Whilst the development is largely compliant, there are point encroachments and minimum separation of approximately 10.2m (balcony) and 12m (external wall) to the eastern adjoining property from the 7 storey component. The separation increases with the nine (9) storey component (min 16m) and the 12 storey tower component (min 27m).

The proposed separation of the built form to adjoining properties is considered to be acceptable. Through design, including the provision of highlight windows to habitable areas, screening of balcony edges etc no detrimental impacts are presented to the adjoining properties. As further discussed, impacts in terms of overshadowing and maintenance of daylight access are considered to be acceptable given the orientation and location of adjacent buildings.

10.6 General Urban Design

SEPP 65, RFDC, SSLEP 2006 and Chapter 3 of SSDCP 2006 contain relevant matters of consideration relating to urban design and residential amenity. The development incorporates a notably more modern aesthetic than surrounding buildings, but respects the character and zoning of the area as an urban centre. The application was considered by the Architectural Review Advisory Panel (ARAP) and amendments have been made in response to the recommendations made. The proposal is generally of a density, height, bulk and scale anticipated in the zone and the development integrates appropriately with the adjoining lower density residential context, public domain and centre development. Minor variations to the RFDC in terms of plan depths and separation are considered to be acceptable.

Matters relating to ecologically sustainable development, energy efficiency and sustainable building techniques have been considered and the proposal incorporates appropriate measures and construction techniques in conjunction with the development.

The Crime Prevention through Environmental Design (CPTED) principle aims have been considered with regards to potential safety and security issues associated with the design of the development. The proposed new works provide suitable opportunities for both active and passive surveillance. The development is considered appropriate subject to suitable conditions of consent incorporating additional CPTED treatment measures.

The provision of adaptable housing and an accessible built environment are required to be provided in accordance with SSDCP 2006. The residential/commercial entries respond appropriately to the existing levels in the public domain. Adequate facilities and provisions (e.g. parking, sanitary facilities) are accommodated within the development to enable an accessible built environment (including parking).

10.7 Residential Amenity

The applicant has submitted amended elevation diagrams reflecting the reduction/increase in building height and the overshadowing impacts presented to the eastern and southern adjoining developments at half hourly intervals between the core hours of solar access (June 21, 9:00am – 3:00pm).

The units most affected during winter are located within the future building on the southern adjoining allotment and include the 4-5 levels of the north to eastern orientated units in the 9 storey tower component (closest to boundary), as well as the 3-4 levels of the northern orientated units in the rear 5 storey wing (set back further from boundary). The reduction in height has improved solar access, particularly to the rear component of the development which is also self-shadowed during the afternoon. It is noted that whilst the building provides secondary balconies and windows orientated north over the site capturing solar access, the units are generally orientated to the west and east and are designed in anticipation of future development given the break in the intended amalgamation scheme. The upper levels of the development and north to western orientated units will maintain good solar access, particularly during mornings and afternoon hours. Impacts presented to the eastern adjoining property during winter occur post midday and to the full height of the development. The north-west orientation of these units enables greater solar penetration to internal areas before shadowing occurs and the forward most units in the development are least affected. The application adequately demonstrates that the impacts are generally consistent with the Council's DCP and the RFDC and are outcomes which are anticipated in dense urban and centre areas.

Through design, the development generally incorporates suitable privacy measures to enhance visual and acoustic privacy, both within the development and to adjoining properties. Given the orientation of proposed units and commercial spaces (including loading dock/waste storage) and absence of openings facing side and rear boundaries, no unreasonable clashes are anticipated. As previously discussed, additional privacy treatment is recommended to the southern elevation where closest to the boundary. Several units do not comply with the minimum balcony area/dimensions requirements for private use set out in SSDCP 2006 yet comply with the RFDC. The extent of non compliance is relatively minor and is considered appropriate in that reasonable amenity will be afforded to future occupants.

Specific concerns have been raised regarding the use of the communal roof terrace/garden areas. To minimise the impacts from its use on the amenity of surrounding residential properties it is proposed to place limitations in a manner similar to the development consent for the adjoining property (i.e. not before 6am on any day and end no later than 9pm Sundays-Wednesdays or 10pm Thursdays-Saturdays, and no amplified music). Further, suitable edge treatment has been proposed to limit direct views to the internal areas of the adjoining properties.

10.8 View Loss

Submissions have been received with respect to view loss. Given the bulk, scale and massing of the proposed building and its location on the edge of the Sutherland Centre, the proposed building will impact on the views enjoyed by several properties adjoining the site and in the immediate vicinity. Whilst a comprehensive view loss analysis has not been able to be undertaken from all potentially affected properties (with the exception of the submissions from Nos. 37-41 Belmont Street (MacFarlane House) and Nos. 674-678 Old Princes Highway (Highpoint), broader consideration of the impacts of view loss has been undertaken with respects to the '*Tenacity*' planning principles, as adopted by SSDCP 2006. This assessment includes 4 main considerations, as discussed below:

1. Assessment of the views to be affected:

The relative level of the site and Sutherland Centre in the context of metropolitan Sydney and the presence of low density single storey dwellings in the foreground allow views to be obtained over the Sydney Basin towards the north, in an arc from east to west. These views comprise most importantly distant views of:

- Bate Bay and Kurnell;
- Botany Bay, the Airport and Ports;
- Sydney CBD Skyline; and
- The greater metropolitan area extending as far as the Blue Mountains.

The general 'openness' of the aspect enjoyed by the apartments is pleasant and undoubtedly adds to amenity. There are iconic elements involved yet these are distant and views are assessed as being of 'moderate' significance.

2. Consideration from what part of the property the views are obtained:

The vast majority of views are obtained from the mid to upper levels of the following neighbouring properties:

- Highpoint – eastern adjoining property (north western facing).
- Future affordable housing development – southern adjoining property.
- Stapleton House – south (corner of Belmont Street and Stapleton Avenue)
- McFarlane House – south west (corner of Belmont Street and Stapleton Avenue).

Views are currently enjoyed in both day and night time hours, from standing and seated positions and in various locations of the adjoining residential apartments. Views are obtained from primary living areas, private open space, bedrooms and other areas, generally where these are oriented in northern or north-western and north easterly directions.

3. *Assessment of the extent of the impact:*

A substantial loss of views will occur as a result of the approved 9 part 5 storey development on the land adjoining to the south (under construction) from both Stapleton House and McFarlane House. Views obtained from the upper levels of Highpoint are in a north-westerly direction over the side boundary of the subject site. It is anticipated that the massing of the 12 storey corner tower element will directly eliminate the north-easterly distant views towards the Sydney CBD skyline from Nos. 37-41 Belmont Street (including the objectors' residence).

4. *Reasonableness of the proposal that is causing the impact:*

Although the proposal does not numerically comply with the Council's building height or FSR controls under the applicable SSLEP 2006, the development scheme complies with the height and density prescribed under SSLEP 2015. The proposed building is considered reasonable in design and achieves a good contextual fit within the urban setting of the Sutherland Centre. An alternative building envelope and massing of built form within the site, including compliance with building separation to the upper tower element of the development, is unlikely to significantly improve views. The expectation that apartments will continue to enjoy unobstructed views 'outwards', from within an urban centre and across urban centre zoned redevelopment sites is unreasonable.

10.9 Traffic & Parking

Clause 53 of SSLEP 2006 and Chapter 7 of SSDCP 2006 contain matters for consideration relating to transport accessibility, traffic impacts and car parking provision. The adequacy of the surrounding road network to accommodate increased traffic movements and population has been a specific area of concern. The application, including submitted traffic assessment and parking provisions, has been reviewed by Council's Engineers and the Roads & Maritime Service (RMS) and impacts arising from the development are generally considered to be acceptable. The vehicular entry portal is suitably located on the secondary Belmont Street frontage away from the busy intersection, which will minimise potential conflicts and enhance vehicular and pedestrian safety.

The development provides 110 on-site residential parking spaces (including 21 accessible), exceeding the maximum SSDCP 2006 parking requirement of 89. The provision of additional on-site parking within a locality which experiences parking strain is considered to be of benefit and a variation is supported. The development however fails to provide 17 visitor spaces in accordance with SSDCP 2006. The application has been amended in which visitor parking has been increased to 9 spaces, which are located appropriately at the initial entry portal to the residential parking area. The shortfall in bicycle and motorcycle parking within the basement is generally satisfied by the imposition of recommended conditions of development consent.

SSDCP 2006 requires secure storage space per dwelling of 6m³ (minimum dimension 1m²) set aside exclusively as part of the basement or garage. Not all residences are provided with secure storage. In light of the surplus parking and proposed retention of the requirement under the Draft DCP it is considered appropriate for 2 parking spaces to be deleted from each of the lower parking levels in able to provide a central storage area with individual spaces. Car spaces 10 & 11 on basement level 3 & 4 and car spaces 8 & 9 on basement level 2 are considered most appropriate given their accessibility from the internal lift cores. It is noted that the development maintains consistency with Council's Draft DCP 2015 which requires a minimum 81 (residential and commercial) parking spaces for the site with no requirement for visitor parking.

The development is not anticipated to present any significant or detrimental increase in traffic generation or parking in the street and locality. Improvements in the roadway and public domain will be required under separate approval and design by Council's Civil Assets team, which will further enhance safety within the area. The proposal adequately satisfies the relevant matters for consideration and is acceptable.

10.10 Natural Environment

The proposal includes significant modification to the site for the basement design and includes the removal of established site vegetation. Specific concerns have been raised regarding the tree removal on the subject and adjoining sites in light of the amenity and visual outlook they currently offer. Development standards for landscaped area do not apply to the Urban Centre and given the nature of the zone and anticipated form of development as envisaged under SSLEP 2006 and SSLEP 2015, the retention of site vegetation, particularly within an anticipated building/basement footprint is considered unreasonable. The proposal provides an area of deep soil along the eastern boundary. It is anticipated that the landscaping will provide relief between properties, assist in the protection of vegetation on adjoining lands and also integrate with the character of existing development within the Sutherland locality where green space and corridors between buildings are evident. The proposed landscape treatment within the site and associated extent of environmental impact is considered to be acceptable subject to suitable conditions of consent. This includes the provision of replacement tree planting at a rate of 4:1 consistent with Council's Policies.

The subject site is located on the eastern periphery of the Georges River Catchment and is subject to the provisions of Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment. Stormwater from the development is proposed to be collected and discharged to Council's existing infrastructure in the Princes Highway to the north. The stormwater treatment measures are considered appropriate and are supported, subject to suitable conditions of development consent. This includes the provision of rainwater harvesting to be utilised for irrigation of the new landscaped areas. Suitable site environmental site management details have been provided with the application so as to protect the environmental quality of the catchment area and to minimise adverse impacts which may be presented to water quality during construction. It is considered that no detrimental impact is presented to the environmental quality of the catchment.

10.11 Road Noise

The subject site is identified as a noise sensitive development as it is located within 300m of *and* currently has a line of sight to the Old Princes Highway/Sutherland overpass. The annual average daily traffic (AADT) volume is greater than 40,000 vehicles, and the provisions of SSDCP 2006 and the Infrastructure SEPP 2007 apply.

The development application has been accompanied by a noise assessment, which indicates that the development is capable of being occupied without an unacceptable impact on residential amenity. Noise attenuation measures and design criteria are required to be adopted in accordance with the NSW Department of Planning's publication *Development near Rail Corridors and Busy Roads – Interim Guidelines* and the relevant Australian and International Standards should the application be supported.

10.12 Archaeological Sensitivity

Council records indicate that the subject site is rated "low" in terms of Archaeological Sensitivity and the immediate locality has been previously surveyed. There is no apparent evidence of shell material or archaeological features within the site at present. The site has been disturbed previously. A condition is recommended to be imposed on the development consent to ensure that appropriate steps be taken should archaeological discoveries be made during the course of works. The requirement for an Archaeological Study to be undertaken is considered to be unwarranted.

10.13 Construction Management

Specific concerns have been raised regarding impacts presented to adjoining properties with construction works and the proposed basement excavation. Council's standard conditions of consent in respect of hours of work and noise and construction management are adequate to control the relatively short-term impacts of construction. There is little Council can do to regulate damage caused by a private entity such as a building company to another party's property beyond the imposition of conditions of consent. However, In order to promote best practice between neighbours and developers it is recommended that a condition requiring the submission of a dilapidation report (which documents the pre- and post-construction state of the neighbouring properties) be imposed on the consent, should the application be approved.

11.0 SECTION 94 CONTRIBUTIONS

The proposed development will introduce additional residents to the area and as such will generate Section 94 Contributions in accordance with Council's adopted Contributions Plans. These contributions include:

Open Space:	\$536,807.77
Community Facilities:	\$90,038.96
Sutherland Centre:	\$214,390.50

These contributions are based upon the likelihood that this development will require or increase the demand for local and district facilities within the area. It has been calculated on the basis of sixty seven (67) new residential units with a concession of three (3) existing allotments. Nothing has been levied for the commercial floor space in accordance with the plan.

12.0 DECLARATION OF AFFILIATION

Section 147 of the Environmental Planning and Assessment Act, 1979 requires the declaration of donations/gifts in excess of \$1000. In addition Council's development application form requires a general declaration of affiliation. In relation to this development application a declaration has been made that there is no affiliation.

13.0 CONCLUSION

The subject land is located within Zone 8 – Urban Centre pursuant to the provisions of Sutherland Shire Local Environmental Plan 2006 (although the 2015 LEP has been gazetted on 23 June 2015, the DA was lodged under the 2006 LEP). The proposed development, being a mixed use development, is permissible within the zone with development consent.

The development is generally considered worthy of support as it reflects the desired character of development within the Sutherland Centre as envisaged under SSLEP 2015, particularly for this 'gateway site'. In response to public exhibition 9 submissions to the proposal were received and whilst concerns raised by neighbours cannot be satisfied in full with any re-development of the land in a capacity as envisaged and anticipated under SSLEP2015, where appropriate suitable design changes have been made or conditions of development consent are used to minimise impacts and to improve amenity.

The proposed variations (including building height, density, setbacks and separation between adjoining developments) are considered acceptable with resolution of the final design. This has including architectural and interface refinement and the reduced height of the 'secondary tower' element facing the Old Princes Highway, which has resulted in a better transition in heights in the streetscape and vertical expression for the corner tower component. The development fits appropriately within the context of the existing streetscape in light of the desired future character of the Sutherland Centre and adequately protects the amenity of neighbouring development. On balance, this assessment considers that the site is suitable for a building of the type, use and size proposed, subject to the imposition of appropriate conditions of consent.

The application has been assessed having regard to the Heads of Consideration under Section 79C (1) of the Environmental Planning and Assessment Act 1979 and the provisions of Sutherland Shire Local Environmental Plan and all relevant Council DCPs, Codes and Policies. Following detailed assessment it is considered that Development Application No. 15/0462 may be supported for the reasons outlined in this report.

14.0 RECOMMENDATION

- 14.1 That pursuant to the provisions of Clause 6 of State Environmental Planning Policy No. 1 (SEPP 1), the Objection submitted in relation to the requested variation of the building height (8 storey) and building density (3:1) development standards under Clauses 33 and 35 of Sutherland Shire Local Environmental Plan 2006 are considered to be well founded and are therefore supported. Accordingly, the provisions of SEPP No. 1 are invoked and the development standards are varied to 12 storeys and 3.96:1 in respect to this development application.
- 14.2 That Development Application No. 15/0462 for demolition of the existing structures and construction of a mixed use development comprising ground floor commercial and shop top housing, with strata subdivision into 67 residential units and 5 commercial tenancies at Lots 8, 9 and 10 in DP 13642 (Nos. 680 – 684 Old Princes Highway, Sutherland) be approved, subject to the draft conditions of consent detailed in Appendix "A" of the Report.