

## JOINT REGIONAL PLANNING PANEL (Sydney East Region)

<b>JRPP No:</b>	<b>2015SYE108</b>
<b>DA No:</b>	<b>DA15/0936</b>
<b>Local Government Area:</b>	<b>Sutherland Shire</b>
<b>Proposed Development:</b>	<b>Demolition of existing dwellings and ancillary structures and construction of two residential flat buildings containing 77 apartments</b>
<b>Street Address:</b>	<b>Lot 18 Sec A DP 2499, Lot B DP 384089, Lot 21 DP 881235, Lot 22 DP 881235, S/P 63259, Lot 1 S/P 63259, Lot 2 S/P 63259, Lot 3 S/P 63259 – 11 &amp; 11A – 15 Veno Street and 30 Rosebery Street, Heathcote</b>
<b>Applicant/Owner:</b>	<b>Globuild Pty Ltd</b>
<b>Number of Submissions:</b>	<b>Twelve (12)</b>
<b>Regional Development Criteria (Schedule 4A of the Act)</b>	<b>General Development over \$20 million</b>
<b>List of All Relevant s79C(1)(a) Matters</b>	<ul style="list-style-type: none"> <li>• Sutherland Shire Local Environmental Plan 2015 (SSLEP2015)</li> <li>• State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)</li> <li>• State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (SEPP 65)</li> <li>• Apartment Design Guidelines (ADG)</li> <li>• State Environmental Planning Policy (State and Regional Development) 2011</li> <li>• State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</li> <li>• State Environmental Planning Policy (Infrastructure) 2007</li> <li>• Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment</li> <li>• Draft Sutherland Shire Development Control Plan 2015 (DSSDCP 2015)</li> <li>• Section 94 Developer Contributions Plans: <ul style="list-style-type: none"> <li>- Shire-Wide Open Space and Recreation Facilities 2005</li> <li>- Section 94 Community Facilities Plan</li> </ul> </li> </ul>
<b>Recommendation:</b>	<b>Approval</b>
<b>Report By:</b>	<b>Charlotte Lowe, Planner Sutherland Shire Council</b>

### 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 \$22,190,000.

### **1.2 Proposal**

The application is for the demolition of existing structures and the construction of 2 residential flat buildings comprising 77 apartments and 4 storeys at the above property. Two basement levels will accommodate 132 car parking spaces, accessed from Rosebery Street.

### **1.3 The Site**

The land is regular in shape and is located on the north-west corner of Veno Street and Rosebery Street in Heathcote. The site has a total area of 3673.4m<sup>2</sup>, with a primary frontage to Veno Street of 60.33m and a western frontage to Rosebery Street of 60.96m. The site is relatively flat with a moderate slope to the north-western corner. The site is located at the periphery of the Heathcote Centre and is within close proximity to the railway station and local shops.

### **1.4 The Issues**

The main issues identified are as follows:

- Non-compliance with SSLEP 2015 – building height.
- Non-compliance with Draft SSDCP 2015 including building setbacks
- Non-compliance with ADG in terms of building setbacks and solar access
- Integration of proposal with the existing streetscape and established character of the locality, particularly given its location at the interface between 3 different land use zones.

### **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 Shire as envisaged under SSLEP 2015.

The proposal entails several departures from the relevant LEP, DCP and ADG controls being mainly building height, 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, including minor increases in building setback at the most sensitive edges and the modification of some units to improve solar access, as well as a significantly improved scheme of landscaping.

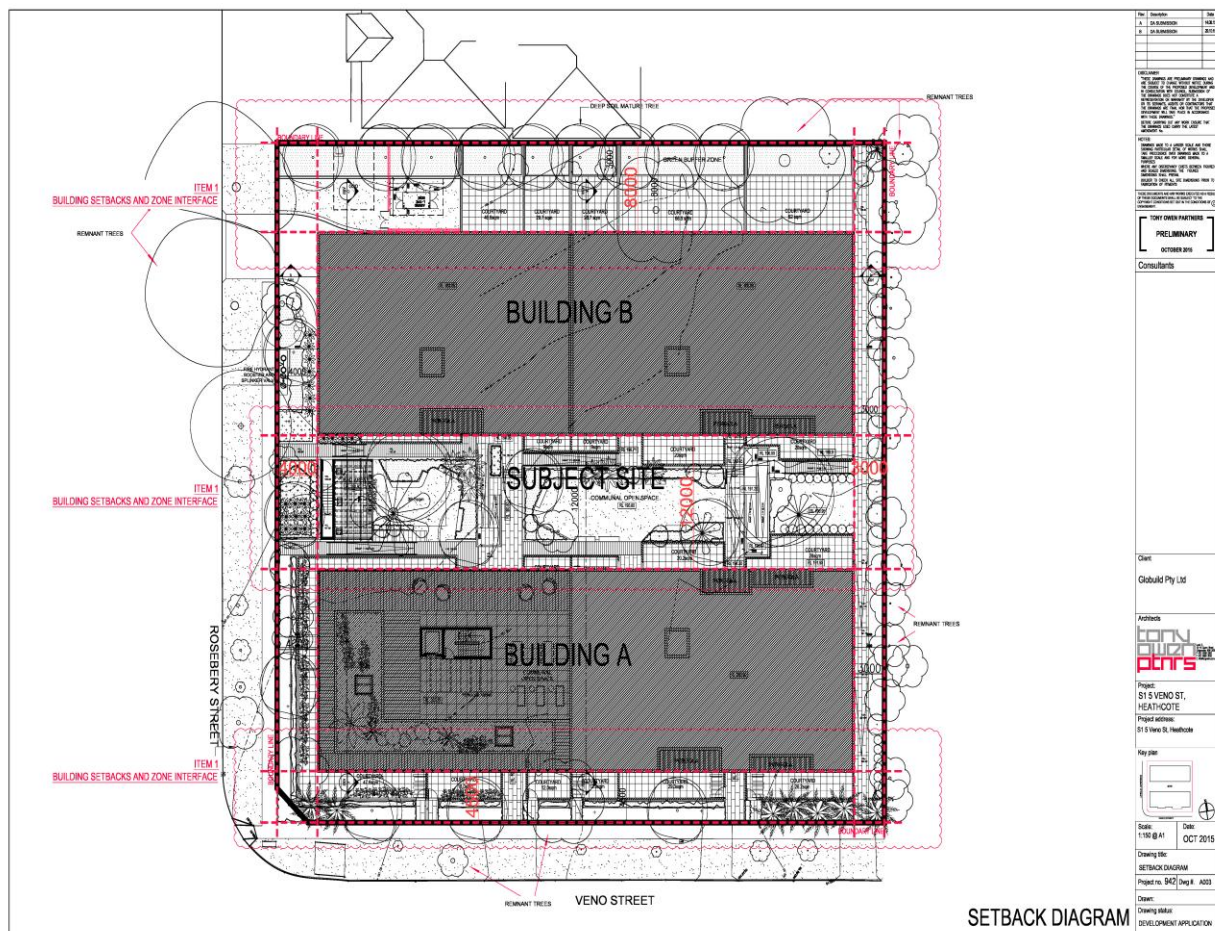
The applicant has modified the building as originally proposed in response to concerns raised by Council staff.

## **2.0 DESCRIPTION OF PROPOSAL**

The application is for the demolition of existing structures and the construction of a 2 x 4 (four) storey residential flat buildings accommodating 77 units at the above property. The development includes a mix of 1, 2 and 3 bedroom apartments. Two (2) levels of basement car parking 132 parking spaces are accessed from Rosebery Street.

A communal open space area is provided within the development at ground level in the space between the proposed buildings. A roof top terrace is to be provided on the western portion of the southern building (Building A). All trees are to be removed within the building

footprint and a strip of deep soil is maintained along the northern boundary. A site plan is provided below.



### 3.0 SITE DESCRIPTION AND LOCALITY

The subject land is located at 30 Rosebery Street, and 11-15 Veno Street, Heathcote. The site comprises five (5) separate residential allotments located on the northern side of Veno Street and eastern side of Rosebery Street in Heathcote. The site is a regular shape by consolidation of land with a combined site area of approximately 3673.4m<sup>2</sup>. The site has a width of 60.33m, and depth of 60.96m. There is a slight fall to the rear (north-west) of the site and stormwater from the existing allotments is directed to both Veno Street and Rosebery Street. The land is currently occupied by single and two storey dwellings and, with seniors' housing villas on Rosebery Street, detached ancillary structures and numerous established trees and shrubs. Vehicular access is obtained via both Veno Street and Rosebery Street.

The site is located at the periphery of the Heathcote Centre and is within close proximity to the railway station and local shops. The site to the north contains a recently constructed detached dwelling house. Immediately to the east is a large nursery operation on two allotments. Opposite Veno Street to the south is Heathcote Public (primary) School. To the west on Rosebery Street are low density detached dwellings of various architectural designs and eras.

The site shares the same zoning and development standards with sites to the east and south within the Heathcote Town Centre. Zoning to the north is a lower density zone, R3 – Medium Density Residential and to the west is zoned R2 - low density residential. Beyond the low density housing to the west and south is the Heathcote National Park.





## 4.0 BACKGROUND

A history of the development proposal is as follows:

- A pre-application discussion (PAD) was held on 24 April 2015 regarding a similar but slightly smaller development. As formal letter of response was issued by Council dated 12 May 2015. A full copy of the advice provided to the Applicant is contained within Appendix "B" of this report and the main points contained in this letter are as follows:
  - Exploration of site amalgamation.
  - Development should be designed to transition appropriately to lower density zones.
  - Massing, built form and setback required further consideration and possible redesign.
- The current application was submitted on 24 August 2015.
- The application was placed on exhibition with the last date for public submissions being 24 September 2015. Twelve (12) submissions were received.

- An Information Session was held on 16 September 2015 and 5 parties attended.
- The application was considered by Council's Submissions Review Panel on 10 November 2015.
- Council officers in their letter dated 14 October 2015 requested that the following additional information be provided:
  - Improved transition to lower density zones and increased setback to the north (as required by ADG).
  - Compliance with the ADG in terms of solar access and setbacks.
  - Improved landscaping design and provision of ADG compliant communal open space area.
  - Car parking and manoeuvring improvements.
- Amended plans and information was lodged on 30 October 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 height standard.

## 6.0 PUBLIC PARTICIPATION

The application was advertised in accordance with the provisions of Council's DCP and other relevant provisions.

63 adjoining or affected owners were notified of the proposal and 12 submissions were received as a result.

Submissions were received from the following properties:

Address	Date of Letter/s	Issues
14 Larkspur Place, Heathcote	28 August 2015	1
N/A	28 August 2015	1 & 3
N/A	28 August 2015	1
N/A	9 September 2015	1, 3 & 8
N/A	17 September 2015	1, 2, 3 & 8
N/A	18 September 2015	1 & 2
19 Rosebery Street, Heathcote	22 September 2015	3 & 9
1929 Princes Highway, Waterfall	22 September 2015	1, 2, 3, 4, 5, 6, 7 & 10
Heathcote Public School	25 September 2015	1, 2, 3, 4, 5, 6, 7 & 10
Heathcote Public School P&C	24 September 2015	1, 2, 3, 4, 5, 6, 7 & 10
N/A	24 September 2015	1, 3, 7 & 8
7-9 Veno Street, Heathcote	25 September 2015	1, 5, 8, 9, 12 & 13

The issues raised in these submissions are as follows:

### 6.1 Issue 1 – Parking and Traffic Impacts including pedestrian safety

Concern has been raised as to the adequacy of parking provided within the site and the impacts on the surrounding street network to accommodate an increase in population and traffic. The impacts of increased traffic on pedestrians and safety were also of concern. The

methodology of the submitted traffic report was also questioned in terms of the times that the traffic counts were recorded.

Comment: The proposal has been reviewed by Council's Traffic Engineer who is satisfied that the proposal will not adversely affect the surrounding street network. The parking provided is compliant with Council's Draft SSDCP 2015 requirements. The methodology used to assess the traffic impacts are considered to be satisfactory. Whilst it is acknowledged that there will be an increase in vehicle movements, given that vehicular access to the site is provided via Rosebery Street, direct impacts on the School have been minimised.

#### 6.2 Issue 2 – Solar Access/Overshadowing

Comment: This matter is discussed and addressed below in the "Assessment" section of this report.

#### 6.3 Issue 3 - Noise and dust during construction and impacts on school children/Damage to adjoining property

Concern has been raised in relation to the detrimental impacts the construction will have on adjoining residents and school children in terms of noise and dust and the roll on effect this will have on classroom ventilation (having to close windows during this time).

Comment: The site management plan during construction has been reviewed by Council's Engineer and is considered adequate. Council's standard conditions of consent in respect of hours of work, noise and construction management are adequate to control the relatively short-term impacts of construction to adjoining residents and school children. 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.

#### 6.4 Issue 4 - Noise from development once operating

The ongoing acoustic impacts of mechanical plant/ventilation equipment on adjoining residents and the school have been raised as a concern.

Comment: The proposal has been reviewed by Council's Health Officer who has provided no objections to the proposal, subject to the imposition of appropriate conditions of consent to ensure that the proposal complies with relevant regulations and standards in this regard.

#### 6.5 Issue 5 - Height/Bulk/Scale

The proposed height and bulk of the proposal has been raised in submissions. The proposal is considered to be inconsistent with the objectives of the SSLEP 2015 and Draft SSDCP 2015.

Comment: The proposal largely complies with development standards specified in SSLEP 2015 in terms of height and bulk (floor space ratio) apart from the lift overrun as discussed below. The development is consistent with the objectives of SSLEP 2015 and Draft SSDCP 2015 in that it encourages residential development within Heathcote Centre and provides adequate landscaping that contributes to the Sydney Turpentine Ironbark Forest.

#### 6.6 Issue 6 - Inaccurate information

Comment: The information provided is accurate to enable Council to undertake a thorough assessment of the proposal.

#### 6.7 Issue 7 - Out of character

Comment: This matter is discussed and addressed below in the “Assessment” section of this report.

**6.8 Issue 8 - Lack of infrastructure to support increased population**

Comment: The existing infrastructure is considered to be adequate to support the introduction of residents resulting from the proposal. Conditions of consent are recommended that require the applicant to consult with various government services in this regard. Significant internal community facilities are provided also.

**6.9 Issue 9 - Privacy**

Comment: This matter is discussed and addressed below in the “Assessment” section of this report.

**6.10 Issue 10 - Glare/Reflection impacts of building material**

Comment: The proposed materials are considered appropriate and do not promote reflection or glare. In any case, a condition of consent requiring building materials to be non-reflective is recommended.

**6.11 Issue 11 - ‘Wind Tunnel’ forming within communal open space and impacts on adjoining properties**

Comment: The location of the communal open space is not expected to create abnormal wind or weather impacts that would detrimentally affect adjoining properties.

**6.12 Issue 12 - Economic Waste due to demolition of existing structures**

Comment: Council has reviewed the submitted ‘Waste Management Plan’ and is satisfied with the information in regards to the demolition and recycling proposed.

**6.13 Issue 13 - Setbacks from Street frontages**

Comment: This matter is discussed and addressed below in the “Assessment” section of this report.

**Submission Review Panel (SRP)**

The above submissions were considered by Council’s SRP on 10 November 2015. The SRP concluded that all matters raised were either not substantive, had been resolved via conditions or had been dealt with by design changes in response to the ARAP comments. The one exception was in relation to a non-compliant building height.

**Revised Plans**

The applicant lodged revised plans 30 October 2015. Amongst others, the changes included the introduction of a communal rooftop terrace and a height breach due to the lift overrun serving this area. Given the timeframe of the assessment, these plans were not publicly exhibited however parties that made submissions during the original notification period have 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 be subject to a deferred commencement condition to amend the building to ensure the height complies with relevant development standards.

## **7.0 STATUTORY CONSIDERATIONS**

The subject land is located within Zone B2 – Local Centre pursuant to the provisions of Sutherland Shire Local Environmental Plan 2015. The proposed development, being a residential flat building, is a permissible land use within the zone with development consent from Council.



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

- Sutherland Shire Local Environmental Plan 2015 (SSLEP2015)
- State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)
- State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (SEPP 65)
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy (Infrastructure) 2007
- Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment
- Draft Sutherland Shire Development Control Plan 2015 (DSSDCP 2015)
- Section 94 Developer Contributions Plans:
  - Shire-Wide Open Space and Recreation Facilities 2005
  - Section 94 Community Facilities Plan

## 8.0 STATEMENT OF COMPLIANCE

The statement of compliance below contains a summary of applicable development standards and controls.

### 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 residential flat building 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 residential flat building, is an appropriate response to the “mid-rise” desired future character of Heathcote Centre. Whilst it is acknowledged that there is a disconnect with the existing character of the area, the design of the proposal is considered to provide an appropriate degree of transition to surrounding lower density development, subject to design amendments provide increased setbacks at the most sensitive edges in accordance with the ADG.
Principle 2: Scale	The proposed scale is generally a positive response to the site and setting, subject to conditions in relation to building setbacks. The proposed increased setback will ensure the scale of the proposal provides a balance to adjoining residential development and desired future building form.
Principle 3: Built Form	The built form is distributed appropriately across the site. Whilst the 4 storey urban scale will be somewhat confronting in the existing context, appropriate separation and landscape treatments could ensure that the development transitions appropriately to the streetscape and scale of buildings on adjoining land given the future character envisaged in this location.
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 a roof top terrace which reinforce the existing and desired future character of the locality. However, further planting and appropriate species selection is required and has been included as a condition of consent.
Principle 7: Amenity	The proposal adequately satisfies the provisions of the Apartment Design Guide in terms of residential amenity, including appropriate building and floor plan layout, and visual/acoustic privacy. Conditions are required to achieve adequate solar access, see below.
Principle 8: Safety and Security	The proposed development incorporates suitable Crime Prevention Through Environmental Design (CPTED) Principles in the design. However, conditions of consent have been recommended to ensure further compliance with CPTED principles.
Principle 9: Social Dimensions & Housing Affordability	The proposal provides a mix of apartment types including 30% adaptable dwellings, 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 Apartment Design Guide (ADG)

The proposal is affected by the ADG. The following table contains an assessment of the proposal against key controls of the ADG. Refer to the Assessment section of this report for further details with respect to performance of the proposal against the ADG.

<b>Apartment Design Guide (ADG) – Key Controls</b>			
	<b>Control</b>	<b>Proposed</b>	<b>Complies</b>
Building separation/Setbacks	<p><i>Up to 4 storeys:</i> 3m non habitable 6m habitable</p> <p>Additional 3m setback required when site adjoins a lower density zone 9m setback required to the northern boundary</p>	<p><i>Western setback:</i> 4m (habitable) to Rosebery Street</p> <p><i>Eastern setback:</i> 3m (habitable)</p> <p><i>Northern setback:</i> 8m (habitable) – adjoins lower density zone</p> <p><i>Southern setback:</i> 4.5m (habitable) to Veno</p>	<p>No (33%) – See 'Assessment' section of this report</p> <p>No (50%) – See 'Assessment' section of this report</p> <p>No (11%) – See 'Assessment' section of this report</p> <p>No – (25%) –</p>

		Street  <i>Setback between buildings:</i> 12m (habitable)	See 'Assessment' section of this report  Yes
Solar access	Living rooms and private open space, 2 hours direct sunlight in mid winter to 70% of units.  Maximum 15% of units receive no sunlight to habitable rooms	50 /77 (65%)  20%	Yes  No - See 'Assessment' section of this report
Natural ventilation	60% of apartments to be naturally cross ventilated.  Max. Depth 18m	47/77 units (61%)  18m max depth	Yes  Yes
Single aspect apartment depth	8m	Majority of apartments comply	Yes - acceptable
Apartment size	1br: 50m <sup>2</sup> 2br: 70m <sup>2</sup> 3br: 90m <sup>2</sup>	1br: 50m <sup>2</sup> 2br: 70m <sup>2</sup> 3br: 99m <sup>2</sup>	Yes
Ceiling heights	2.7m	2.7m	Yes
Private open space: – 1 br apartment – 2 br apartment – 3 br apartment  – Ground level apartments (or on a podium)	<i>Primary balconies:</i> 8m <sup>2</sup> , min. 2m depth 10m <sup>2</sup> , min. 2m depth 12m <sup>2</sup> , min 2.4m depth 15m <sup>2</sup> with min 3m depth	13m <sup>2</sup> min, >2.5m depth 12m <sup>2</sup> min, >2.5m depth 73.2m <sup>2</sup> , >2.5m depth  15m <sup>2</sup> minimum	Yes Yes Yes  Yes
Communal open space – size	25% of site area (918.4m <sup>2</sup> )	Ground level: 554.4m <sup>2</sup> Level 4: 419m <sup>2</sup> Total: 973.7m <sup>2</sup> (26.5%)	Yes
Communal space - solar access	50% of communal open space to receive 2hrs of direct sunlight in mid winter	Minimal sunlight provided to ground floor communal open space. The rooftop terrace receives full sunlight.	Yes
Residential storage	6m <sup>3</sup> per 1br apartment 8m <sup>3</sup> per 2br apartment 10m <sup>3</sup> per 3br apartment  At least 50% of storage to be located within the apartments	6m <sup>3</sup> min. 8m <sup>3</sup> min. 10m <sup>3</sup> min.  50% of storage is located within apartments	Yes Yes Yes  Yes

### 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. It should be noted that the proposal was lodged under the original draft SSDCP 2015 which has since been amended and adopted by Council as of 21 September 2015. As such, some minor non-compliance has resulted and has been detailed below:

Standard/Control	Required	Proposed	Compliance
<b>Sutherland Shire Local Environmental Plan 2015</b>			
Building Height	13m	Building parapet – 12.85m Balustrade – 13.6m Pergola – 14.8m Lift overrun -15.8m	No –24% Variation (See ‘Assessment’ Section of report)
Floor Space Ratio	Max. 2:1	1.66:1	Yes
<b>Draft Sutherland Shire Development Control Plan 2015</b>			
Landscaped Setback Ch 14.4.2	6m to Veno Street  6m to Rosebery Street	4.5m max. setback  4.0m max. setback	No – 15% Variation (See ‘Assessment’ Section of report) Yes – complies with previous Draft SSDCP 2015 (at the time of lodgement a 4m setback to Rosebery Street was required).
Side and Rear Setbacks Ch 14.9.3	Setback from boundary where the façade contains windows from bathroom and/or laundry, storage, or highlight windows only = 4.5m Setback from boundary where the façade contains windows from habitable rooms including living rooms, kitchens, bedrooms, or studies, and/or balconies = 6m	<i>Western setback:</i> 4m (habitable) to Rosebery Street  <i>Eastern setback:</i> 3m (habitable)  <i>Northern setback:</i> 8m (habitable) – adjoins lower density zone  <i>Southern setback:</i> 4.5m (habitable) to Veno Street	Yes – discussed above  No – discussed in ‘Assessment’ section of this report  Yes  No – discussed above
Daylight Access Ch 14.9.7	Min 70% get 2 hours 9am–3pm midwinter	65% achieved	No – discussed in ‘Assessment’ section of this report
Primary Balcony	Min Area and	Min 12m <sup>2</sup> with width	Yes

Ch 14.9.10	Dimension 12m <sup>2</sup> / 2.5m	/ depth min 2.5m	
Secure Storage Ch 14.9.14	6m <sup>3</sup> per 1br apartment 8m <sup>3</sup> per 2br apartment 10m <sup>3</sup> per 3br apartment	Adequate storage provided	Yes
Communal Open Space Ch 14.9.17	25% of the site Min. Dimension 3m	Ground level: 554.4m <sup>2</sup> Level 4: 419m <sup>2</sup> Total: 973.7m <sup>2</sup> (26.5%) Dimension 12m max.	Yes  Yes
Adaptable and Liveable Housing Ch 14.10	Min 20% adaptable Min 10% liveable	Min 30% adaptable (including parking)	Yes (at the time of lodgement the Draft SSDCP 2015 required 30% adaptable dwellings)
Car Parking Residential Ch 14.13	Min. 1 space per unit Max. 2 space per unit No visitor car space	132 spaces provided 3 car wash bays	Yes
Motor Cycle/ Bicycle Parking Ch 35	1 per 10 car spaces	14 bike spaces 4 motorcycle spaces	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 Police (Sutherland Local Area Command)

Comment: The proposal was referred to NSW Police for review. No comments were received within the statutory timeframe.

### 9.2. Architectural Review Advisory Panel (ARAP)

Comment: The development has been reviewed by the ARAP on 2 occasions (Pre-DA and during the DA assessment process). The proposal was modified prior to lodgement of the DA in response to the Panel's Pre-DA comments. At the latest meeting during assessment of the DA, the Panel indicated their general support for the scheme subject to the further resolution of the following matters:

- The improved transition in scale in regards to the zone interface to the north and surrounding locality.
- The refinement and reconfiguration of the communal open space area and suggestion of a rooftop garden.
- Improved presentation to each street frontage, including the removal of excessive, closed fencing and;
- Ensuring compliance with ADG, in particular, solar access, percentage of south facing units, apartments depths and floor to ceiling height requirements.

A copy is attached at Appendix C.



### 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. Further revision of setbacks and landscaping is desirable and has been recommended as conditions of consent (discussed below in 'Assessment'). Nevertheless, 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 merit.

### 9.4. Landscape Architect

Comment: Council's Landscape Architect has undertaken an assessment of the application with respect to landscaping, tree removal and retention, the endangered ecological community (STIF) 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, reinforcement of the Sydney Turpentine Iron Bark Forest and frontage improvements.

It should be noted that the applicants revised Architectural plans were not accompanied by a landscape plan. As such, the landscape scheme has been largely designed by Council's Landscape Architect. See 'Appendix D' for annotated plans.

### 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.

### 9.6. Engineering (Assessment Teams)

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 Height

A maximum building height of 13m applies to the site pursuant to Clause 4.3 and the Height of Buildings Map of SSLEP 2015. The proposal has a maximum height of 15.8m within the southern portion of the site. The isolated area of encroachment includes only the lift overrun, fire stairs, balustrade and pergola proposed on the rooftop communal open space area on the western portion of Building A which was added in response to Council's Architectural Review Panel's comments. Therefore the proposal fails to comply with the height of buildings development standard of SSLEP 2015.

The objectives of the height of buildings development standard set out in clause 4.3 (1) of SSLEP 2015 are as follows:

- (a) *to ensure that the scale of buildings:*
  - (i) *is compatible with adjoining development, and*
  - (ii) *is consistent with the desired scale and character of the street and locality in which the buildings are located or the desired future scale and character, and*
  - (iii) *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 in those zones,*
- (f) *to achieve transitions in building scale from higher intensity employment and retail centres to surrounding residential areas.*

Objectives (a), (b), (c) and (d) are relevant to the proposal and are considered to be achieved. Given that the non-compliance is isolated to the lift over run, pergola and fire stairs, there are no detrimental effects to adjoining properties in terms of views, privacy, overshadowing and visual intrusion as a result of the departure. The non-compliance is located in such a way that it will not be readily visible from the street and adjoining properties and will not impede on views, vistas or result in detrimental overshadowing impacts. In order to further minimise the non-compliance when viewed from the street and surrounding properties, a condition of consent is recommended to 'flip' the fire stairs and lift to ensure the lift over run (the highest point) is setback further within the roof plane and to the east of the rooftop. This is because Rosebery Street is the more sensitive, low density edge of the development site and so the height must be kept to a minimum at that side.

The proposed development is located within zone B2 – Local Centre. The objectives of this zone are as follows:

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*
- *To encourage employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*
- *To create an attractive, vibrant and safe public domain that has both a high standard of urban design and public amenity that is designed to cater for the needs of all ages and abilities.*
- *To encourage housing suitable for the needs of an ageing population.*
- *To allow for residential dwellings while maintaining active land uses at street level.*
- *To provide a mix of compatible land uses and building forms that act as a transition to the surrounding residential neighbourhood.*

The development proposed is consistent with the objectives of the zone as it encourages a

suitable mix of housing in an accessible location, close to public transport and community facilities.

The applicant has lodged a written request in accordance with the requirements of clause 4.6 of SSLEP 2015.

A full copy of this request is held at Appendix E and the most relevant points are summarised below:

*“...the entire proposal complies with the applicable height limit and the proposal will generally appear in the streetscapes of Veno Street and Rosebery Street as a form that is compliant and envisaged by the planning controls. The area of non-compliance is setback towards the centre of building and will not be visible from adjoining properties. Accordingly, it is considered that the proposed height breach will not result in a building form that is antipathetic to the character objectives of the height control. Compatibility with adjoining development is driven more so by boundary setbacks, landscape treatments, materiality and the general massing of the building, all of which are considered acceptable. In addition, the proposed height non-compliance does not relate to parts of the building that contribute to calculable floor space.*

*...The areas of the proposed height breach will not result in any additional shadow on adjoining properties beyond that which is cast by the compliant parts of the building. Similarly, the public domain will not be additionally affected...*

*...The location of the proposed roof terrace occupies the part of the roof that is separated by greatest distance to adjoining properties. There will be no view lines from the terrace into adjoining properties, there are no views that will be affected, overshadowing is not increased beyond the compliant parts of the building and the non-compliant building element will in fact not be visible from adjoining properties...*

*...The area of non-compliance will not be visible from adjoining residential properties and will in no way dominate the building form when visible from limited vantage points in the public domain. The site is not visible from any waterways or public reserves.*

*Whilst the subject site is at the boundary between two zones, the height breach relates to an isolated element of the roof which is the furthest removed part of the roof from the adjoining residential properties. Accordingly, the proposed area of height breach is not considered to have any negative implication for the transition of development to the adjoining residential zone”*

The communal terrace area was highly recommended by ARAP in order to satisfy communal open space requirements of the ADG in terms of both space and solar access. The inclusion of the rooftop communal open space therefore, has environmental planning grounds as it provides an appealing north-facing space for future residents. Further, the proposed non-compliance does not add to the bulk of the proposal or contribute to floor space.

To minimise the impacts from its use on the amenity of surrounding residential properties it is proposed to place limitations on the use of the communal roof top area (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, including 1.5m setback of the communal open space from the western and southern sides of the building.

The non-compliance is considered to be in the public benefit as it increases the amenity future residents to utilise the communal space. Furthermore, the lift over-run is required for accessibility to the rooftop and so cannot simply be deleted as this would exclude mobility

impaired users of the communal open space.

As such, the applicant's written submission demonstrates that compliance with the height development standard is unnecessary in the circumstances and satisfies the Clause 4.6 criteria. It also demonstrates sufficient environmental planning grounds to justify varying this development standard. The proposed variation does not raise any matters of State or regional environmental planning significance.

In conclusion the variation to the height development standard satisfies all relevant parts of clause 4.6 and therefore the variation can be supported, subject to the imposition of appropriate conditions of consent.

## 10.2 Zoning and Context

The site is located within the area identified by SSLEP2015 as the Heathcote Centre. Buildings of the scale and density proposed are permissible in the centre, although few sites have been redeveloped at this stage and the proposal will be the first to realise anything close to the development standards within the newly gazetted SSLEP 2015. The land adjoining to the east fronting Veno Street are able to be developed to the same scale and with minimal landscaping and setback requirements, as is typical of 'centre zones' under SSLEP 2015.

It should be noted that the site was similarly zoned under the previous SSLEP 2006 (Zone 9 – Local Centre). The site had a density of 2:1 and a height limit of 3 storeys. As such, with the gazettal of SSLEP 2015, the height limit was increased to 13m to allow a 4 storey development, whilst the FSR remained the same.

The proposal is located on the periphery of the zone and there is little in the way of transition between the 'Centre' and the surrounding, lower-density residential land. Providing this transition whilst still realising a commercially acceptable yield is the major challenge for redevelopment of the site.

The development is mostly compliant with the numeric requirements contained within the Apartment Design Guidelines and Council's LEP and Draft DCP. However, the location of the site at the currently under-developed periphery of the centre highlights a fundamental disconnect between the desired future character of the centre and the existing character of the area. The development reads, and is likely to for some time, as an isolated larger residential development, surrounded by smaller, low density buildings.

As the subject site is at the very edge of the Centre, any new building should relate as closely to the scale and proportions of the nearby residential development as to the desired future built form of the Centre. The subject site is located at the most prominent interface between the Centre and the more 'suburban' parts of Heathcote, where it is important for buildings to create a more sensitive and less abrupt, transition in scale and density.

Whilst the 4 storey design of the development is relatively abrupt in its transition to surrounding 1 and 2 storey buildings, it has been adequately demonstrated through the design of the building that its scale and appearance can provide a transition between the centre and its surrounds through increased setbacks and landscaping treatment. Given the zoning and the desired future character of the locality, it is considered that the proposed development is appropriate. However, as discussed in the sections below, minor modifications are required to setbacks in the most sensitive sections to achieve appropriate relationships with neighbouring site, and the landscaping scheme needs significant revision in order to read as a less "urban" response to the area.

## 10.3 Street Setbacks



The provisions of Draft SSDCP 2015 require a minimum 6.0m landscaped setback be provided to Veno Street and Rosebery Street. The proposed development is sited at a minimum setback of 4.5m to Veno Street and 4.0m to Rosebery Street. It should be noted that the proposal complies with the previous version of Draft SSDCP 2015 with regard to the 4m setback to Rosebery Street.

Whilst the eastern side of Rosebery Street has an established street setback of 7.5m, the 'open' design of the basement at ground level and the landscaped 8m setback to the northern boundary ensures the proposal provides a degree of transition in this respect.

The setback of 4.5m to Veno Street is compatible with the existing and desired future streetscape character, as it is anticipated that should redevelopment occur on allotments adjoining to the east, a similarly reduced setback will be provided. A 'shop top housing' development exists at a nil setback approximately 50m to the east of the subject site along Veno Street and there will need to be some transition along the street edge to this building line. The deficient setbacks do not inhibit the development's ability to satisfy the objectives of the setback control and enables the development to maximise building internal separation and improve the transition and its future relationship to the lower density zone to the north.

The frontage design and façade treatment incorporate suitable articulation and architectural detailing maintaining appropriate perceptions of openness and transition between the development and its surrounds.

#### 10.4 Building Separation and Setbacks

The proposal involves non-compliance with the ADG building separation controls on the northern and western sides. The applicant seeks to rely on the non-habitable room definition as stated in Draft SSDCP 2015, where a highlight window is recognised as a 'non-habitable' room.

As previously discussed, the site adjoins a lower density zone to the north. For buildings up to 4 storeys, the ADG recommends a setback of 6m to habitable rooms from the boundary and an additional 3m setback where the site adjoins a lower density zoning. In this regard, a 9m setback to the north is required. The development provides an 8m setback to the north. Whilst the development does not strictly comply with the recommended setbacks, the landscaping provided along the northern boundary (provided to reinforce the STIF community) will offer increased privacy and contribute to the transition of the development and is therefore considered acceptable.

In accordance with the ADG, a setback of 6m is recommended from the eastern boundary to habitable rooms, whereas the current proposal provides a 3m setback. The eastern elevation contains habitable rooms (predominately living areas) with highlight windows. Given the sensitivity of the northern boundary and the undeveloped site adjoining to the east, it is recommended that the eastern setback to the northern building (Building B) should comply with the 6m requirement of the ADG, resulting in an additional 3m setback. This will ensure that the impacts of the proposal to existing development to the north and north-east will be minimised. The increased setback will also allow the required building separation to be achieved by future redevelopment of the site adjoining the east. A condition of consent has been recommended in this regard.

The increased setback will not necessarily result in an overall reduction in apartment yield, however, it may result in the loss of bedrooms for some apartments. The southern building (Building A) is to remain as proposed. Given the location of this building at the street frontage away from residential uses the reduced setback will not directly affect adjoining developments. Other internal amenity benefits of this recommended change are discussed below.

### 10.5 Residential Amenity

The proposal does not comply with the solar access requirements specified in the ADG (see compliance table), in terms of both solar access to living areas and units that do not receive direct solar access. As specified in the compliance table above, the proposal includes 12 units (20%) that do not receive direct sunlight. In order to slightly improve the proposal in this regard, a condition of consent that requires the amalgamation of units G10 and G11 into a two bedroom unit has been recommended. This is to improve the outlook, functionality and solar access requirements for unit G10 in particular, which is considered a very poor apartment.

In addition to the increased eastern boundary setback to 6m (discussed above in 'Building Separation and Setbacks' and recommended as a condition). Opportunities to provide solar access to poorly orientated units in the south-eastern corner of Building B will arise. The windows provided on the eastern elevation of 'Building B' should be amended to be 'floor to ceiling' to increase solar access to corner units and reflect the proposed window treatment proposed on the western, southern and northern elevations. A condition of consent has been recommended in this regard. 'Building A' is recommended to remain as proposed.

The remaining units that do not satisfy the above requirement are a product of the orientation and layout of the proposed buildings. The 2 east-west buildings are designed to maximise the building's northern elevation to ensure maximum solar access. Louvered panels on the roof have been provided to enable sun to be provided to private balconies for south facing units on level 3, which aids in improving the amenity for future residents.

### 10.6 General Urban Design

SEPP 65, ADG, SSLEP 2015 and Draft SSDCP 2015 contain relevant matters of consideration relating to urban design and residential amenity. The development incorporates a notably more modern aesthetic than surrounding buildings, however it respects the zoning and desired future character of the area as a local 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.

Given its location at the periphery of the 'centre' zone and being the first site to realise the height and density controls of the recently gazetted SSLEP 2015, the proposal must ensure it integrates appropriately with the adjoining lower density residential context, public domain and future centre development. In this respect, the proposal is considered to integrate appropriately with the surrounding area, subject to the increased setback to the north and eastern boundary (discussed above in 'Building Separation and Setbacks'). Minor variations to the ADG 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 Draft SSDCP 2015. The residential 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 Overshadowing

Submissions were received during the exhibition period by No. 7-9 Veno Street and Heathcote Public School. The submissions state that both properties will be adversely impacted by the proposal due to overshadowing.

The classrooms located to the north of the school site will be impacted by overshadowing during the morning period on the winter solstice; however, the school maintains full solar access at midday and during the afternoon. The proposed development will allow the school site to maintain adequate solar access and is therefore fully compliant with Draft SSDCP 2015. It should be noted that the playground and 'open' vegetated areas within the school will not be affected by overshadowing from the proposal.

The proposal will result in overshadowing to No. 7-9 Veno Street during the afternoon of the winter solstice. Given the overshadowing of this site is isolated only to the afternoon period, the proposal retains an acceptable and sufficient level of solar access to the adjoining site and therefore satisfies Draft SSDCP 2015.

#### 10.8 Privacy

Privacy and overlooking to surrounding residential properties and the school site has been highlighted in submissions as being of concern. Given the setbacks of the proposal, the closest distance between the development and surrounding residential properties along Rosebery Street and the school is approximately 20m and 30m respectively. The site also adjoins a dwelling house to the north.

Overlooking to the north is mitigated through increased setbacks and landscape treatment. Upper levels of the proposal will have sight lines over the dwelling house and will not directly windows or private open space areas of this property.

Given the approximate distance between the proposal and surrounding dwellings along Rosebery Street and the school, overlooking and expected to be minimal and it is considered that such properties will retain an adequate amount of privacy.

#### 10.9 Natural Environment

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 within Rosebery Street.

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.

#### 10.10 Road Noise

The subject site is identified as a noise sensitive development as it is located within 200m of the Princes Highway. The annual average daily traffic (AADT) volume is greater than 40,000 vehicles, and the provisions of Draft SSDCP 2015 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.

#### 10.11 Archeologically 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.

Nevertheless, 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.

### 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:	\$585,870.84
Community Facilities:	\$99,018.80

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 76 new residential apartments (in accordance with conditions of consent) with a concession of 5 existing allotments.

### 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 proposed development is for a residential flat building at 30 Rosebery Street, Heathcote and 11-15 Veno Street, Heathcote.

The subject land is located within *Zone B2 – Local Centre* pursuant to the provisions of Sutherland Shire Local Environmental Plan 2015. The proposed development, being a residential flat building, is a permissible land use within the zone with development consent.

The development is generally worthy of support as it reflects the desired future character of development within the Heathcote Centre as envisaged under SSLEP 2015. The buildings are generally well designed and, subject to minor amendments at the more sensitive edges, will sit comfortably within the desired future context of the Heathcote Centre.

It is acknowledged, however, that the buildings will result in an abrupt transition between the centre zone within which they are located and the surrounding lower density zones. This report recommends a substantially upgraded scheme of landscaping and slightly increased setbacks at one corner of the site in order to improve this relationship.

In response to public exhibition, 12 submissions to the proposal were received and whilst concerns raised 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 recommended to minimise impacts and to improve amenity.

The proposed variations (including building height, setbacks and separation between adjoining developments) are considered acceptable with resolution of the final design and recommended conditions of consent. Whilst the development presents a modern design that does not directly reflect the existing context of the locality, in light of the desired future character of Heathcote Centre, the proposal is acceptable. 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. DA15/0936 may be supported for the reasons outlined in this report.

## **14.0 RECOMMENDATION**

- 14.1 That pursuant to the provisions of Clause 4.6 of Sutherland Shire Local Environmental Plan 2015, the Objection submitted in relation to the requested variation of the building height development standard (13m) under Clause 4.3 of Sutherland Shire Local Environmental Plan 2006 is considered to be well founded and is therefore supported. Accordingly, the provisions of Clause 4.6 are invoked and this development standard is varied to 15.8m in respect to this development application.
- 14.2 That Development Application No. DA15/0936 for the demolition of existing structures and the construction of a residential flat building comprising 77 apartments Lot 18 Sec A DP 2499, Lot B DP 384089, Lot 21 DP 881235, Lot 22 DP 881235, S/P 63259, Lot 1 S/P 63259, Lot 2 S/P 63259, Lot 3 S/P 63259 30 Rosebery Street, Heathcote, 13 Veno Street, Heathcote, 15 Veno Street, Heathcote, 11 Veno Street, Heathcote, 11A Veno Street, Heathcote, 1/30 Rosebery Street, Heathcote, 2/30 Rosebery Street, Heathcote, 3/30 Rosebery Street, Heathcote be approved, subject to the draft conditions of consent detailed in Appendix "A" of the Report.