

SYDNEY SOUTH PLANNING PANEL

Panel Reference	2017SSH028
DA Number	DA17/0885
LGA	Sutherland Shire
Proposed Development:	Demolition of existing structures, construction of a mixed use development containing ground floor commercial units and 67 residential units with 4 rooftop swimming pools and a podium level pool
Street Address:	Lots 1, 2 and 3 DP 1238003 - 49-57 and 51R Gerrale Street, Cronulla
Applicant/Owner:	Iridium Developments Pty Ltd
Date of DA lodgement	13 July 2017
Number of Submissions:	8 as a result of the initial notification and 3 as a result of the re-notification
Recommendation:	Approval
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 (State and Regional Development) 2011 • 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 (Infrastructure) 2007 (Infrastructure SEPP) • State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 • Apartment Design Guide (ADG) • Sutherland Shire Local Environmental Plan 2015 (SSLEP2015) • Sutherland Shire Development Control Plan 2015 (SSDCP 2015) • 2016 Town Centres s94 Contributions Plan
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> • Draft Conditions of Development Consent • Pre-DA minutes PAD17/0020 • List of Submitters • ADG Assessment Tables • LEP / DCP 2015 Assessment Tables • Architectural Review Advisory Panel (ARAP) comments • Applicant's Clause 4.6 – Building Height • Plans
Report prepared by:	Amanda Treharne – Development Assessment Officer Sutherland Shire Council
Report date	13 February 2018

Summary of s79C matters

Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report? Yes

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? Yes
e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? Yes

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S94EF)?

Not Applicable

Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

Have draft conditions been provided to the applicant for comment?

Yes

Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

EXECUTIVE SUMMARY

REASON FOR THE REPORT

This application is referred to the Sydney South Planning Panel (SSPP) as the development has a capital investment of more than \$20,000,000 and is nominated under Schedule 4A(3) of the Environmental Planning and Assessment Act, 1979. The application submitted to Council nominates the capital investment value of the project as \$28,791,157.00.

PROPOSAL

The proposal involves the demolition of four existing residential flat buildings and site works for the construction of a part 9, part 10 storey mixed use building comprising 2 basement levels, ground level commercial / retail and 67 units at the upper levels. The site has dual frontage to Gerrale Street (east) and Surf Lane (west).

THE SITE

The subject site is an irregular shaped parcel which extends between Gerrale Street to the east and Surf Lane to the west. It comprises three lots and has an approximate area of 2,930.3m². The site is directly opposite Cronulla Park.

ASSESSMENT OFFICER'S RECOMMENDATION

THAT:

That pursuant to the provisions of Clause 4.6 of Sutherland Shire Local Environmental Plan 2015, the written submission in relation to the variation to the maximum building height development standard satisfies the relevant provisions of Clause 4.6 and is therefore supported. It is recommended that the provisions of Clause 4.6 be invoked and that the maximum building height development standard be varied to 31.56m, in respect to this application.

That Development Application No. 17/0885 for demolition of existing structures, construction of a mixed use development containing ground floor commercial units and 67 residential units with 4 rooftop swimming pools and a podium level pool on Lots 1 – 3 DP1238003 49 – 51, 51R and 55 – 57 Gerrale Street, Cronulla be approved, subject to the draft conditions of consent detailed in **Appendix "A"** of the Report.

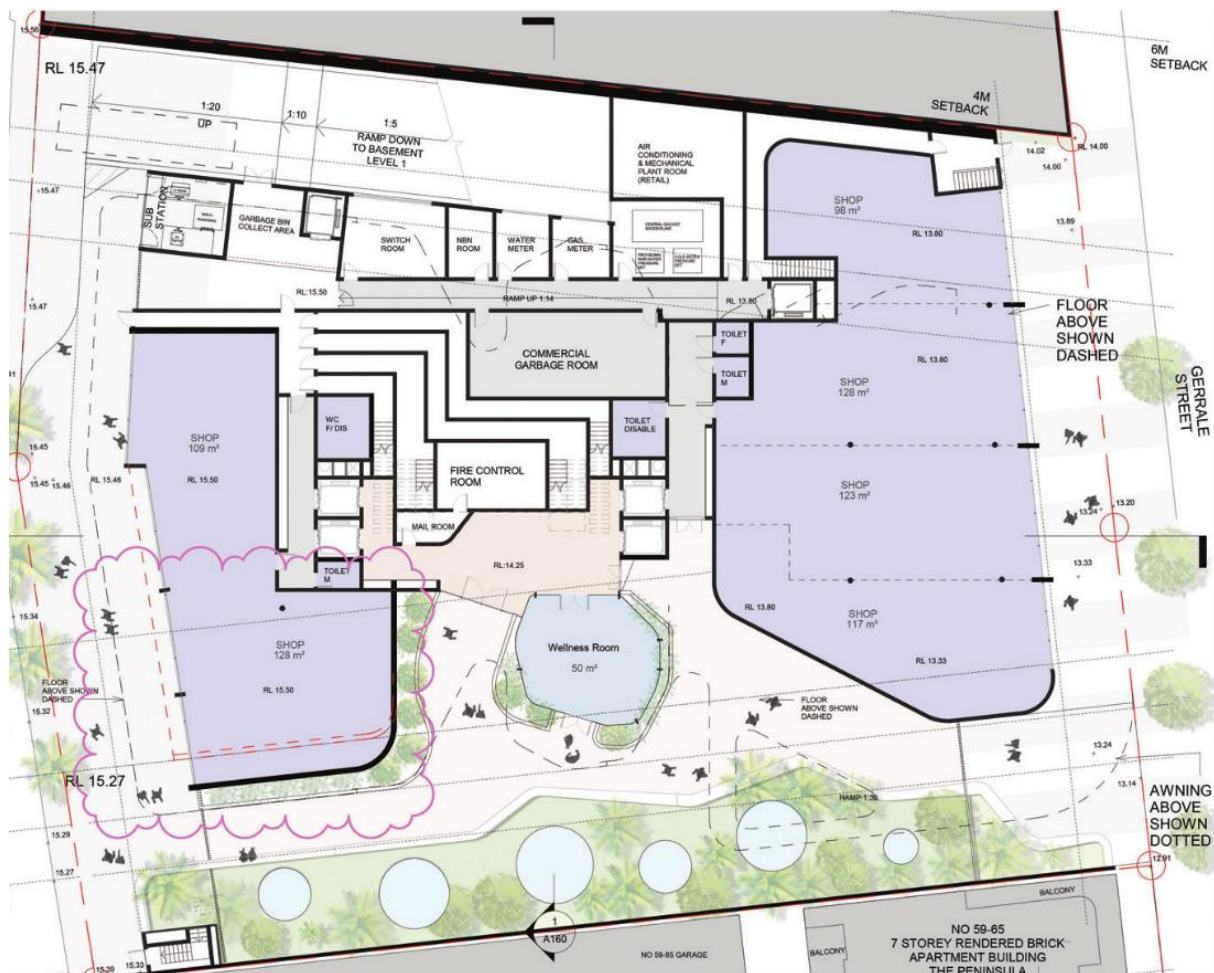
ASSESSMENT OFFICER'S COMMENTARY

1.0 DESCRIPTION OF PROPOSAL

An application has been received for the demolition of existing structures and the construction of a part 9, part 10 storey mixed use development. Detailed works proposed include the following:

- Site preparation works including demolition of existing structures and tree removal as required;
- Construction of a part 9, part 10 storey mixed use building with dual frontage to Gerrale Street (east) and Surf Lane (west);
- 67 units comprised of:
 - 14 x one bedroom apartments; 28 x two bedroom apartments; 25 x three bedroom apartments;
- 6 commercial tenancies at the Ground Floor;
- A podium level communal open space area with swimming pool at Level 1 and 4 rooftop swimming pools;
- 140 car parking spaces (115 x residential spaces; 25 x commercial spaces), 14 motorcycle parking spaces, and 20 bicycle parking spaces across two (2) basement levels;
- A communal 'wellness room' on the Ground Floor;
- Associated landscaping / public domain works.

A copy of the Ground Floor and Level 1 plans are provided below.



Ground Floor Plan



Level 1 Plan

2.0 SITE DESCRIPTION AND LOCALITY

The site is an irregular shaped parcel located on the western side of Gerrale Street and extending through to Surf Lane. It is mid-way in the block which is bounded to the north by Surf Road and Beach Park Lane to the south. It has an area of approximately 2,920m². The site benefits from views of Cronulla Beach to the east and views to the west from the upper levels of the proposed development, which take in Gunnamatta Bay.

The site comprises 3 parcels of land identified as Lots 1 – 3 DP 1238003, known as 49 – 51, 51R and 55 – 57 Gerrale Street, Cronulla.

The site has an irregular contour, being largely flat on the Surf Lane side. At the approximate mid-point of the site the land falls away towards the south-east corner of Gerrale Street by approximately 2m. Presently existing on the site are four older-style residential flat buildings. Three of the buildings are 3 storeys in height with garaging at ground level. One of the buildings is 4 storeys in height. The existing apartment buildings are oriented to Gerrale Street, with the garages situated at the rear, with access via Surf Lane. Communal lawn areas exist in the frontage on Gerrale Street, with some minor shrubs scattered throughout the site. There are two large date palms towards the centre of the site on 55-57 close to the boundary of the 2 large lots and 51R Gerrale Street. These are proposed to be removed.

Development surrounding the site is of a mixed nature comprising low-rise retail and commercial development within Cronulla Mall and directly north of the site; medium to high-rise residential development north-east and south of the site; and parkland directly adjacent the site to the east and to the south-west.

An aerial showing the site is contained below.



3.0 BACKGROUND

A history of the development proposal is as follows:

- A pre-application discussion (PAD) was held on 29 March 2017 regarding the above development. A formal letter of response was issued by Council dated 16 May 2017. 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:
 - Non-compliance with maximum FSR and incorrect calculations.
 - Non-compliance with the maximum height standard;
 - Non-compliance with the desired building form set out in SSDCP 2015;
 - Concern regarding the proposed public laneway through the site connecting Gerrale Street with Surf Lane;
 - Non-compliance with ADG setbacks;
 - Non-compliant solar access, cross-ventilation and apartment amenity concerns;
 - Insufficient provision of communal open space;
 - Inappropriate location of proposed vehicular access on southern boundary in Surf Lane
 - Surf Lane to become an attractive / active street and not just a service lane.

- The current application was submitted on 13 July 2017.
- The application was placed on exhibition with the last date for public submissions being 31 August 2017. 8 submissions were received.
- An Information Session was held on 16 August 2017 and 6 people attended.
- The application was considered by the Architectural Design Advisory Panel (ARAP) on 31 August 2017.
- On 6 September 2017 the applicant was advised by letter of Council officer's concerns with the application, namely;
 - Outstanding owner's consent;
 - Unacceptable breach of the maximum building height;
 - Potential breach of maximum FSR for the site;
 - Insufficient information with respect to solar access for the SSDCP 2015 desired building envelope;
 - Extent of building changes required to facilitate the adaptable apartments;
 - Unacceptable provision of communal open space;
 - Apartment amenity in terms of solar access and cross-ventilation / privacy impacts for adjoining properties;
 - Non-compliant lift core circulation;
 - Unacceptable on-street waste collection / loading etc.
- Amended plans were then submitted on 18 and 30 October, 6 and 17 November 2017.
- The revised plans were renotified from 10 November to 1 December 2017.
- Council officers met with the Applicant and their consultants on 17 December and requested that the following additional information be provided:
 - Revised cross-ventilation report;
 - Revised plans showing deletion of the ground level outdoor seating area within the pedestrian walkway area and modifications to the upper level planter areas and associated solar access information;
 - Submission of public domain shadow plans.
- Amended plans were lodged on 20 December 2018.
- The application was considered by Council's Submissions Review Panel on 30 January 2018.

4.0 ADEQUACY OF APPLICANT'S SUBMISSION

In relation to the Statement of Environmental Effects, plans and other documentation submitted with the application as well as additional information and amendments requested by Council, the applicant has provided adequate information to enable an assessment of this application, including a Clause 4.6 Objection requesting a variation to the height development standard.

5.0 PUBLIC PARTICIPATION

The application was advertised in accordance with the provisions of Chapter 42 of Sutherland Shire Development Control Plan 2015 (SSDCP 2015).

439 adjoining or affected owners were notified of the proposal and submissions were received from 8 households as a result. A full list of the locations of those who made submissions, the dates of the letters and the issues raised is contained within **Appendix “C”** of this report.

These submissions raised a number of issues including solar access and overshadowing, building height and built form, bulk and scale, inadequate car parking provision and traffic concerns and management of the laneway from the point of view of loading and unloading and waste servicing. Issues such as visual and acoustic privacy impacts, the potential for noise and vibration during construction were also raised. The issues raised were matters considered relevant by Council and form part of the ‘Assessment’ section of this report below.

A further concern raised by some of the submitters relates to the likely loss of property value as a result of the proposed development. The impact of the development in terms of property devaluation is not a relevant matter for consideration under Section 79C of the Environmental Planning and Assessment Act 1979. However, amenity and design impacts, which are normally understood as impacting on property values, including cumulative impacts associated with the intensity of land uses within a locality have been assessed in Section 9 below.

Revised Plans

Following the receipt of revised plans in accordance with the requirements of SSDCP 2015 these plans were publicly exhibited in the same way as the original application. During the exhibition process, submissions were received from 3 households noted as follows:

Address	Date of Letter/s	Issues
SP60523 (59-65 Gerrale Street, Cronulla)	1 December 2017	Overshadowing Streetscape and built form Breach of the height control acoustic privacy effects
14/59-65 Gerrale Street, Cronulla	1 December 2017	Solar access Building height and bulk Side setbacks Visual and acoustic privacy impacts Noise and vibration during construction Traffic in Surf Lane Waste and loading congestion in Surf Lane Visual impact from Cronulla Park Loss of view
No address supplied	1 December 2017	Concern regarding additional shops / cafes at the ground floor when there is insufficient existing parking

Submission Review Panel (SRP)

As a result of the submissions received and the issues that were raised, the application was reviewed by Council's SRP. Many of the concerns raised have been addressed by way of recent design changes, or will be addressed by way of conditions of consent. The issues raised are discussed in detail in the 'Assessment' section of the report below.

6.0 STATUTORY CONSIDERATIONS

The subject land is located within Zone B3 Commercial Core pursuant to the provisions of Sutherland Shire Local Environmental Plan 2015. The proposed development, being shop top housing, is a permissible land use within the zone with development consent from Council.

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

- State Environmental Planning Policy (State and Regional Development) 2011
- 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;
- Apartment Design Guide (ADG);
- Sutherland Shire Local Environmental Plan 2015 (SSLEP 2015);
- Sutherland Shire Development Control Plan 2015 (SSDCP 2015);
- S94 2016 Contribution Plan – Cronulla Centre Precinct.

7.0 COMPLIANCE

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

7.1 State Environmental Planning Policy (State and Regional Development) 2011

The subject proposal constitutes development which is required to be considered and determined by the Sydney South Regional Planning Panel (SSPP) pursuant to Part 4 of SEPP 2011. The proposed development has a capital investment of more than \$20,000,000 (\$28,791,157.00) and is nominated under Schedule 4A(3) of the Environmental Planning and Assessment Act, 1979.

7.2 State Environmental Planning Policy No. 55 (Remediation of Land) (SEPP 55)

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

A site inspection and search of Council records has revealed that the subject site is unlikely to be contaminated and is therefore fit for its intended use.

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

State Environmental Planning Policy (Building Sustainability Index) 2004 (BASIX) aims to establish a scheme to encourage sustainable residential development across New South Wales. BASIX certificates accompany the development application addressing the requirements for the proposed building. The proposal achieves the minimum performance levels / targets associated with water, energy and thermal efficiency.

7.4 State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development – Design Quality Principles (SEPP 65)

State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (SEPP 65) and the accompanying Apartment Design Guide (ADG) seeks to improve the design quality of residential flat development through the application of a series of 9 design principles. The proposal is affected by SEPP 65. 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. ARAP comments are included in Appendix “D” to this report.

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 and neighbourhood character	The proposal involves the replacement of 4 older residential flat buildings with a new mixed-use / multi storey residential flat building. The subject site is a key site within the Cronulla Centre and has a premium location opposite Cronulla Park and South-Cronulla beach. The built form outcome proposed is responsive to the site and its context as well as the existing neighbouring buildings. The proposal is in keeping with the desired future character established by SSLEP 2015 but varies from the building envelope set out in SSDCP 2015. The variation in built form is supported in this instance given it represents a design outcome which will achieve the objectives of SSDCP 2015.
Principle 2: Built Form and Scale	The scale of the proposed built form is significant but consistent with the anticipated building height established by SSLEP 2015. The scale of the building is appropriate when considered in the context of the site and the built form envisaged for this part of the Cronulla Centre.
Principle 3: Density	The density of the scheme submitted is consistent with the density standard enabled by SSLEP 2015.
Principle 4: Sustainability	The proposed development has been designed to make the most of the site's orientation and aspect. Apartment planning incorporates passive and active building systems. Minimum building depth enables dual aspect and corner apartments, shading to facades with louvres and performance glazing where required. The proposal satisfies the minimum BASIX requirements in respect to sustainability.

Principle 5: Landscape	New street tree planting is proposed along both the Gerrale Street and Surf Lane frontages of the development. In addition, two communal landscaped areas are proposed, on the podium level accessible by all residents, and at the ground level with the 'green corridor'. Significant planting and water features are proposed for the ground floor level and should provide a high degree of amenity for future residents as well as those of the neighbouring Peninsula building. Additional planting is proposed for each level of the residential development, providing a 'greening' of the building. This is a positive attribute of the proposed development.
Principle 6: Amenity	The proposal satisfies the 'rules of thumb' contained in the Apartment Design Guide in terms of residential amenity, including minimum unit sizes and private open space, solar access and natural cross ventilation. The proposal includes a reduced provision of communal open space but this is considered acceptable given the location of the site opposite Cronulla Park and is discussed in more detail in the 'Assessment' section of the report below.
Principle 7: Safety	The applicant has considered Crime Prevention Through Environmental Design (CPTED) principles in the design of the project, and a CPTED report has been submitted with the application. The development provides increased activation and passive surveillance of the public domain with active street fronts in both Gerrale Street and Surf Lane. Residential entry and lobby areas are to be secured and well lit with conditions of consent recommended to ensure these requirements are met.
Principle 8: Housing Diversity and Social Interaction	The proposal provides a mix of apartment types (including 1, 2 and 3 bedroom units which will encourage diversity in the future occupation of the development. A proportion of the apartments are designed to be converted to adaptable and livable apartments. The development also includes facilities to encourage social interaction including a communal open space area on the podium level, which includes a swimming pool. A community room is also proposed on the ground level of the development providing an alternative to the outdoor communal area.
Principle 9: Aesthetics	In general terms the building form, proportions and compositional strategies proposed for the development are of a good contemporary standard and will make a positive contribution to the locality.

7.5 Apartment Design Guide (ADG)

The applicable design guidelines for the proposed development are contained within the ADG, which is based on the 9 design quality principles set out in SEPP 65. A table with a compliance checklist of the proposal against the ADG design criteria is contained in **Appendix "D"**.

7.6 Local Controls – SSLEP 2015 and SSDCP 2015

The proposal has been assessed for compliance with SSLEP 2015 and SSDCP 2015. A compliance table with a summary of the applicable development controls is contained in **Appendix “E”**.

8.0 SPECIALIST COMMENTS AND EXTERNAL REFERRALS

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

8.1 NSW Police

The DA was referred to the Miranda Local Area Command Crime Prevention Officer in accordance with Council’s adopted policy for residential flat buildings over 50 units. The comments made by the Crime Prevention Officer have been taken into account in the assessment of the DA.

NSW Police has raised the following concerns:

Issue 1 - Additional traffic in Surf Lane both during and post construction. Concerns include the potential vehicular congestion in the Lane and the danger for pedestrian movement within the lane. The Police have requested a traffic management plan be submitted prior to commencement of the development.

Comment: The Construction Management Plan (CMP) submitted with the application contains a traffic and pedestrian management methodology to manage Surf Lane during construction. This can be provided to the NSW Police. The application has also been assessed by Council’s Traffic engineer who has recommended conditions of consent with respect to operational management of the lane.

Issue 2 – Concern regarding the proposed walkway through the development from Gerrale Street to Surf Lane. There should be an easily identifiable path for pedestrians and residents and sufficient lighting to eliminate natural hiding places.

Comment: The proposed walkway is not open to the general public and is designed as an internal area for future residents of the development only. The walkway will be gated at both ends with access only available for future residents. Conditions are recommended regarding the treatment of this space in terms of the paving, planting, lighting and treatment of the entry gates to ensure it is visually permeable, well-lit and a safe and pleasant space.

The Police recommended other measures to ensure crime prevention is minimised. These measures include the installation of security shutters at the entry to the underground carpark, CCTV for visitor use of the carpark and all communal areas; as well as access card arrangements for use of the COS areas. Internal mailbox storage, improved way finding for future residents as well as safe / directional signage was also recommended. Another key recommendation relevant to the design is clarification of public and private space within the development. This is particularly relevant for the resident entry areas on Gerrale Street and Surf Lane.

A number of conditions addressing the above are included in the recommendation in Annexure “A”.

8.2 Architectural Review Advisory Panel (ARAP)

The application was considered by the ARAP at its meeting held on 31 August 2017. A copy of the report is included in **Appendix “F”**. In summary, the ARAP was not supportive of the proposal for the following reasons:

- The proposed built form should sit within the height controls;
- The built form creates amenity concerns for both future occupiers as well as neighbours of the adjoining building to the south;
- Natural and cross-ventilation should not be compromised by visual or privacy issues with adjoining units;
- The proposed ‘slots’ in the building create excessive bulk and create acoustic privacy issues between habitable spaces for apartments within the development;
- The relentless horizontal balconies from Level 1 and above create excessive width and impacts heavily on the streetscape;
- The design necessitates a great deal of screening in order to achieve satisfactory visual privacy;
- The proposal must demonstrate mid-winter solar compliance, with a maximum of 15% of apartments not receiving solar access;
- A revised built form should be considered which more closely addresses the objectives of the SSDCP 2015 and its prescribed envelope;
- Compliant front and rear setbacks to Gerrale Street and Surf Lane should be provided.

Comment: The applicant has taken into account a number of the concerns raised by ARAP. Revisions include a reduced building height; improved built form and building design in terms of a reduced streetscape bulk; additional SSDCP 2015 building envelope analysis; compliant street setbacks; improved visual privacy with respect to the southern apartment building; ADG compliance with solar access; improved cross-ventilation and improved internal amenity for the proposed apartments. Not all of the ARAP concerns have been fully addressed to Council’s satisfaction. These matters are discussed in the ‘Assessment’ section of the report below.

8.3 Architect

The application was referred to Council’s Architect who provided the following comments:

The intent of the form outlined in the DCP is to develop a building with a wider base, allowing the line of the roof to be pushed further north which allows more solar access to the neighbouring site on the south. The proposal remains a uniform tower located centrally on the site, the building mass has not been distributed over the site in a manner to maximise solar access to the neighbour. However, the approach that has been taken complies with the setback requirements of the ADG, maximises separation between buildings at lower levels and provides a generous deep soil landscape set back along the southern boundary. Though solar access to the southern neighbour is not maximised with the central tower approach there are some positive out-comes for the southern neighbour.

8.4 Landscape Architect

The application was referred to Council's Landscape Architect who provided the following comments / recommendations:

Wayfinding

- Improved wayfinding for future residents is recommended for the ground floor lobby area.

Private Open Space

- The balcony for the north-west penthouse (apartment 866) is only 2m wide. A minimum width of 2.4m or preferably 3m should be provided.
- The two penthouse pool terraces on the western side of the building at the top level have vast decked spaces and very small shaded spaces.

Common Open Space (COS)

- The proposed COS on Level 1 has good access and is visually and physically connected to the lift lobbies/corridor, however there are potential aural and visual conflicts with the four adjoining units. Should the site to the north (43-45 Gerrale St) be developed in a similar fashion (which is likely) then the COS (and pool) will be in deep shade throughout winter.
- The walkway / entry area at ground level on the southern side contributes to communal open space; however this area will also be in deep shade throughout winter. In this regard the proposed COS is deficient in terms of both ADG area and solar access requirements. It is therefore recommended that at least one of the rooftop terraces on the western side be utilised as COS and suitable facilities such as lift access, a universal toilet, BBQ and basic kitchen facilities, shade structure and furniture be provided.

Green Roofs

- The extent of green roofs on Level 1 and the top two levels is supported but sufficient safe and easy access to these areas from the lift (without walking through the penthouses) as well as on the roof top will be required. The current proposal does not appear to make provision for separate lift access to the planted areas on the roof top.

Planting

- The proposed tree planting in the entry walkway relies heavily on palms which are generic in appearance. Some tall shade-tolerant trees (rainforest species) planted in the deep soil area as well as some carefully placed shrub species would ameliorate the wind tunnel effect of this space.
- The entry walkway will also be in full shade during winter so it is recommended that the southern boundary wall be kept as light as possible (i.e. no vines) so that reflected sunlight lights up the entry walkway space. This wall could also be lit up at night to make the space more welcoming.

Comment: The matters raised by Council's landscape architect are largely valid. Conditions are therefore recommended regarding wayfinding, balcony depth, green roofs planting etc. The issue regarding COS is discussed further in the 'Assessment' section of the report below.

8.5 Engineering

Council's development engineer has undertaken an assessment of the application and advised that subject to suitable conditions of development consent no objection is raised to the proposal. Detailed discussion with regards to earthworks, stormwater, traffic and parking, loading and waste collection, as well as public domain treatment are contained in the 'Assessment' section of the report.

8.6 Environmental Health Officer

Council's Environmental Health officer has undertaken an assessment of the application and advised that no objection is raised subject to the inclusion of suitable conditions of development consent.

9.0 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.

9.1 Height of Buildings

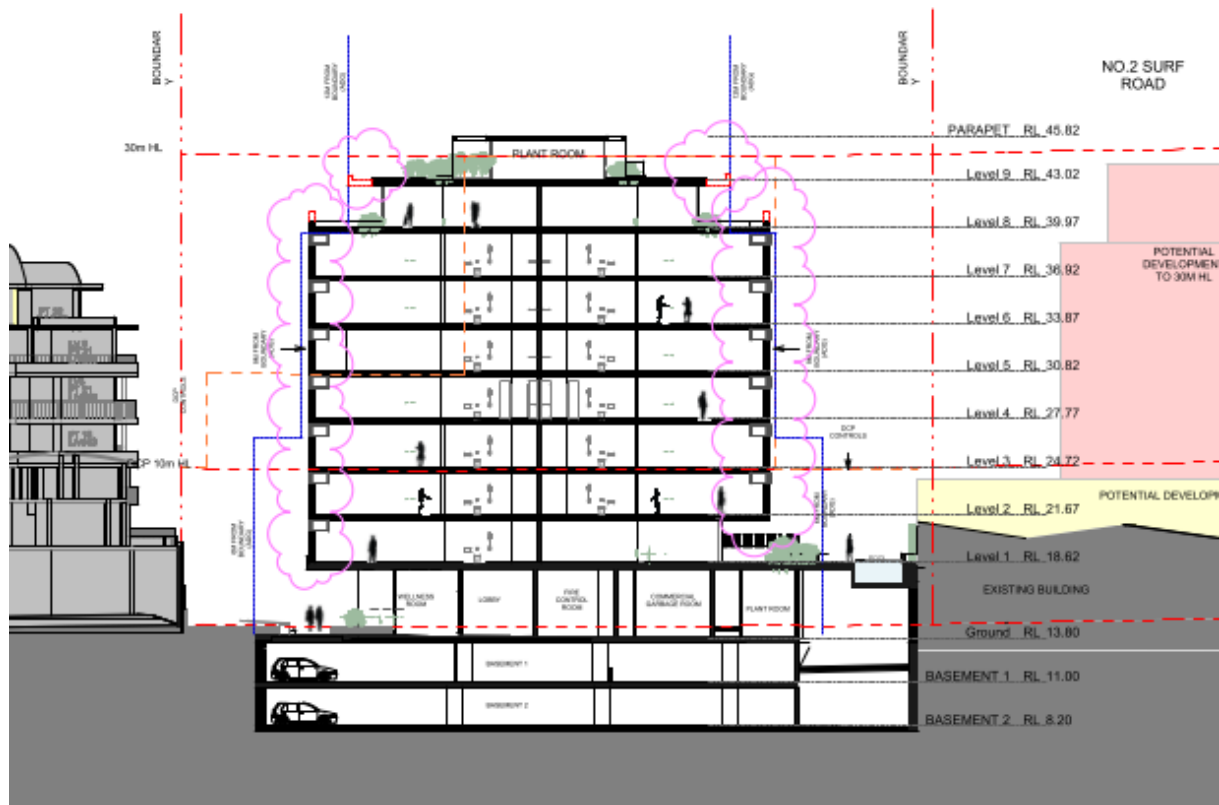
Clause 4.3(2) of SSLEP 2015 stipulates a maximum height of 30m for the site. The proposed development has a maximum building height of 31.56m. This exceeds the maximum building height development standard, representing a 5.2% variation.

Height of building is defined in SSLEP 2015 as follows:

building height (or height of building) means:

- (a) in relation to the height of a building in metres—the vertical distance from ground level (existing) to the highest point of the building, or*
- (b) in relation to the RL of a building—the vertical distance from the Australian Height Datum to the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.*

The elements of the proposed building which exceed the control are parts of the plant room and pool plant rooms, stairs to the roof terraces and the roof element, as well as the blade walls separating the pools. The extent of the height encroachment is less towards the western side of the building than the east as a result of the slope of the site towards Gerrale Street as shown in the cross-sections and elevation below.



North-south Cross-sections



North Elevation

Clause 4.3(2) in relation to maximum building height is a 'development standard' to which exceptions can be granted pursuant to Clause 4.6(2) of SSLEP 2015.

Subject to Clause 4.6(3) development consent may be granted for development that contravenes a development standard but only on the basis of a written request from the applicant seeking to justify the contravention. The written request must demonstrate the following:

- (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

In terms of Clause 4.6(4) consent must not be granted for development that contravenes the standard unless the written request has adequately addressed the matters in subclause (3). Sub-clause (4) also requires that Council must be satisfied that the proposal is in the public interest because it is consistent with the objectives of the development standard and the objectives for development within the R4 Zone.

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 contained in **Appendix 'G'**.

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.

The subject site represents a large parcel of land within the Cronulla Centre. SSLEP 2015 established greater building heights and densities than the previous SSLEP 2006 and the subject proposal represents a form and scale of buildings readily anticipated within the B3 zone.

In terms of the key objectives for building height such as compatibility with adjoining development, scale and character of the street, it is fair to say that the proposed development is of a larger scale and proportion than existing buildings within the immediate vicinity of the site, albeit there are nearby buildings (Ozone Street) and corner Laycock Avenue / Gerrale Street and further north in Gerrale Street of a similar scale or height.

The following analysis of the existing built form and permissible planning controls contextualises the current and the likely future context.

1. The western side of the site contains the low-rise retail and commercial buildings fronting Cronulla Mall. These buildings have changed little in scale and form for the past 40 years. In terms of likely future scale of buildings, the SSLEP 2015 enables a building height of up to 20m.
2. To the north of the site is a low-rise commercial building containing a mix of retail and café / food outlet premises which similar to the retail to the west, has changed little since its original construction. Anticipated future development on the site can achieve a 30m height limit pursuant to SSLEP 2015.
3. To the south of the site is a more recently constructed mixed-use building, known as The Peninsula. It has a stepped built form of between 3 and 7 storeys. This building was constructed in approximately 1998 and is unlikely to be developed in the short term.
4. The 30m building height established in SSLEP extends the length of Cronulla Park and beyond to the north and the south, before graduating to 20m and 16m in other parts of the Cronulla Centre and the residential areas.

A copy of the building height control map is shown below with the subject site shown in green.



The existing built form within the vicinity of the site varies considerably in terms of age, building height and design. The proposed development would have a height consistent with the newer buildings, and consistent with the anticipated future built form, particularly in that area opposite Cronulla Park.

Whilst the proposed building will sit opposite Cronulla Park, it is separated from the park itself by Gerrale Street and the carpark, which is a similar width to Gerrale Street. The scale of the building in terms of this key public domain area is therefore proportionate. The additional building height above that permitted is slightly set back from the top of the level below. The blade wall dividing the pool areas would likely be visible along with the roof element, from parts of Cronulla Park and the beach area. These views would be interrupted by the significant trees which line the western extent of the park and be of sufficient distance such that the impact of the increased height is not discernible.

Views of the additional building height from street level will be minimal in the immediate vicinity of the site. From further afield, north and south in Gerrale Street, parts of the roof element and blade wall will be visible, or the upper level planting. The building element is largely centralised on the top level of the building and provides an architectural element to the top of the building, which would otherwise have housed the lift over-run / stairs etc. The views of the additional building elements would be such that it would be difficult to interpret the breach in height (particularly given both scale and distance), on what

is otherwise a well-designed and interesting building.

The proposed development is complementary to the natural setting of the park in the sense that it contains extensive areas of podium planting, a 'green planted corridor' to the south and utilises a palette of neutral coloured materials. The proposed development will result in a small extent of overshadowing of the park also, between 2 and 3pm in mid-winter. The area affected by the overshadowing contains existing mature trees however, so the impact of the overshadowing is considered minimal.

The other key objectives of the building height development standard require the consideration of any loss of views, privacy, visual intrusion or loss of daylight as a result of the additional building height. These aspects of the proposal have been extensively considered and are discussed in detail further in this report. In short, the proposed additional building height does not contribute to any loss of daylight, or unacceptable loss of privacy. The southern deck areas of the development are set back behind planter areas. The closest point of the decking to the southern side boundary is approximately 15m. The additional building height facilitates private pool areas and not communal open space area. Its use is therefore consistent with a standard residential apartment and is not considered to result in unacceptable privacy effects.

In terms of visual intrusion, the proposed additional building elements are centrally located on the roof. The elements which actually exceed the height are the blade wall between the pools, and that area covered by the roof. Having regard to the scale of the site and its setting within the Cronulla Centre, opposite a large open space vista, these elements do not result in visual intrusion for the neighbouring buildings or having regard to the public domain. As stated earlier, uninterrupted views of this element of the building are limited, and in most contexts, will appear as architectural roof elements on the building.

The proposed development is located within zone B3 Commercial Core. The objectives of this zone are as follows:

- To provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.
- To encourage appropriate employment opportunities in accessible locations.
- To maximise public transport patronage and encourage walking and cycling.
- To strengthen the viability of existing commercial centres through increased economic activity, employment and resident population.
- To create an attractive, vibrant and safe public domain with a high standard of urban design and public amenity.
- To enhance commercial centres by encouraging incidental public domain areas that have a community focus and facilitate interaction, outdoor eating or landscaping.
- To provide for pedestrian-friendly and safe shopping designed to cater for the needs of all ages and abilities.

The proposal is consistent with the objectives of the B3 Commercial Core – Cronulla zone in all respects. The proposed mixed-use building provides ground floor tenancies on both Gerrale Street and Surf Lane which can be utilised for whichever future land uses are most suitable – be it commercial / retail, cafe or business premises. This component of the proposed development will provide additional employment opportunities within the Cronulla Centre, which in turn is likely to result in an increased economic viability.

The proposed ground level tenancies are setback on both street frontages to enable improved public domain outcomes, facilitating outdoor seating, new street tree planting and uniform pavement treatments. The overall effect for the site will be a significantly improved streetscape and public amenity. The improved frontage works on Surf Lane will result in an increased pavement width, facilitating a safer and more pedestrian-friendly environment than currently exists.

The proposed pedestrian entry / walkway area between the two street frontages will also add to the urban design quality of the street level presence of the building. The space will be extensively planted, containing green walls and a number of large water features. Whilst the space is intended to be a private space for future residents only, the area will be readily visible from both Surf Lane and Gerrale Street given the open style gates and building separation for this space.

The proposed residential component of the development will result in an additional 31 apartments to that currently existing on the site. The additional population will assist to strengthen the vibrancy and viability of the existing Cronulla Centre.

The site is located in close proximity (walking distance) to Cronulla station and the bus terminal (adjoining the station). Gerrale Street is also serviced by 2 local buses. Adjacent the site is Cronulla Park and walking / cycle links to the extensive open space network which adjoins the southern beaches, from Bass and Flinders Point to Green Hills and beyond.

The applicant's written submission demonstrates that compliance with the maximum building height development standard is unnecessary in the circumstances of the case. It also demonstrates sufficient environmental planning grounds to justify varying this development standard.

The proposed development complies with the objectives for both the building height development standard and the objectives of the B3 zone and will result in a development which contributes positively to the public domain and the Cronulla Centre.

The proposed variation does not raise any matters of State or regional environmental planning significance. The building height development standard has local relevance only. As demonstrated above, the elements causing the height encroachment are largely setback from the edges of the roof and the side elevations so in terms of visual impact from the public domain, no adverse effect is likely. The additional height results in no adverse view loss for the public, overshadowing. Privacy from the roof terraces is minimised by their location setback from the edge of the roof with 2.5m planter areas.

In conclusion, the variation to the maximum building height development standard satisfies all relevant parts of clause 4.6 and the variation can be supported.

9.2 Streetscape and Built Form

The subject site represents a large development parcel within the Cronulla Centre. It forms 1 of 3 parcels within the block bounded by Gerrale Street, Surf Road, Surf Lane and Beach Park Avenue. The parcel to the north contains an existing commercial building containing a variety of shops, and cafes / restaurants. The building to the south is an existing mixed-use development which has ground level shops and restaurants with residential above.

SSDCP 2015 sets out a recommended building envelope for the site, along with other sites within Cronulla. This building envelope sets out a 10m podium level, with a part 16m, part 30m stepped building above. The applicant has sought to vary the building envelope by reducing the height of the podium level and providing a single building which utilises the maximum building height.

Clause 19.4.2.2 specifies that where a development with a building envelope varies from the *Design Guidelines for Specific Sites (DGSS)*, the applicant must demonstrate that the outcomes from the development are 'as good' or better than those which would be achieved under the DGSS. The following matters must be addressed in this regard:

- a. The buildings compliance with SEPP65 including solar access, building separation and residential amenity.
- b. Whether the surrounding land will be able to achieve its full development potential without compromising its ability to meet SEPP65.
- c. Whether solar access to footpaths, open space or the public domain is compromised.
- d. Whether the proposed development is as successful in terms of its transitional relationships to surrounding development, and in particular any heritage items in the vicinity of the site

The applicant has submitted the following in support of the proposal.

- a. The amended proposal complies with SEPP 65 in regard to solar access and its share of building separation, and has been amended so as to ensure the residential amenity of future occupants of the propose development and occupants of adjacent development...
- b. The amended proposal does not compromise the ability of surrounding land to achieve its full development potential.
- c. The amended proposal does not result in unreasonable adverse overshadowing to footpaths, open space and the public domain as discussed within the original SEE. It is noted that the reduced height and increased setback to Gerrale Street will have a positive impact in this regard.
- d. The amended proposal is successful in terms of its transitional relationships to surrounding development and heritage items as discussed in the original SEE. It is noted that the reduced height and setback in Gerrale Street will have a positive impact in this regard.

As identified above, Council considers that compliance with SEPP 65 and the ADG has been achieved. In terms of ensuring the development potential for adjacent sites is maintained, the proposed building maintains compliant ADG building separation to the north and the south. Any future redevelopment of these sites will therefore not be compromised in this regard.

The proposed development casts morning shadow across Surf Lane and afternoon shadow across a small extent of Cronulla Park. No overshadowing of Cronulla Mall will occur. The extent of shadowing to Cronulla Park is between approximately 2 and 3 in the afternoon in mid-winter and in an area currently shaded by the mature trees.

The SSDCP 2015 building envelope demonstrates one way in which the subject site could be developed. The applicant has tested this envelope in the context of the existing Peninsula building to the south and resolved that it would not necessarily represent the best development outcome for the site, for a number of reasons. Council has undertaken a review of the plans and modelling submitted by the applicant, and whilst generic, is a reasonable interpretation of the SSDCP 2015 controls.

The SSDCP 2015 envelope enables a 10m high podium building built to all 4 boundaries of the site. This is not desirable for the southern boundary as it would adversely impact on the amenity of the lower 2 levels of residential apartments on the northern side of the Peninsula as well as present streetscape issues on both Gerrale Street and Surf Lane. The generous 9m building setback proposed by the subject development is preferred in this instance as it creates a visual separation between the Peninsula building and the new development, allows deep soil landscaped area and the provision of the 'green corridor' which will contribute significant amenity to the neighbouring Peninsula apartments.

Utilising the upper level 16m stepped component as shown in the SSDCP 2015 building envelope would result in additional built form too close to the southern side boundary. Applying minimum ADG side setbacks to this envelope, the outcome would still have been one where visual intrusion and amenity impacts would be likely. The subject proposal maintains the lower level building separation of 9m for the upper levels. This results in benefits at the upper and lower levels of increased views and outlook from that anticipated in the SSDCP 2015 envelope.

The 30m tower element contained in the SSDCP 2015 envelope steps further back towards the north than that proposed by the application. This is a positive benefit in terms of transitioning development from the Peninsula. Given the issues with development of the lower components of the building envelope however, a reduced setback may be required at the upper level to accommodate the density not achievable at the lower levels. In either case, the location of the Peninsula building to the south of the subject site means that some overshadowing of that building is inevitable, as studies of the SSDCP 2015 envelope and the subject development proposal demonstrate (see discussion below).

The common element in the assessment of the SSDCP 2015 envelope and that proposed by the applicant is the need to try and maintain the residential amenity currently afforded to residents of the Peninsula building. For the most part it is considered that the subject proposal achieves the best

outcome in this regard. The proposed development incorporates an increased southern setback, as well as additional front and rear setbacks. These design factors enable as much solar access to the Peninsula building as possible. In terms of the relationship of the proposed development with that of adjoining development, the proposal represents a merit-based design approach that is supported in this instance.

9.3 Urban Design (Residential Buildings)

Clauses 6.16 and 6.17 of SSLEP 2015 contain certain matters of consideration relating to urban design. The relevant matters have been considered as a part of the assessment of the application and the proposal is considered to be acceptable subject to the recommended design revisions detailed below.

Streetscape:

Overall, the proposal will result in an improved streetscape in both Gerrale Street and Surf Lane. The existing low-rise flat buildings were somewhat incongruous in an increasingly commercial area, where mixed-use buildings containing restaurants / cafes and shops largely dominate the ground level of Gerrale Street and surrounding lanes / streets. The existing Surf Lane frontage is dominated by driveways, at-grade car parking and garages at the rear of two of the flat buildings.

The proposed development will result in an active street frontage to the majority of Gerrale Street and approximately 50% of the Surf Lane frontage. This is consistent with Ch. 19.11.2.1 of SSDCP 2015 which specifies an active street frontage for Gerrale Street and a semi-active street frontage for Surf Lane. The pedestrian entry to the residential component of the proposed development will occur from both Gerrale Street and Surf Lane. The Surf Lane pedestrian entry aligns with the proposed shopfronts to the north but the Gerrale Street entry is setback behind the glazing line in what appears to be more of an alcove area. To ensure this area is sufficiently safe it is recommended that glazing be incorporated in the southern wall of the ground floor shop to increase the natural surveillance of this area and to improve the visual aesthetic of the ground floor when approaching from the southern side.

The applicant is proposing to construct a 2 storey high 'green wall' along the southern side boundary adjacent the northern side of the Peninsula building. The wall is acceptable for that area setback from the street frontage, to a height which is consistent with the existing podium of the Peninsula building, but not extending forward to the front boundary on Gerrale Street. The scale is excessive in relation to the neighbouring residential apartments and would block the morning light to the side terrace area for Apartment 1 in the Peninsula building. A condition requiring a reduction in the height and length of the wall is included in Annexure A.

Crime Prevention through Environmental Design (CPTED):

The Crime Prevention through Environmental Design (CPTED) principle aims have been considered with regard to potential safety and security issues associated with the design of the proposed development. The proposed building will provide suitable opportunities for both active and passive surveillance. As discussed above, the pedestrian entry path is of significance for the development in terms of the public / private interface and ensuring this area is safe and well-lit. Overall, the proposal is

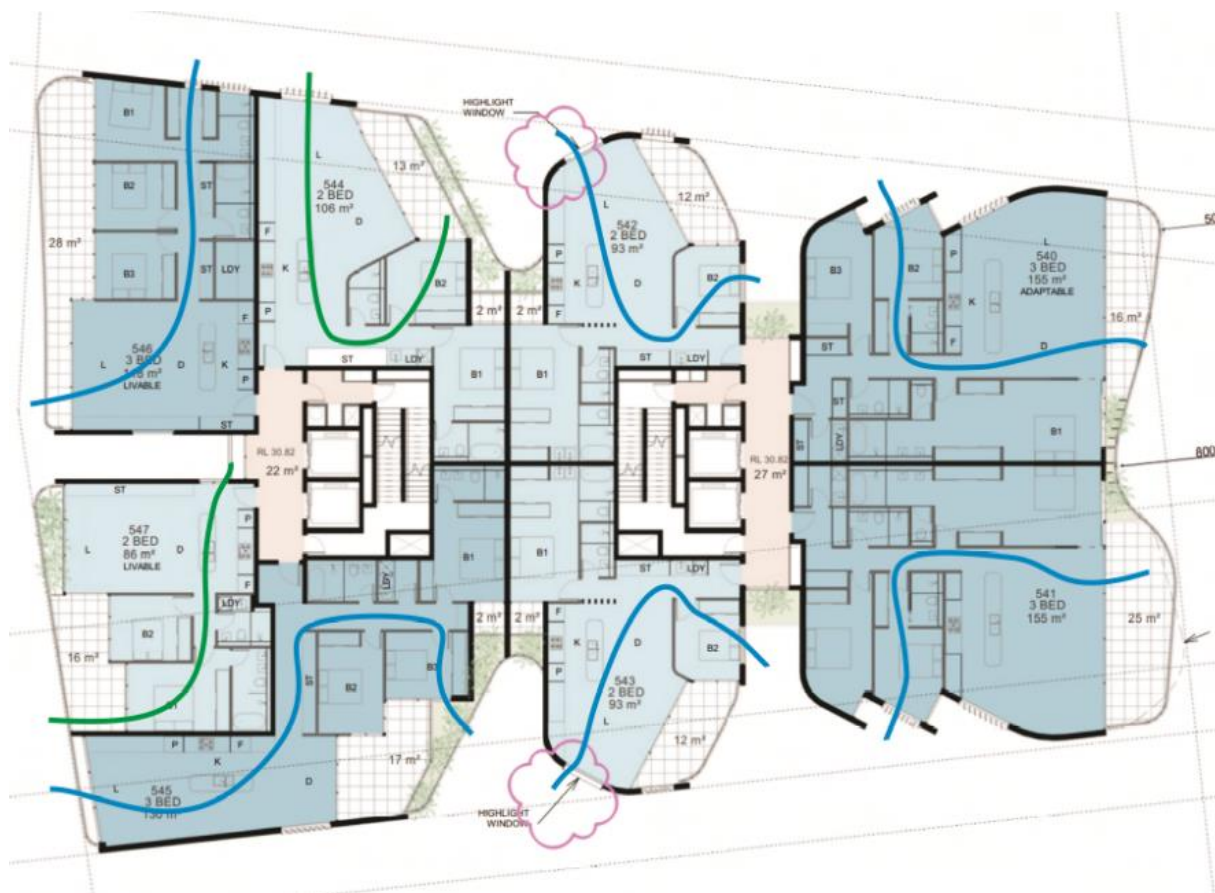
considered appropriate subject to suitable conditions of consent incorporating additional CPTED treatment measures.

9.4 ADG Cross-ventilation

The applicant has submitted a Natural Ventilation Statement prepared by Windtech Consultants Pty Ltd to verify that the proposal complies with the ADG requirements for cross-ventilation. The proposed apartments have been designed to achieve cross-ventilation based on orthogonal or opposite aspects (for example corner or through apartments), with direct exposure to prevailing winds or windows located in significantly different pressure regions. Cross-through apartments have also been designed such that they are much less than the ADG 18m maximum depth.

Council's architects have reviewed the Windtech Report and were concerned with respect to the likely ventilation of some of the units (namely the northern and southern facing apartments in the Gerrale Street core). This equated to approximately 13 apartments. See plan view of Level 05 below.

The applicant responded to Council's concern by changing the window location and orientation for these apartments. The highlight windows now proposed do not require external screening for privacy mitigation (as originally proposed) and therefore allow for increased airflow. On this basis the proposal is considered to be satisfactory.



Proposed Level 05 – Windtech Ventilation Diagram

The location of the site is such that coastal breezes are prevalent. The proposed building setbacks to both the north and the south from existing and likely future buildings are also such that more than adequate natural cross-ventilation requirements will be achieved.

9.5 Residential Amenity

Privacy

A number of the residents from the neighbouring Peninsula building have raised concerns with respect to visual and aural privacy impacts as a result of the proposed development. These matters are discussed below:

Aural Privacy

The key concern regarding noise impact and aural privacy stemmed from the original proposal to locate outdoor seating on the southern side of one of the Surf Lane shops. The proposed seating would have been situated within the pedestrian walkway area in the landscaped area adjacent the northern side of the Peninsula building. The potential for noise disturbance for the Peninsula residents, many of whom have private balconies along the northern boundary, would have been unacceptable.

The applicant was advised of the potential acoustic concerns with this area and submitted an amended plan which relocates the seating to the Surf Lane frontage, under the proposed awning. This largely alleviates the concern, however conditions of consent are also recommended to establish acceptable hours of operation now rather than at the time of a future tenancy.

Residents of the Peninsula building also had concerns regarding the potential for the pedestrian entry / walkway area on the southern side of the proposed development being open to the public and therefore being a general thoroughfare. Given the southern side of the Peninsula building is Beach Park Avenue, a highly traffic pedestrian link between the beach and the Mall / train station, the potential for a second link on the other side of the building was reasonably concerning from the point of view of both visual and aural privacy. The proposed walkway is for future residents of the development only. The applicant has no intention for this to be publicly accessible and security access gates are proposed for both the Surf Lane and Gerrale Street frontages to ensure this. A condition is also included in Appendix A limiting access to this area to future residents only and not patrons utilising the commercial tenancies within the development.

Visual Privacy

In terms of visual privacy impacts for the neighbouring residents as a result of the residential component of the development, the design of the proposed development is largely acceptable. There are no residential neighbours to the north, east or west of the site, and as such the consideration of impact is limited to the southern neighbour – the Peninsula building. In this regard the proposed southern elevation of the proposed development is largely defensive. Separation distances between the new apartments and those within the Peninsula building meet the ADG requirements. Windows are off-set or screened where possible and balconies are oriented to the south-east and screened with low-level planters in some instances.

It is accepted that there is a privacy impact as a result of the proposed development, given the change in built form and building height compared to the existing residential flat development on the subject site. The existing buildings are however considerably closer to the side boundary with the Peninsula building and contain large windows directly opposite the private terrace areas of the lower level apartments within the Peninsula building. In some instances therefore, the privacy impacts are improved from the current situation. On balance, the proposal is acceptable subject to the inclusion of conditions specifying the requirements for privacy screens.

9.6 View loss

The issue of view loss has been raised by some of the owners of apartments within the adjoining Peninsula building – specifically No 14/59-65 and 26/59-65 Gerrale Street.

Following is an assessment of the view loss in accordance with the planning principle established by Senior Commissioner Roseth in *Tenacity Consulting v Waringah* [2004] NSWLEC 140.

Step 1 - Assessment of the views to be affected

The view opportunity afforded to apartment 14 is best described as glimpses of the ocean across the roof of the apartment in front (to the east), adjacent this building to the north and through the gaps between the pine trees in Cronulla Park. Only minimal views of the water are obtained. Wider views of Cronulla are obtained to the north across the roofs of the existing flat buildings (proposed to be demolished) and to the west between the Peninsula building and the neighbouring subject site.

Apartment 26 is a penthouse apartment which has 360 degree views of Cronulla and the coastline. The views encompass Cronulla Park, south-Cronulla beach and the ocean extending around to the west to take in Gunnamatta Bay and the north to wider views of Cronulla. The views from apartment 26 are largely uninterrupted and are considered to be significant.

Step 2 – Assessment of where the views are obtained

The view afforded to apartment 14 is largely obtained from a standing position on the private terrace area on the eastern side of the apartment and from the narrow Juliet balcony on the northern side of the apartment accessed via two of the bedrooms. The view would be similar from the living area and east-facing bedroom, but observed through screened doors and an awning. No view of the water would be obtained from the two bedrooms and no views would be obtained from a seated position.

Apartment 26 sits within a terrace area which extends on all four of its sides. The views are therefore 360 degrees and obtained from both within the apartment or on the terrace areas, and from a seated or standing position.

Step 3 - Extent of the impact of the proposed development

The existing water views for apartment 14 will not be impacted by the proposed development, with a potential increase in water views obtained as a result of an increased separation distance between the proposed new development compared to that of the existing buildings on the site. The increased

building separation effectively results in an improved view corridor from the side balcony of apartment 14.

The loss of view which occurs for apartment 14 is to the north, where the view of the wider Cronulla skyline will be lost as a result of the change in building height from those existing to that proposed. As the view to the north occurs across the subject site, this view loss has less significance.

For apartment 26 there is some view loss to the north and north-east given that the proposed development will be considerably higher than the existing buildings on the site. Once again the view currently attained is borrowed across the subject site and cannot reasonably be retained given the permitted building height for the site. In terms of the key water views and those of Cronulla Park, south-Cronulla Beach, Gunnamatta Bay etc., these views are all retained. The view loss for apartment 26 would therefore be described as moderate.

Step 4 – Reasonableness of the proposal

The subject proposal is compliant with Council's density control but exceeds the maximum height development standard for a portion of the building. The height breach does not impact on the extent of view loss for either apartment 14 or 26 as it occurs in the centre of the building at a height well above the outlook from the objector's apartments.

The proposal seeks a variation to the building envelope for the site set out in SSDCP 2015. The appropriateness of the building envelope for the site has been discussed elsewhere in this report and it was determined that an envelope more closely related to ADG setback requirements is more appropriate. An assessment of the potential impacts for apartments 14 and 26 has been taken into account in this regard. View loss diagrams provided by the applicant demonstrate the view loss effects based on a development modelled within the SSDCP 2015 envelope. A comparison of this to the proposed development indicates an increased view impact for apartment 14, but a reduced view impact for apartment 26. The change in view is essentially of the Cronulla skyline rather than water views and therefore has less significance.

Conclusion

Applying the above principles to both apartments 14 and 26, the proposed development does not result in unacceptable view loss. The view loss which does occur is largely 'borrowed' over the subject site and of the Cronulla skyline and commercial centre. The proposed development enables the retention of the important views of the ocean and wider coastline, in the case of apartment 26. For a number of the other apartments on the northern side of the Peninsula building, an increased view corridor will result.

9.7 Overshadowing

Ch. 19 (B3 Commercial Core – Cronulla) within SSDCP 2015 does not specify any minimum requirements for solar access for neighbouring residential properties. Instead it relies on objectives and policies to achieve amenity standards. Overshadowing of the public domain, as well as individual apartments is an issue raised by a number of objectors. The applicant has also provided shadow

diagrams and solar access analyses to demonstrate the effects of the proposal with respect to overshadowing.

The shadow diagrams show the extent of shadow over the public domain between 9am – 3pm for the mid-winter period. The morning shadow extends over the shops in the Mall but not the Mall itself. In the afternoon, the proposed development will cast a shadow across a small portion of the park. The shadow falls across the central walkway area of the park opposite Beach Park Avenue where there is a cluster of mature pine trees and other vegetation. The impact of the shadow cast would be considered minimal in terms of the enjoyment or amenity currently enjoyed by users of the park.

In terms of solar access for existing and future adjacent residential buildings, an assessment of the proposal has been made. The east-west orientation of the site and its commercial core location means that the impact of overshadowing from the proposal is limited to the adjacent residential building to the south known as The Peninsula.

The Peninsula building contains ground level commercial development fronting Gerrale Street and Surf Lane, with 26 residential apartments above. The building is part 3 and part 7 storeys and was constructed in approximately 1998. It is largely built to the boundary on all four sides. 6 of the residential apartments front Gerrale Street and have living areas and private open space oriented towards the east and the views. Whilst increased overshadowing of the rear of these apartments will occur during the middle of the day and the afternoon, reasonable solar access is still achieved.

Apartments 10, 11 and 16 are not adversely impacted upon by the proposed development in terms of overshadowing. Apartments 11 and 16 are located in the south-western corner of the Peninsula building and therefore receive only late afternoon sun. Apartment 10, whilst east facing is overshadowed at present by the existing Peninsula building.

Apartment 26 is the penthouse apartment located on the top floor of the Peninsula building and will continue to enjoy all day solar access. Apartment 24 is located on the northern side of the Peninsula building and extends the full length of the floor so that it benefits from both an eastern and western orientation. It will receive both morning and afternoon solar access to the apartment and morning sun to its private balcony. Apartment 25 is similar to Apartment 24 in that it benefits from both an eastern and western orientation. It is on the southern side of the Peninsula building but will still receive its current level of solar access.

For the remaining 14 apartments within the building, the extent of overshadowing varies. Apartments 12, 17, 20, and 23 are located on the north-western corner of the building and will receive a minimum 2 hours of solar access in the afternoon. Apartments 19 and 22 have a similar orientation to Apartment 25 but do not extend the full length of the building to the west. Their private balconies are to the east and the south and would only ever receive morning sunlight as a consequence of the existing Peninsula building.

Those apartments within the Peninsula which are the most affected are those with a direct northern orientation – namely Apartments 8, 9 and 13 and those with a northern and eastern orientation but on the lower levels of the Peninsula – namely Apartments 7, 14, 18 and 21. These apartments will receive less than 2 hours of solar access during mid-winter as a direct result of the proposed development. The following table demonstrates the solar access likely for the Peninsula on an apartment by apartment basis.

Apartment No.	Amount of mid-winter solar access	Complies with ADG
1	2 hours	Yes
2	2 hours	Yes
3	2 hours	Yes
4	2 hours	Yes
5	2 hours	Yes
6	2 hours	Yes
7	No solar access	No
8	< 2 hours	No
9	No solar access	No
10	< 2 hours	No
11	Afternoon only – no change from existing situation	N/A
12	2 hours	Yes
13	< 2 hours	No
14	No solar access	No
15	< 2 hours	Yes
16	Afternoon only – no change from existing situation	N/A
17	2 hours	Yes
18	< 2 hours	No
19	2 hours	Yes
20	2 hours	Yes
21	< 2 hours	No
22	2 hours	Yes
23	2 hours	Yes
24	> 2 hours	Yes
25	> 2 hours	Yes
26	All day solar access	Yes

As stated earlier, Ch. 19 of SSDCP 2015 does not specify minimum solar access requirements for adjoining development. This is largely reflective of the commercial centre zone and the likely dense urban environment that is anticipated as a result of the density and building height allowances in SSLEP 2015. The ADG is also silent on the matter, focussing instead on the requirements for solar access which must be achieved for new development.

Notwithstanding this, the objectives within Ch. 19 state that new development must ensure sufficient solar access for occupants of existing and future adjacent residential buildings. In determining what measure to apply to be satisfied that 'sufficient solar access' is being achieved, the ADG controls could be applied to the Peninsula building. In this instance, 7% of the apartments experience no change to their existing solar access; 11% receive no solar access; 25% will receive over 1 hour of solar access and 57% of apartments would receive a minimum 2 hours or more of solar access during mid-winter.

In addition to utilising the ADG solar access requirements, the proposed development has been compared to a likely development scenario using the building envelope set out in Ch. 19 of SSDCP 2015. The solar access diagrams for the SSDCP 2015 building envelope indicate a very similar extent of overshadowing for the Peninsula building. The greater setback for the higher tower element of the building would enable Level 5 of the Peninsula building to benefit from some additional solar access, but the lower level apartments would still be overshadowed for the mid-winter period.

The proposed development varies from the building envelope controls set out in Ch. 19 of SSDCP 2015. For the most part it is considered that the design results in an improved development outcome for the Peninsula when compared to that in the SSDCP 2015 – not necessarily from a solar access point of view but in terms of building separation, amenity associated with the ground level landscaped area provision, and increased water views for some of the apartments.

It is acknowledged that loss of solar access has an amenity impact for the neighbouring residents. However, the subject site sits to the north of the Peninsula building. The Peninsula building has been built to the northern boundary, with a number of the apartments and their private balconies oriented to the north, and benefitting from an outlook and orientation across an under-developed site.

The commercial core location of the subject site and that of the objectors means that compromised amenity (particularly at the lower levels) may occur as sites are developed. The expectation that an apartment will continue to enjoy unobstructed solar access from within an urban centre and across urban centre zoned redevelopment site is not reasonable. On this basis, the overshadowing impacts are considered to be acceptable in this instance.

9.8 Acid Sulfate Soils

The subject site is identified as within 'Class 5' Acid Sulfate Soils Maps and the provisions of Clause 6.1 are applicable. The objectives of this clause are to ensure that development does not disturb, expose or drain acid sulphate soils and cause environmental damage.

Within Class 5, the trigger under SSLEP 2015 is works within 500m of adjacent Class 1, 2, 3 or 4 land that is below 5m AHD and by which the watertable is likely to be lowered below 1m AHD on adjacent Class 1, 2, 3 or 4 ASS land.

The proposal involves excavation for two levels of basement. The floor level for the basement will be at 8.20m AHD and as such there is unlikely to be an impact on the water table on adjacent Class 1, 2, 3, or 4 land.

9.9 Earthworks

The proposal includes considerable site excavation and earthworks which triggers Clause 6.2 of SSLEP 2015. Clause 6.2 requires certain matters to be considered in deciding whether to grant consent. These matters include impacts on drainage; future development; quality and source of fill; effect on adjoining properties; destination of excavated material; likely disturbance of relics; impacts on waterways; catchments and sensitive areas and measures to mitigate impacts.

Concern was raised in the submissions regarding the impacts of the construction phase of the proposed development in terms of the vibration and extent of excavation. A Geotechnical Report prepared by JK Geotechnics was submitted with the application. The report presents the results of the geotechnical assessment of the site in terms of its suitability for the proposed development. The report makes a number of recommendations which require further geotechnical input prior to and during development. These include the following:

- Comprehensive geotechnical and hydrogeological investigation;
- Dilapidation surveys of neighbouring buildings and structures;
- Continuous quantitative vibration monitoring during rock excavation;
- Progressive geotechnical inspections of the cut rock faces
- Proof testing of anchors
- Monitoring of groundwater seepage into bulk excavation
- Geotechnical footing inspections

A condition has been included in Appendix A requiring the applicant to comply with the findings of the Geotechnical Report. A separate condition is recommended requiring that the applicant prepare Dilapidation Reports for each of the sites immediately surrounding the subject development (including the Peninsula building).

In terms of Clause 6.2(3)(f) the subject site is classified as being of medium significance with respect to archaeological significance. The subject site is largely developed and the chance for an archaeological find may be minimal. The extent of excavation proposed however is such that a precautionary approach should be taken and a condition has been included in Appendix A to address any unexpected finds.

All other relevant matters within Clause 6.2 have been considered and the application is acceptable subject to appropriate conditions of development consent.

9.10 Stormwater Management

Clause 6.4 requires Council to be satisfied of certain matters in relation to stormwater management prior to development consent being granted. These matters include maximising permeable surfaces; on-site stormwater retention minimising the impacts on stormwater runoff. The proposed development incorporates a stormwater drainage design with a 43.6m³ below-ground on-site detention tank system located within the landscaped area and suspended above the basement ramp. The controlled release is directed towards a new kerb inlet pit and piped system within Gerrale Street. The proposed system is acceptable, subject to a condition addressing stormwater treatment. A rainwater tank (with a volume of 20m³) is also proposed to addressing water sustainable urban design principles. The tank will be used for the irrigation of landscaping throughout the development.

Overall, the matters contained in Clause 6.4 have been addressed to Council's satisfaction subject to appropriate conditions of consent.

9.11 Traffic and Parking

The subject proposal provides on-site car parking compliant with SSDCP 2015 for both the residential and commercial components. For the residential component SSDCP 2015 provides both a minimum (67 car spaces) and a maximum (134) parking requirement. The applicant has proposed 115 residential car parking spaces which is towards the upper level of parking required and is reasonable in this instance.

In terms of traffic generation, the proposed development will increase vehicle movements within Gerrale Street and Surf Lane as the proposal represents an additional 35 residential apartments compared to that presently on the site (as well as the commercial floorspace). The vehicle movements were anticipated as a result of the rezoning of the site under SSLEP 2015 and the proposed development is within the density limitations set by that instrument. Council's engineers consider that no new traffic measures are required to be implemented as a result of the proposal.

9.12 Surf Lane Waste Management / Loading & Unloading

A key concern for residents with respect to the proposal is the way in which the new building will be serviced and how this will impact on Surf Lane. The initial proposal sought to undertake loading on-street in Surf Lane however the applicant was advised that this was unacceptable as Council's policy is to require all servicing of new development to occur on-site.. The applicant subsequently revised the proposal to include an on-site loading area adjacent the driveway entry. The loading bay will be used for all deliveries to the site for the non-residential or residential requirements of the development as well as both commercial and residential waste collection.

In submitting the revised Ground Floor Plan the applicant has made a plan error which limits loading / unloading / waste management access from the front Gerrale Street tenancies to the rear Surf Lane servicing components. The error has been conditioned accordingly to ensure access to loading and waste is acceptable.

Notwithstanding that the servicing for the proposed development will be contained within the site, the cumulative impact of the proposal in the context of the existing Surf Lane environment must be considered. Surf Lane is the preferred location for the vehicle entry and servicing point as Gerrale Street is a main thoroughfare. SSDCP 2015 proposes a change to the conventional servicing role of the lane, intending to establish a more active streetscape. This will be achieved through the introduction of increased building setbacks from the lane, active ground level uses and shared zones / public domain areas for increased pedestrian amenity and safety. Shared zones are proposed for the western side of Surf Lane opposite the subject site and to the south of the site opposite the Peninsula building.

Council's engineers are also intending to remove some of the existing vehicle parking spaces on the western side of the lane (just north of the subject site). This is intended to alleviate the conflict point which sometimes occurs opposite the loading area for the site known as 43-45 Gerrale Street. The existing IGA loading area which is situated in front of the subject site will also not be permitted to remain in the long-term. Council will require loading to be contained on-site once the IGA redevelops. In the interim, Council will continue with its policy to require on-site loading and waste collection for all new development.

Whilst the short-term issue with the Surf Lane is likely to continue, in the longer-term the character of the lane will evolve from simply a service lane, to one which provides an active streetscape and a safe pedestrian environment. Access for trucks and vehicles will need to continue but this can be managed in a more appropriate way.

10.0 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 Section 94 Development Contribution Plan. These contributions include:

Regional Contribution:	\$357,214.52
Local Contribution:	\$512,266.44

These contributions are based upon the likelihood that this development will require or increase the demand for regional and local recreational space and infrastructure facilities within the area. It has been calculated on the basis of 67 new residential units with a concession of 32 residential apartments.

11.0 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.

12.0 CONCLUSION

The subject land is located within Zone B3 Commercial Core pursuant to the provisions of Sutherland Shire Local Environmental Plan 2015. The proposed development, being a shop top housing development, is a permissible land use within the zone with development consent.

The application was placed on public exhibition on 2 separate occasions and in response to public exhibition, 11 submissions were received (8 from the first exhibition and 3 from the second). The matters raised in these submissions have been addressed in detail in this report and a number of design changes made to mitigate some of these concerns. The proposed amendments have led to an improved development outcome. Other issues raised by the submissions have been dealt with by conditions of consent where appropriate.

The proposal includes variations to the maximum building height development standard. This variation has been discussed in the report and is considered acceptable on the basis that the additional height does not result in visual intrusion and is appropriate in the context of the Cronulla Centre. The proposal represents a departure from the building envelope set out in SSDCP 2015. As demonstrated in the report, the merit-based design approach proposes an alternative built form which will result in a positive development outcome for the site. The impact of the proposal on neighbouring buildings has been considered at length and design amendments incorporated to minimise effects where possible. Overall, the proposed development will result in a significantly enhanced streetscape in both Surf Lane and Gerrale Street, and make a positive contribution to the built form in the Cronulla Centre

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. DA17/0885 may be supported for the reasons outlined in this report.

RESPONSIBLE OFFICER

The officer responsible for the preparation of this Report is the Manager, Major Development Assessment (AT).