

## SUTHERLAND SHIRE COUNCIL ASSESSMENT REPORT

<b>Panel Reference</b>	2019SSH002
<b>DA Number</b>	DA18/1448
<b>LGA</b>	Sutherland Shire Council
<b>Proposed Development</b>	Construction of Stage 1 Precinct of Woolooware Bay Town Centre: Partial demolition of existing Leagues Club and other structures, tree removal, construction and use of new retail centre, fitout of Levels 3 and 4 for the Leagues Club, public domain works, infrastructure works, construction and use of hotel accommodation, construction of four residential apartment buildings containing 255 dwellings, construction and use of office tenancies, construction of a child care centre, above ground car park, landscaping works and staged Construction and Occupation Certificates
<b>Street Address</b>	455 - 461 Captain Cook Drive, Woolooware
<b>Applicant/Owner</b>	BCV Sharks Retail Unit Trust
<b>Date of DA lodgement</b>	13 December 2018
<b>Number of Submissions</b>	21
<b>Recommendation</b>	Approval
<b>Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011</b>	The application is referred to the Sydney South Planning Panel (SSPP) as the development has a capital investment of more than \$30,000,000 as nominated under Schedule 7(2) of State Environmental Planning Policy (State and Regional Development) 2011. The application submitted to Council nominates the capital investment value of the project as \$233,640,000.00.
<b>List of all relevant s4.15(1)(a) matters</b>	<ul style="list-style-type: none"> <li>• State Environmental Planning Policy (State and Regional Development) 2011</li> <li>• State Environmental Planning Policy No. 55 – Remediation of Land</li> <li>• State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development</li> <li>• State Environmental Planning Policy (Infrastructure) 2007</li> <li>• State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</li> <li>• State Environmental Planning Policy (Educational Establishments and Childcare Facilities) 2017</li> <li>• State Environmental Planning Policy (Coastal Management) 2018</li> <li>• Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment</li> <li>• Apartment Design Guide</li> <li>• Sutherland Shire Local Environmental Plan 2015</li> <li>• Sutherland Shire Development Control Plan 2015</li> <li>• Section 7.12 Contributions Plan 2016</li> </ul>

<b>List all documents submitted with this report for the Panel's consideration</b>	<ul style="list-style-type: none"> <li>• Appendix A - Draft Conditions of Development Consent</li> <li>• Appendix B - Submissions</li> <li>• Appendix C - Minutes from the Information Session</li> <li>• Appendix D – MP10_0229 Concept Plan Assessment Table</li> <li>• Appendix E – MP10_0230 Project Approval</li> <li>• Appendix F - ADG Assessment Tables</li> <li>• Appendix G - Minutes of the Design Review Forum</li> <li>• Appendix H - SSLEP 2015 and SSDCP 2015 Assessment Tables</li> <li>• Appendix I - Agency Responses – NSW Roads and Maritime Services; Ausgrid; NSW Department of Primary Industries (Fisheries) and National Resource Access Regulator (NRAR); NSW Police</li> <li>• Appendix J – Plans</li> </ul>
<b>Clause 4.6 Requests</b>	Not Applicable
<b>Summary of Key Submissions</b>	Refer Appendix B
<b>Report prepared by</b>	Amanda Treharne
<b>Report date</b>	18 June 2020

#### Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 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? **Not Applicable**

#### Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)? **No**  
*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*

## REPORT SUMMARY

### REASON FOR THE REPORT

State Environmental Planning Policy (State and Regional Development) 2011, requires this application to be referred to the Sydney South Planning Panel (SSPP) as the development has a capital investment value of more than \$30 million. The application submitted to Council nominates the value of the project as \$233,640,000.00.

### PROPOSAL

The application is for construction of the Stage 1 Precinct of the Woollooware Bay Town Centre (WBTC) comprising partial demolition of the existing Leagues Club and other structures, construction and use of a new retail centre, refurbishment and fitout of Levels 3 and 4 of the Leagues Club, public domain works, infrastructure works, construction and use of hotel accommodation, construction of four residential apartment buildings containing 255 dwellings (22 of which are above the hotel building), construction and use of office tenancies, construction of a child care centre, above ground car park, landscaping works and staged Construction and Occupation Certificates.

### THE SITE

The site is known as 455 - 461 Captain Cook Drive, Woollooware and comprises a total land area of 14,591m<sup>2</sup>. The site forms the Stage 1 Precinct of the WBTC with Stages 2 and 3 being located to the west of the Leagues Club (refer **Figure 2** below).

The site currently contains the Cronulla Sutherland Leagues Club building and structures. The remainder of the site is vacant with the previous at-grade bitumen car park demolished and all of the trees and landscaping removed.

### ASSESSMENT OFFICER'S RECOMMENDATION

#### THAT:

1. That Development Application No. DA18/1448 for Construction of Stage 1 Precinct of Woollooware Bay Town Centre: Partial demolition of existing Leagues Club and other structures, tree removal, construction and use of new retail centre, fitout of Levels 3 and 4 for the Leagues Club, public domain works, infrastructure works, construction and use of hotel accommodation, construction of four residential apartment buildings containing 255 dwellings, construction and use of office tenancies, construction of a child care centre, above ground car park, landscaping works and staged Construction and Occupation Certificates at Lot 312 DP 1232026 and Lot 315 DP 1232026, 455 to 461 Captain Cook Drive, Woollooware is determined by the granting of a development consent subject to the conditions contained in **Appendix "A"**.

## ASSESSMENT OFFICER'S COMMENTARY

### 1.0 DESCRIPTION OF PROPOSAL

The application seeks consent for the following:

- Partial demolition of the existing Leagues Club and other structures within the site.
- Construction of a new retail centre with a full-line supermarket, food retail, mini-major tenancies, specialty retail, dining tenancies and medical and leisure uses.
- First use and fitout of specified retail and business tenancies within the proposed shopping centre.\*
- Stormwater management works within the building footprint and site remediation works.
- Loading docks and on-site car parking.
- Construction and use of a hotel, comprising 71 keys.
- Construction of four residential apartment buildings comprising a total of 233 dwellings set out as follows:
  - Building A: 78 dwellings.
  - Building B: 69 dwellings.
  - Building C: 27 dwellings.
  - Building D: 59 dwellings.
- Building E comprises a hotel, childcare centre, offices, podium level communal open space and 22 residential dwellings within the top two levels.
- Incorporation of affordable housing dwellings across the development (included within the total of 255 dwellings) as part of a Voluntary Planning Agreement (VPA).
- Construction and use as office tenancies.
- Construction of a child care centre tenancy.
- Construction of an above-ground car park, comprising 1,127 car parking spaces.
- Streetscape and landscaping works along the Captain Cook Drive frontage and the northern extension of Woollooware Road (eastern) frontage of the site.
- The issue of staged Construction and Occupation certificates.

\* The applicant is seeking approval for the first use and fitout of all of the speciality retail stores but no plans or information have been submitted with the application to enable this. Refer to the Assessment Section of the Report for further discussion.

The proposed development specifically excludes any works to the north of the proposed building line (the Woollooware Bay frontage), nor does it include the road infrastructure works within Captain Cook Drive and the northern part of Woollooware Road. The excluded works are subject to separate existing and future planning approvals. Refer to Section 4 of the report below which contains a detailed history of the site.

The application also seeks minor projections of an awning and roof slab on Captain Cook Drive, which will be subject to further separate approvals from Council.

A condition of the Concept Plan (MP10\_0229 MOD 2) specified that the applicant enter into a Voluntary Planning Agreement (VPA) with the Council with respect to the provision of public benefits. The VPA requires the applicant to make a monetary contribution of \$1,400,000 (GST exempt) to Council for the provision of new bicycle links, the provision of 5% of residential floor space within the development for affordable rental housing, and to reserve 5% of apartments in the development for first home buyers.

A draft VPA between Council and the applicant is still being resolved with Council's legal team and is discussed further in the Assessment Section of the report below.

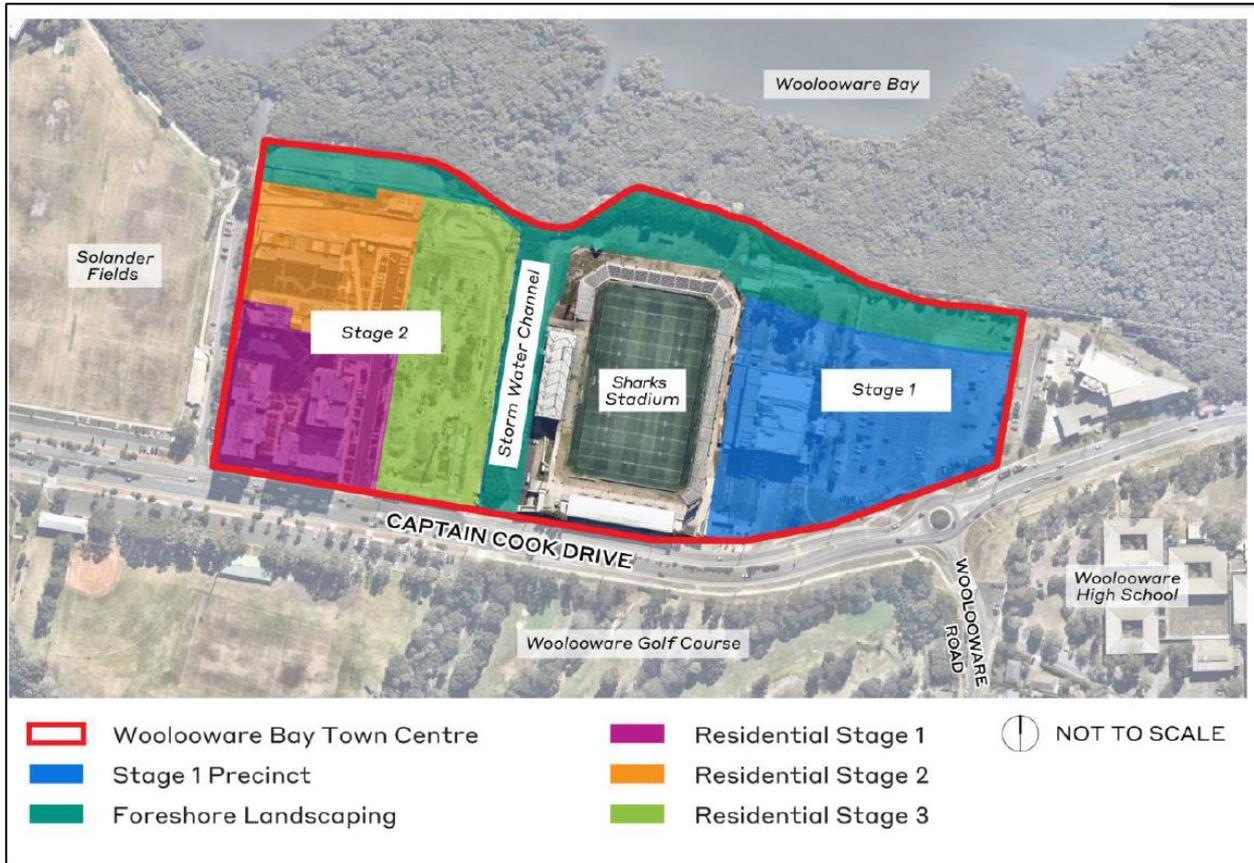
## 2.0 SITE DESCRIPTION AND LOCALITY

The site is legally described as Lot 312 - 315 in DP1232026 and is known as 455 - 461 Captain Cook Drive, Woollooware. The legal description of the site changed mid-way through the assessment period with Council as a result of a stratum subdivision which had been approved as part of the Project Approval (MP10\_02330 MOD 5). The site comprises an area of 14,591m<sup>2</sup> and forms the Stage 1 Precinct of the WBTC, a 10.06 hectare area covered by the Cronulla-Sutherland Sharks Concept Plan (MP10\_0229) (the Concept Plan). The Concept Plan area includes the residential precinct to the west, the football stadium and the Leagues Club and associated car park approved under state government legislation in 2012 (refer to the Background section below).

**Figure 1** contains an aerial photo showing the location of the site and its context. **Figure 2** shows the precincts stages within the WBTC approved under the approved Concept Plan (MP10\_0229).



**Figure 1** – Aerial Photograph of the site showing recent development to the west of the subject site.



**Figure 2** – precincts stages within the WBTC approved under the approved Concept Plan (MP10\_0229).

The subject site comprises 4 parcels of land under separate ownership and is legally described as set out in **Table 1**:

**Table 1** – Site Ownership

Lots Description	Ownership	Property Address
Lot 312 DP 1232026	Prime Woollooware 4 Pty Ltd	455 Captain Cook Drive
Lot 313 DP 1232026	Sharks Retail Pty Limited & Cronulla Sutherland Leagues Club Ltd	459 Captain Cook Drive
Lot 314 DP 1232026	Sharks Retail Pty Limited & Cronulla Sutherland Leagues Club Ltd	461 Captain Cook Drive
Lot 315 DP 1232026	Prime Woollooware 4 Pty Ltd	457 Captain Cook Drive

The site area is an unusual shape which results in the proposed development incorporating only a portion of Lot 314.

The Stage 1 Precinct comprises the eastern part of the WBTC. The site currently contains only the Cronulla Sutherland Leagues Club building. Ancillary structures, an at-grade bitumen car park, trees and landscaping have been recently removed by the applicant utilising the Project Approval MP10\_0230 (refer to Section 4 below).

The site is accessed via Captain Cook Drive (a four lane arterial road) which is the predominant road frontage to the site. Access is also proposed via the northern end of Woollooware Road, on the eastern boundary of the site.

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

Along the northern edge of the site is a 35m wide electricity easement, which contains high transmission 132kV overhead power lines. Support structures are located off site on Solander fields (to the west of the residential precinct) and adjacent to the Fitness First gym facility (to the east near Woollooware Road North).

To the east, immediately adjacent the site is Woollooware Road (previously a Council owned road reserve and currently leased for parking purposes to Fitness First), the Fitness First gym facility and a petrol station. Located approximately 100 metres to the south-east is Woollooware High School.

To the south, Captain Cook Drive is a four-lane road, with on-road breakdown lanes and cycle lanes in each direction and an off-road shared path on the southern side of the road. Beyond Captain Cook Drive, Woollooware Bay Golf Course and Captain Cook Playing Fields are located, which are surrounded by low density residential development.

To the west beyond Sharks Stadium, is the WBTC Stage 2 Precinct comprising the completed Residential Stages 1 and Stage 2 as well as Residential Stage 3 which is nearing completion, with civil infrastructure and foreshore landscaping underway.

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

### **3.0 BACKGROUND**

The following provides an overview of the history of the Woollooware Bay Town Centre development to date:

#### **Concept Plan Approval**

The site is subject to a Concept Plan approval (Concept Plan) approval issued on 27 August 2012 by the NSW Planning Assessment Commission (PAC) (MP10\_0229). The Concept Plan is broken into three elements, relating to construction of residential apartment buildings (to be delivered in three stages) on the western portion of the site; redevelopment of the football stadium in the central portion of the site; and the retail / redevelopment of the existing club in the eastern portion of the site. The approval issued by the PAC incorporates specific terms of approval, required amendments and future environmental assessment requirements, in addition to the proponent's statement of commitments. The Concept Plan has been modified on multiple occasions as outlined in **Table 1** below.

**Table 2 – Concept Plan Modifications**

Proposal	Approval Date	Department Reference
<p><b>MOD1</b></p> <ul style="list-style-type: none"> <li>• Increase the height of building envelopes D, E1, F and G; increase the Club outdoor deck area and administrative changes to the approval.</li> </ul>	Approved 14.07.14	MP10_0229 MOD1
<p><b>MOD2</b></p> <ul style="list-style-type: none"> <li>• Modification to the retail / club precinct to allow for building envelopes for a hotel, 220 residential apartments above the club / retail building and associated amendments. New Sharks Centre of Excellence to the western grandstand with new administration, training and sports-related facilities.</li> </ul>	Approved 18.04.18	MP10_0229 MOD2
<p><b>MOD3</b></p> <ul style="list-style-type: none"> <li>• increase the maximum gross floor area (GFA) in the residential precinct from 58,420sqm to 61,370sqm; increase the maximum gross building area (GBA) in the residential precinct from 104,419sqm to 115,402sqm; and amend the height and building envelopes for Building B and Building C in the residential precinct.</li> </ul>	Approved 16.03.16	MP10_0229 MOD3
<p><b>MOD4</b></p> <ul style="list-style-type: none"> <li>• Amendment of the visitor and non-residential parking rates to allow for a sharing of parking spaces; and provide a car parking rate for a childcare use.</li> </ul>	Approved 26.10.15	MP10_0229 MOD4
<p><b>MOD5</b></p> <ul style="list-style-type: none"> <li>• Amendment of the Concept Landscape Drawings; and amendment of Condition B2 relating to the riparian setback to Woollooware Bay.</li> </ul>	Approved 23.03.18	MP10_0229 MOD5
<p><b>MOD6</b></p> <ul style="list-style-type: none"> <li>• Reconfiguration of tenancy layouts and mix;</li> <li>• Increase to GFA, from 26,473.5m<sup>2</sup> to 27,740m<sup>2</sup>;</li> <li>• Re-alignment of the pedestrian connection from Captain Cook Drive to the foreshore;</li> <li>• Addition of a new child care centre tenancy and community/gallery spaces;</li> <li>• Creation of a new streetscape on Level 3;</li> <li>• Relocation of the internal vehicular circulation ramp connection Level 1 to Level 3 from the southern façade to the north-eastern corner;</li> <li>• Maintain the approved quantum of car parking at 770 spaces; and Enlargement of the Leagues Club deck.</li> </ul>	Approved 02.08.16	MP10_0229 MOD6

Proposal	Approval Date	Department Reference
<b>MOD7</b> <ul style="list-style-type: none"> <li>Design changes to the retail / club precinct for the approved retail / club building within (concurrent with MP10_0230 MOD 4).</li> </ul>	Approved 30.07.18	MP10_0229 MOD7
<b>MOD 8</b> <ul style="list-style-type: none"> <li>Rectify the building envelope for Building E (hotel and childcare / office and parking).</li> </ul>	Approved 01.11.19	MP10_0229 MOD8

Development applications have been issued for each of the three residential stages within the Stage 2 Residential Precinct, with two of the stages complete (Stage 1 DA13/0270 and Stage 2 DA14/0598) and fully occupied. The third residential stage (DA16/1068) is under construction at present and nearly complete. Conditions of DA16/1068 require the completion of the bridge across the channel and the landscaping works within Stages A1 and A2 prior to the issue of an Occupation Certificate (OC) for the third stage.

The applicant had previously lodged a development application (DA17/1585) seeking approval for the landscape works in Stages A1 and A2 but this application was withdrawn on 19 June 2018 pending the outcome of the applicant's appeal to the Land and Environment Court (LEC) with respect to MOD 5. The applicant was not accepting of the IPC decision on MOD 5 with respect to conditions imposed to relocate the playground from within the foreshore area of Stage A1, as well as constraints on uses / activities within the inner riparian zone. Agreement was reached between the applicant and the DPIE / IPC representatives as part of the LEC process and a modified version of MOD 5 to the Concept Plan granted on 21 December 2018. The agreed location of the proposed playground is within the foreshore in front of the subject Stage 1 development.

In April of 2018 the applicant lodged DA19/0274 seeking approval for the civil infrastructure and landscape works along part of the foreshore within the approved Concept Plan area (namely Stages A1, A2 and B). Stage B of the foreshore works extend to within the northern frontage of the subject development site. This application was approved by Council on 20 March 2020 and works have subsequently commenced in Stages A1 and A2.

A development application for what will be known as Stage C of the foreshore landscape works has just been lodged by the applicant (DA20/0265). This area of the foreshore is on the northern side of the subject DA and will extend from the western side of the unformed cul-de-sac head of Woollooware Road north to the eastern boundary of the Stage B landscape works.

### **Project Approval**

Subsequent to the issue of the Concept Plan in 2012, the applicant obtained a Part 3A Project Approval (Project Approval) (MP10\_0230) from the PAC for the detailed design, construction and use of the Stage 1 Precinct (club and carpark area) for the development of a new four storey retail centre and alterations / additions to the existing club building. The Project Approval has been modified on 6 occasions, the most recent being MODS 4 and 7 related to the uplift above the retail / club building to enable the residential

towers and hotel building. The Project Approval includes the landscape foreshore works in front of the building, which extend from the eastern boundary of the landscape works proposed in Stage B under the subject DA19/0274 through to the road reserve at the northern end of Woollooware Road (currently under construction).

Subsequent to the issue of MODS 4 and 7 the applicant lodged the subject application on 13 December 2018. During the assessment of the application Council officers advised the applicant that the proposed development appeared to breach the maximum building envelope for Building E approved under MOD's 4 and 7. As a consequence of this, the applicant submitted an application to the DPIE which became MOD 8. The DPIE issued an approval for MOD 8 on 1 November 2019. The table below contains a complete list of the MOD's to the Project Approval.

**Table 3 – MP10\_0230**

<b>Project Approval MP10_02330</b>		
<b>Proposal</b>	<b>Approval Date</b>	<b>Department Reference</b>
MOD 1 <ul style="list-style-type: none"> <li>• Reconfiguration of the retail and Club development on Levels 1, 3 and 4 and amendment to subdivision plans.</li> </ul>	Approved 10.02.14	MP10_02330 MOD 1
MOD 2 <ul style="list-style-type: none"> <li>• Amendment to stratum subdivision lot boundaries and creation of an additional lot</li> </ul>	Approved 08.04.16	MP10_02330 MOD 2
MOD 3 <ul style="list-style-type: none"> <li>• Internal and external changes to the design of the retail precinct resulting in an increase in the building height, gross floor area and gross building area. Key design changes include:</li> <li>• Revised pedestrian connections and circulations;</li> <li>• Changes to retail mix and tenancy;</li> <li>• Expansion of car park deck at Level 4 and erection of a full roof structure above;</li> <li>• Changes to external building façade composition / materiality and finishes; and</li> <li>• Introduction of new active uses along the key building facades;</li> <li>• A new entry arrival point to the retail centre on Captain Cook Drive;</li> <li>• Enclosure of the northern dining terrace at Level 2; and</li> <li>• New design and access to the Club building.</li> </ul>	Approved 02.08.16	MP10_02330 MOD 3

<p>MOD 4</p> <ul style="list-style-type: none"> <li>• Amendments to the architectural design of the approved building changes to construction sequencing for the</li> <li>• Removal of escalators and architectural canopy on Captain Cook Drive;</li> <li>• Expansion of medical centre tenancy;</li> <li>• External façade changes to retail building, largely car park facades to permit natural ventilation;</li> <li>• Changes to western loading dock, parking areas and retail tenancies;</li> <li>• Increase in GFA from 27,412m<sup>2</sup> to 28,002m<sup>2</sup>;</li> <li>• Increase in GBA from 60,732m<sup>2</sup> to 61,108m<sup>2</sup></li> </ul>	Approved 30.07.18	MP10_02330 MOD 4
<p>MOD 5</p> <ul style="list-style-type: none"> <li>• Modifications to the stratum subdivision plan</li> </ul>	Approved 29.03.17	MP10_02330 MOD 5
<p>MOD 6</p> <ul style="list-style-type: none"> <li>• Include building envelopes for three new residential flat buildings, a serviced apartment/hotel building, function rooms, community rooms, additional car parking and a landscaped podium to the eastern precinct.</li> <li>• New Sharks Centre of Excellence is also proposed to be added to the western grandstand with new administration, training and sports-related facilities.</li> </ul>		MP10_02330 MOD 6
<p>MOD 7</p> <ul style="list-style-type: none"> <li>• To correct an error in Term of Approval A2</li> </ul>	Approved 07.09.19	MP10_02330 MOD 7
<p>MOD 8</p> <ul style="list-style-type: none"> <li>• Amendments to the Urban Form Control Diagrams to enlarge the north western corner of the Building E envelope.</li> </ul>	Approved 01.11.19	MP10_02330 MOD 8

Subsequent to the approval of MP10\_0230 the applicant lodge three development applications with Council to obtain use approvals for the three major anchor tenancies in the retail development. These applications are identified as follows:

- DA17/0559 – Fitout and use of a Woolworths supermarket (approved 11 August 2017).
- DA17/0560 – Fitout and use of an approved commercial unit as a Dan Murphy’s retail packaged liquor outlet (approved 29 August 2017).
- DA19/0176 – Change of use and internal fitout of an Aldi supermarket (approved 23 December 2019).

## Road Works

Conditions of the Concept Plan and Project Approval required a number of road works within Captain Cook Drive and surrounding streets. The applicant lodged an application for Roads Act approval in 2016 (reference RDANo.16/0812). This approval has been issued and requires the construction of Woollooware Road north from Captain Cook Drive, 2 new signalised intersections and road widening within Captain Cook drive. These works have since commenced.

## DA18/1448

In terms of the background process of the subject DA18/1448, the following is noted:

- The subject development application was lodged with Council on 13 December 2018.
- The application was notified from 31 January to 1 March, with 20 submissions received.
- An Information Session was held on 21 February 2019 and was attended by 10 parties.
- On 15 May 2019, Council officers briefed the members of the SSPP with respect to the application. Matters identified by Council officers and the SSPP included the following:
  - Landowners consent (NSW Maritime)
  - Environmental impacts
  - Contamination
  - Stormwater management
  - Road widening
  - Loading and servicing
  - Car park design and access
  - Wayfinding, pedestrian access and operational challenges for residents, tenants and users of these facilities (notably the apartments, club and child care)
  - User requirements (club, child care medical centre, residents)
  - CEPTED relationship and access to the foreshore.
  - Staging of delivery of affordable housing and public open space
- On 21 May 2019 the applicant was advised by letter that a significant amount of additional information must be provided to address concerns regarding environmental impacts, site contamination, acid sulfate soils, signage, construction staging, engineering matters, landscaping and the design, use and functionality of the building, This letter also contained issues raised by external referral authorities.
- On 4 July 2019 Council officers met with the Applicant and their consultants to discuss the matters raised in Council's correspondence and to demonstrate how certain matters had been addressed.
- Amended plans and additional information were lodged on 9 July 2019.
- On 5 September 2019 the applicant was advised by letter of further concerns regarding the application. This included reference to matters outstanding from Council's previous correspondence as well as other matters such as building design, envelope compliance, vertical circulation, ADG matters, signage, the Green Travel Plan (GTP) and loading / unloading issues.
- On 30 October 2019 the applicant submitted a response and additional information to Council including reports and design amendments to the development.

- On 11 December 2019 the applicant was advised by letter of outstanding information from Council's initial correspondence of May 2019, on-going concerns regarding the building envelope response, façade treatment and vertical circulation. Additional matters related to management of the shopping centre, waste management, loading dock management and the northern pedestrian ramp.
- On 23 January 2020 the applicant submitted the outstanding information with respect to site contamination and acid sulfate soils.
- On 11 February 2020, the applicant submitted further information with respect to traffic assessment, loading, waste and revised stratum subdivision plans.
- On 14 February 2020, the applicant submitted a revised Residential Move-In Strategy, Retail Centre Management Report, architectural drawings, landscape plans and waste management plans.
- On 4 March 2020 Council officers met with the applicant to work through the proposed stratum subdivision plans.
- On 7 May 2020, the applicant submitted further information with respect to site contamination and remediation, including a revised Gas Management Report, Remediation Action Plan, Phase 2 Detailed Site Investigation Report, Landfill Gas Risk Assessment, Leachate Management Report and Interim Site Audit Advice.
- On 25 May 2020 the applicant requested that the stratum subdivision component of the proposal be withdrawn from the application.
- On 18 June 2020 the applicant submitted a revised Acid Sulfate Soils Management Plan.

#### **4.0 ADEQUACY OF APPLICANT'S SUBMISSION**

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

#### **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).

Council notified 3231 neighbouring residents of the proposal and 21 submissions. A full list of the locations of those who made submissions, the date of their letters and the issues raised is contained within **Appendix B** of this report.

#### **6.0 MAJOR ISSUES ARISING FROM SUBMISSIONS**

The main issues identified in the submissions are as follows:

- Out of character
- Increased traffic and lack of consideration of heavy traffic flows (trucks) from Kurnell
- Updated traffic report required
- Inadequate parking
- View loss
- Loss of property value

- Environmental impact (RAMSAR wetlands)
- Inadequate infrastructure
- Noise as a result of vehicle braking at proposed new traffic signals
- Lack of commencement of the retail development
- Additional bus service along Sturt Road?
- Reason for the above-ground carpark.
- Request a public library or a community hall as part of the development
- Support for the retail centre and Leagues Club upgrade but not the residential apartments on top
- Pedestrian safety concerns – pedestrian flows poorly considered – an over-bridge is required
- What happened to the shuttle bus to Woollooware Station?
- General loss of residential amenity for surrounding residents

As part of Council's policy for application being determined by the SSPP an Information Session was held for interested parties on 21 February 2019. The meeting was attended by 10 people. The matters raised at the meeting included the following:

- Process and procedures for state significant development and lack of opportunity to voice concerns with the overarching development from the first application onwards.
- Lack of notification of the proposal due to their distance from the development site.
- Inconsistencies with the DA compared to the Concept Approval / MOD such as 255 residential units now proposed compared to the 244 approved as part of the MOD; number of hotel rooms being reduced; removal of the bus link to Woollooware station; lack of soil testing around the mangroves.
- Residential units are sitting on top of a commercial podium so no real ground level in terms of garden etc.
- Excessive density for the area and higher than that of Wolli Creek which is at least more of an inner city location.
- Traffic and parking – insufficient parking for future residents and questions regarding the capacity of the local road network.
- Increased truck movement along Captain Cook Drive as a result of recent development at Kurnell and how this will compound with the subject DA.
- Traffic noise will be increased as a result of the development.
- Lack of consideration of pedestrian traffic – especially children with the local sports reserves. What about a pedestrian over bridge?
- More recent traffic counts are required than those relied upon in the Traffic Report submitted with the DA.
- The 'town centre' label given to the development is inappropriate given its amount of commercial space, lack of access to public transport and is not within 800m of a train station.
- Flooding.
- Concern that the Shire is 'full' in terms of the amount of development, the environmental impacts and carbon monoxide in the air.

A response to each of the issues is included in **Appendix B** to this report whilst copy of the Minutes from the Information Session is included in **Appendix C**.

### **Revised Plans**

The applicant lodged revised plans on 9 July, 30 October 2019, and in February 2020. In accordance with the requirements of SSDCP 2015 these plans were not publicly exhibited as, in the opinion of Council, the changes being sought did not intensify or change the external impact of the development to the extent that neighbours ought to be given the opportunity to comment.

### **Submission Review Panel (SRP)**

The submissions received as part of the notification process were discussed with the Team Leader and given the nature of the issues raised it was the issues be reported as part of the application to the SSPP.

## **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 (SSLEP 2015). The proposed development is a mixed use development containing the following land use activities (as defined in the Dictionary of SSLEP 2015):

- shop top housing
- commercial premises (office and retail uses)
- medical centre
- centre-based childcare facility
- hotel
- recreation facilities
- restricted premises (Leagues Club)

The proposed uses are permissible land use within the zone with development consent from Council.

The following Environmental Planning Instruments (EPIs), Draft EPIs, Development Control Plans (DCPs), 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 (Infrastructure) 2007 (Infrastructure SEPP).
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.
- State Environmental Planning Policy (Coastal Management) 2018.
- State Environmental Planning Policy No. 64 - Advertising and Signage.
- Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment.
- State Environmental Planning Policy (Education Establishments and Childcare Facilities) 2017
- State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (SEPP 65).
- Apartment Design Guide (ADG)

- Sutherland Shire Local Environmental Plan 2015 (SSLEP 2015).
- Sutherland Shire Development Control Plan 2015 (SSDCP 2015).

### **Contributions Plans**

- Section 7.12 Contributions Plan 2016 - Sutherland Shire.

## **8.0 COMPLIANCE**

### **8.1 Biodiversity Conservation Act 2016**

The Biodiversity Conservation Act 2016 and the Biodiversity Conservation Regulation 2017 outlines the framework for assessment and approval of biodiversity impacts for development that requires consent under the Environmental Planning and Assessment Act 1979.

The assessment of the development has revealed that the Biodiversity Offset Scheme (BOS) threshold is not triggered and biodiversity matters have been appropriately assessed via the CM SEPP, SSLEP 2015 and SSDCP 2015 objectives and controls.

### **8.2 Threatened Species**

Threatened species are particular plants and animals that are at risk of extinction and include threatened populations and endangered ecological communities. Threatened species, populations and ecological communities are protected by the Biodiversity Conservation Act 2016, NSW Fisheries Management Act 1994 and the Commonwealth Environmental Protection and Conservation of Biodiversity Act 1999.

Council has mapped the known threatened species, populations and endangered ecological communities. Following a review of this information and an inspection of the site it is concluded that the proposed development will not result in any significant impact on threatened species, populations and endangered ecological communities.

### **8.3 Environmental Planning and Assessment Act 1979**

#### *Legislative Framework*

As discussed in Section 4.0 above, the PAC (as delegate for the Minister for Planning and Infrastructure), approved a Concept Plan for the WBTC site in 2012.

Part 3A of the Act was repealed in May 2011 with transitional provisions established for projects already being assessed under Part 3A. As part of the amendments to the EP & A Act, which commenced on 1 March 2018, the transitional provisions were transferred to Schedule 2 of the Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017 (EP & A Regulation 2017). The transitional provisions provide a framework for the assessment of further applications for development to which Part 3A does not apply. Under Schedule 2, Clause 3B of the EP & A Regulations 2017, development for which a concept plan has been approved under Part 3A but is subject to assessment under Part 4 of the EP & A Act is required to be assessed as follows:

- (a) *if Part 4 applies to the carrying out of the development, the development is taken to be development that may be carried out with development consent under Part 4 (despite anything to the contrary in an environmental planning instrument),*
- (b) *if Part 5 applies to the carrying out of the development, the development is taken to be development that may be carried out without development consent under Part 4 (despite anything to the contrary in an environmental planning instrument),*
- (c) *any development standard that is within the terms of the approval of the concept plan has effect,*
- (d) *a consent authority must not grant consent under Part 4 for the development unless it is satisfied that the development is generally consistent with the terms of the approval of the concept plan,*
- (e) *a consent authority may grant consent under Part 4 for the development without complying with any requirement under any environmental planning instrument relating to a master plan,*
- (f) *the provisions of any environmental planning instrument or any development control plan do not have effect to the extent to which they are inconsistent with the terms of the approval of the concept plan, .../*

The consistency of the development with the approved Concept Plan is considered in the “Assessment” section of the report below.

#### **8.4 Environmental Planning Instruments**

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

SEPP 2011 applies to the subject development as it constitutes Regionally Significant development with respect to Schedule 7(2) given the cost of works is in excess of \$30 million (\$233,640,000.00). The application is returned to Council for assessment, with determination via the SSPP.

*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.

The application site previously consisted of the former Leagues Club building and an extensive at grade car parking area comprising significant hardstand i.e. asphalt and concrete surfaces, with some minor landscaping. More recently, site works have removed the majority of the hardstand as part of the Project Approval.

Prior to the Leagues Club development the land was created by filling the low-lying area with ‘hard rubbish’ i.e. non-putrescible waste for the development of sports fields. The existing Leagues Club facility currently stands on a former landfill site.

The most recent and current ‘Interim Site Audit Advice’ provided by the applicant’s Site Auditor is dated 13 May 2020. This advice is based on the review of the Phase 2 Detailed Site Investigation, the Landfill Gas Risk Assessment, the Gas Management Plan (GMP) and Remedial Action Plan (RAP). This advice provides overall certainty regarding contaminated land and ground gas management measures.

The Interim Advice summarises the key points of the RAP (1 April 2020):

- The RAP discusses the applicable remediation options and presents the rationale for the selection of the preferred option which is a cap and contain approach based on providing adequate isolation of contaminated soil from the users of the site under the proposed land use and management of hazardous ground gases.
- A separate GMP, which is required to manage hazardous ground gas outlines the protection measures to be installed.
- The RAP meets the requirements of the guidelines and the site can be made suitable with the implementation of the RAP.
- With consideration for the management of landfill gas, it is necessary for the GMP to be implemented to ensure that gas protection measures are installed during building construction and that there is appropriate construction quality assurance and post-construction verification of the performance of the protection measures.
- The GMP also provides an outline for the requirements for future maintenance and management of the gas protection measures to be included in the Long-Term Environmental Management Plan (LTEMP).

The Auditor recommends that a site audit statement be required as a condition of consent to ensure that the installation of the gas management system and validation of the site is in accordance with the plans and performance criteria presented in the RAP and GMP. This will also ensure that the LTEMP is appropriate, can be made legally enforceable, publicly notified and restrictions applied to the land.

#### *Remedial Action Plan*

The RAP has been reviewed by Council's Environmental Scientist who notes that there are some minor inconsistencies in it. For example, the RAP generally discusses the GMP but does not reference the specific submitted GMP (dated January 2020). The RAP states that the GMP is provided in Appendix D, but no Appendix D was submitted. It is also noted that the RAP includes discussion of the remediation of the foreshore area which is outside of the scope of the subject application (included under a separate DA20/0266). These are relatively minor discrepancies which can be dealt with by way of conditions of consent requiring the implementation of the RAP, subject to minor 'design changes' following subsequent review and sign off from site auditor.

Importantly, the GMP has been reviewed and accepted by the site auditor as covered by the Interim Audit Advice.

Conditions of consent are contained within **Appendix A** addressing the remediation requirements. With the implementation of these conditions, Council is satisfied that the proposal would be acceptable with regard to the provisions of SEPP 55.

*State Environmental Planning Policy (Infrastructure) 2007*

Clause 45 – Determination of development applications – other development

The application was referred to Ausgrid in accordance with Clause 45(2) of SEPP 2007 given the proximity of the northern part of the site to the Ausgrid easement containing overhead power lines and transmission towers. Ausgrid has provided correspondence with respect to the application and requires conditions to be imposed. The relevant conditions are included in **Appendix A**.

Clause 101 - Development with frontage to classified road

The development site has its main frontage to Captain Cook Drive, which is an arterial road. Significant traffic measures were required to be undertaken by the applicant as part of the Concept Plan and Project Approval, resulting in three new sets of traffic signals, realignment of the southern part of Woolooware Road, replacement with the roundabout at the intersection of Woolooware Road and Captain Cook Drive and formation of the northern extent of Woolooware Road. The works were conditioned as part of the Concept Plan and Project Approval and have since been designed and approved by the RMS and Council, with works completed in front of the residential stage of the development and now underway in front of the subject site.

The subject proposal maintains the same points of ingress and egress approved under the Project Approval, with one access via a signalised intersection on Captain Cook Drive and the other from the northern extent of Woolooware Road. The proposal is acceptable having regard to Clause 101(2)(b) in that the safety, efficiency and on-going operation of Captain Cook Drive will not be adversely affected as a result of the development. In terms of Clause 101(2)(c) the overall development is of a type that is not sensitive to traffic noise or vehicle emissions, with the lower levels comprising retail and other non-noise sensitive landuses. The proposed residential apartments are situated from the level 7 podium upwards, assisting to reduce the impacts of traffic noise and air pollution from Captain Cook Drive. The proposal is therefore generally acceptable having regard to Clause 101(2)(c) as addressed further with respect to Clause 102 requirements below.

Clause 102 - Impact of road noise or vibration on non-road development

This clause requires the consideration of the impact of road noise or vibration on the proposed development. Proposed Buildings A and E front Captain Cook Drive, which is an arterial road. Clause 102 states the following with respect to road noise.

- (3) *If the development is for the purposes of residential accommodation, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded—*
- (a) *in any bedroom in the residential accommodation—35 dB(A) at any time between 10 pm and 7 am,*
  - (b) *anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.*

The applicant has submitted an Environmental Noise Impact Assessment prepared by Acoustic Logic to address the impacts of road noise on the proposed residential apartments. The report concludes that the maximum noise levels can be met, with acoustic attenuation measures with respect to the glazing in the most affected facades. Conditions have been included in the recommendation requiring that the development be constructed to ensure compliance with these criteria. On this basis an acceptable acoustic environment and compliance with SEPP 2007 can be achieved.

#### Clause 104 – Traffic Generating Development

The development is classified as traffic generating development by way of Column 3 Schedule 3 of SEPP 2007. Section 104 of SEPP 2007 is therefore relevant and the application was referred to the RMS. The RMS raised no objection on the basis that all traffic related issues have been dealt with as part of the Concept Plan approval MP 10\_0229. RMS did reiterate the need for the applicant to comply with the requirements of *Schedule 5 Statement of Commitments 3 – Traffic Management* of the Concept Approval in relation to the installation / relocation of the traffic signals.

#### *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 and appropriately stamped plans accompany the development application addressing the requirements for the proposed residential buildings and the apartments within Building E. The proposal achieves the minimum performance levels / targets associated with water, energy and thermal efficiency and is therefore acceptable having regard to BASIX.

#### *Greater Metropolitan Regional Environmental Plan No. 2- Georges River Catchment*

Greater Metropolitan Regional Environmental Plan No. 2 (GMREP2) includes a number of aims and objectives for the environment and water quality within the catchment. The subject site is located on the foreshore of the significant Towra Point wetlands and the proposed stormwater collection, treatment and disposal for the development would normally require assessment by Council, having regard to GMREP2, SSLEP 2015 and SSDCP 2015.

In this instance, the applicant has advised Council that they wish to utilise the Project Approval to complete the necessary stormwater works for the development and a CC for these works has now been issued. No stormwater works outside of the building footprint therefore form part of this application. This arrangement is not entirely satisfactory to Council given that we have not had a chance to assess it and are reliant on the Private Certifier to have ensured the conditions of the Project Approval are met.

Notwithstanding this, the aims and objectives of the GMREP2 were likely considered in the assessment of the original Concept Plan and the Project Approval by the DPIE and the PAC and stormwater conditions are imposed under both the Concept Plan and the Project Approval (refer **Appendices D** and **E** respectively). Subject to the applicant completing the stormwater works in accordance with these state approvals, appropriate stormwater management and water quality measures should be in place to ensure that there is minimal adverse impacts on water quality. Council has included a condition (refer **Appendix A**) requiring that the applicant construct the stormwater works in accordance with the Project Approval, with all works to

be completed in Stage 1 (refer to the Staging Section of this report) and prior to any Occupation Certificate for Stage 1. Any variation to the approved stormwater scheme would therefore require a modification to the subject consent and a review by Council. Subject to the implementation of the recommended condition the proposal would be consistent with the aims and objectives of GMREP2.

*State Environmental Planning Policy (Coastal Management) 2018*

The savings and transitional provisions within the CM SEPP stipulate that the SEPP does not apply to development applications made within 12 months of the commencement of the policy, which was on 3 April 2018. The subject application was lodged in December of 2018 and as such is exempt from assessment under the CM SEPP.

*State Environmental Planning Policy No. 64 – Advertising and Signage*

State Environmental Planning Policy No. 64 – Advertising and Signage (SEPP 64) is applicable to the subject application. The applicant is seeking approval for signage and platforms on a number of the facades of the building. Pursuant to the definitions contained within Clause 4 of SEPP 64 the proposed signage would constitute ‘*business identification signage*’ and ‘*building identification signage*’ as set out in the Standard Instrument (defined as follows):

*Business identification sign means a sign:*

- (a) *that indicates:*
  - (i) *the name of the person or business, and*
  - (ii) *the nature of the business carried on by the person at the premises or place at which the sign is displayed, and*
- (b) *that may include the address of the premises or place and a logo or other symbol that identifies the business, but that does not contain any advertising relating to a person who does not carry on business at the premises or place.*

*Note: Business identification signs are a type of signage—see the definition of that term in this Dictionary.*

*Building identification sign means a sign that identifies or names a building and that may include the name of a building, the street name and number of a building, and a logo or other symbol but does not include general advertising of products, goods or services.*

*Note: Building identification signs are a type of signage—see the definition of that term in this Dictionary*

In considering an application for signage the consent authority must be satisfied that the signage is consistent with the objectives of SEPP 64 and the assessment criteria specified in Schedule 1. Schedule 1 requires consideration of the following:

**Table 4 – SEPP 64 Schedule 1 Assessment**

<b>Heading</b>	<b>Consideration</b>	<b>Complies</b>
<b>Character of the area</b>	<ul style="list-style-type: none"> <li>• <i>Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?</i></li> <li>• <i>Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?</i></li> </ul>	<p>The majority of the proposed signage will be compatible with the overall redevelopment of the site. Whilst there is no specific theme for outdoor advertising in the area, the applicant is seeking a theme for the signage with respect to the overall centre – identified as ‘Bay Central’ and as such this signage is consistent in appearance. The remaining signage for the tenancies reflects the wording and logos of the businesses and is less uniform.</p> <p>Chapter 35.6 of SSDCP 2015 applies to signage on the site. An assessment of the proposed signage against the controls is contained in the Assessment section of the report below.</p>
<b>Special areas</b>	<p><i>Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?</i></p>	<p>The proposed signage strategy appropriately maintains the majority of signage to the Captain Cook Drive façade of the development. This façade fronts the busy road and is opposite Woolooware Golf Course and the new intersection with Woolooware Bay Road. The signage is largely contained to the lower levels of the development, with the exception of the hotel signage, which limits visibility of the signage from further afield. It is noted that the proposed projecting wall signs are considered to be obtrusive and have been conditioned to be deleted.</p> <p>The rear of the site faces the sensitive natural environment of the Towra Point Aquatic Reserve. Signage on the northern elevation facing the Reserve is appropriately minimal, limited to 2 entry</p>

		signs – one for the residential lift access and the other for the retail area and through-site link.
<b>Views and vistas</b>	<ul style="list-style-type: none"> <li>• <i>Does the proposal obscure or compromise important views?</i></li> <li>• <i>Does the proposal dominate the skyline and reduce the quality of vistas?</i></li> <li>• <i>Does the proposal respect the viewing rights of other advertisers?</i></li> </ul>	<p>All of the proposed signs will sit flush with the building, with the exception of the Quest Hotel sign which will project from the southern façade of Building E at the upper levels. This sign is excessive in its projection and has been conditioned to be deleted. None of the proposed signage will obscure views or vistas or dominate the skyline.</p> <p>The development stands alone on the site, set apart from the nearest adjacent development to the east by Woollooware Road. As a consequence no other advertisers would be disadvantaged by the proposed signage.</p>
<b>Streetscape, setting or landscape</b>	<p><i>Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?</i></p> <ul style="list-style-type: none"> <li>• <i>Does the proposal contribute to the visual interest of the streetscape, setting or landscape?</i></li> <li>• <i>Does the proposal reduce clutter by rationalising and simplifying existing advertising?</i></li> <li>• <i>Does the proposal screen unsightliness?</i></li> <li>• <i>Does the proposal protrude above buildings, structures or tree canopies in the area or locality?</i></li> <li>• <i>Does the proposal require ongoing vegetation management?</i></li> </ul>	<p>The proposed signage is largely of a reasonable scale and size having regard to the development, the streetscape and setting – particularly given the varying characteristics of the landuses around the site. The various tenancy signage is rationalized on centralized signs and located within the built form elements of the building. Conditions are recommended for improved placement of a couple of the signs which is discussed further in the assessment section of the report below. Projecting wall signs are conditioned to be removed.</p>
<b>Site and building</b>	<p><i>Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?</i></p>	<p>The proposed signage is largely appropriate in the context of the scale of the development. It is largely located on the lower level retail component of the development so that the upper levels retain their architectural significance. Only minor signage is proposed in the northern</p>

	<ul style="list-style-type: none"> <li>• Does the proposal respect important features of the site or building, or both?</li> <li>• Does the proposal show innovation and imagination in its relationship to the site or building, or both?</li> </ul>	<p>elevation which faces the sensitive RAMSAR wetlands. The proposed signage is not overly innovative, or of any real design merit, but is reasonably simple business identification signage. Conditions have been included in <b>Appendix A</b> to require signage panels to sit within the architectural 'frames' of the retail frontage in Captain Cook Drive.</p>
<b>Associated devices and logos with advertisements and advertising structures</b>	<p>Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?</p>	<p>The majority of signage proposed incorporates the logo of the proposed tenant. The logos form an integral part of the signage panel and are not separate elements.</p>
<b>Illumination</b>	<p>Would illumination result in unacceptable glare?</p> <ul style="list-style-type: none"> <li>• Would illumination affect safety for pedestrians, vehicles or aircraft?</li> <li>• Would illumination detract from the amenity of any residence or other form of accommodation? Can the intensity of the illumination be adjusted, if necessary?</li> <li>• Is the illumination subject to a curfew?</li> </ul>	<p>The majority of the proposed signage will be internally illuminated. The majority of signage is on the lower levels of the building where the effects of the illumination are at street level. The boundary of the closest residential property is approximately 110m away whereby light spill is unlikely to result in adverse amenity impacts.</p> <p>The Quest Hotel sign is proposed to be located on the upper levels of Building E. This is a 2m projecting wall sign and whilst the projection is not supported, some form of signage of this type would be reasonable. Whilst residents from further away may be able to see a sign in this location, lights from within the hotel and the residential apartments will be the more dominant effect at night time.</p> <p>Two of the proposed signs are intended to be digital screens – namely those for the Sharks Leagues Club and the one within the football grounds. The one within the football ground is only a signage zone with indicative detailing and will be subject to future development</p>

		consent. The Leagues Club entry screen is appropriately situated on the inside face of the front elevation so it would be seen by traffic driving west. In terms of the nearby residential properties it would be approximately 150m away but appropriately screened by existing trees on the adjacent Woollooware Golf Course.
<b>Safety</b>	<p><i>Would the proposal reduce the safety for any public road?</i></p> <ul style="list-style-type: none"> <li>• <i>Would the proposal reduce the safety for pedestrians or bicyclists?</i></li> <li>• <i>Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?</i></li> </ul>	The proposed signage structures will be fully contained within the boundaries of the site and the majority are of an appropriate size, scale and illumination as to ensure safety for vehicles, pedestrians and cyclists utilizing the frontages of the site.

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

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. SEPP 65 applies to the residential component of the proposed development. An assessment of the proposal having regard to the design quality principles of SEPP 65 is set out below.

**Table 5 – SEPP 65 Design Quality Principles Assessment**

<b>Design Quality Principles</b>	<b>Assessment</b>
Principle 1: Context and neighbourhood character	<p>The context and neighbourhood character within which the site sits is varied. What was previously a recreational site, containing the Cronulla-Sutherland Leagues Club and grounds / stadium and playing fields, is now a high rise residential precinct, sports ground and approved major commercial / retail development. Further high rise residential development is also enabled by the Concept Plan above the retail. Development surrounding this to the east is of a reduced scale, comprising a service station, 2 storey gymnasium and then the bay. To the south, south-east and south-west is the residential suburb of Woollooware, a local high school and two golf courses. To the west of the site is the stadium and residential precinct of WBTC and adjacent that is Solander fields.</p> <p>The proposal involves four separate multi storey residential flat buildings (Buildings A – D) and a building comprising a hotel, with two levels of</p>

	<p>residential apartments above (Building E). Buildings A - D are set within a landscaped podium level (Level 6), whilst Building E is a stand-alone tower in the south-west corner of the site, with access obtained via Level 2, to the apartments above (on Levels 8 and 9). Each of the buildings sits on top of / within a base of commercial / retail and other non-residential landuses and car parking. The built form and aesthetic of the four residential towers is similar to that approved and now constructed in the Residential Precinct (Stage 2 of the WBTC) with Building E representing a different and more commercial aesthetic. Whilst somewhat incongruous with the surrounding locality of low-level residential, playing fields and golf courses, the proposal is in keeping with the desired future character established by the Concept Plan and the recent Residential Precinct approvals.</p>
Principle 2: Built Form and Scale	<p>The scale of the proposed built form is significant but consistent with the anticipated building heights and envelopes established by the Concept Plan.</p>
Principle 3: Density	<p>The density of the scheme submitted is consistent with the density permitted by the Concept Plan, as articulated by the maximum height, envelopes and GFA / GBA.</p>
Principle 4: Sustainability	<p>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 ADG standards for solar access and natural ventilation as well as the BASIX requirements. In addition to the basic design principles the ESD Report submitted with the application states that the following sustainability measures are also proposed:</p> <ul style="list-style-type: none"> <li>• The installation of an 80,000 litre water tank for irrigation of podium landscaping</li> <li>• Timber used on the project will be from a recycled source or FSC certified timber.</li> <li>• Photovoltaic Panels on the roof of Building A and all apartments supplied with a smart energy meter.</li> </ul>
Principle 5: Landscape	<p>The proposed podium level for the four residential buildings is proposed to be heavily landscaped, with a variety of communal and private open spaces, including areas for both passive and active recreation. The landscape design will provide practical and usable areas with social opportunities and a high degree of amenity for future residents. Landscape elements such as tree planting on the Level 2 internal street and on the facades of the podium carparking levels will assist to 'green' the development externally. Council would like to see the landscape works to the foreshore area to the north of the building undertaken prior to OC being issued for the residential buildings. This area will add significantly to the amenity for future residents from a visual perspective but also provide direct links to active open space. Conditions are</p>

	contained in <b>Appendix A</b> in this regard and is discussed further below in the 'Assessment' Section of the report.
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, public open space, solar access and natural cross ventilation. Refer ADG Table below and detailed Tables in <b>Appendix F</b> .
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. NSW Police has been consulted with respect to the proposal and raises no issues other than with respect to licensing of the restricted premises. For the most part access to the upper level residential environment (and parking areas) will be restricted by swipe card or similar. Access for visitors will be at the discretion of future residents. The management of the shopping centre and licensed premises and hotel are pivotal in maintaining a safe environment for upper level residents as well as the users of the foreshore park to the north of the development. These issues are discussed further in the Assessment Section of the report below.
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 in line with Council requirements. The development also includes facilities to encourage social interaction including communal open space areas and a large swimming pool on the podium level. First home buyers units as well as affordable housing is also being provided within the development as a consequence of the VPA process being undertaken separately with Council and the applicant.
Principle 9: Aesthetics	In general terms the architectural detailing of the overall development is reasonable and of a good contemporary standard. Elevational treatment could be improved in some instances which is discussed further in the Assessment Section of the report below. Conditions are recommended to ensure the proposed materials and finishes are followed through to the final building to ensure a quality outcome.

Sutherland Shire Council engages its Design Review Forum (DRF) to guide the refinement of development to ensure design quality is achieved in accordance with SEPP 65. A summary of the DRF comments is included below with a copy of the complete Minutes included in **Appendix G**.

#### *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. The ADG illustrates good practice and these guidelines are largely replicated in SSDCP 2015. The following Table represents the collective compliance of the five buildings and all 255 apartments with the main ADG criteria. Tables providing a compliance

checklist of each of the 5 buildings assessed individually are contained in **Annexure F**. Generally, all of the proposed apartments provide compliant room sizes, ceiling height, depth and dimensions, sufficient balcony areas / terraces and solar access / cross ventilation to afford reasonable amenity to future occupants.

It is noted that the Concept Plan (MOD 2) has established the majority of site planning controls and acceptable building forms, envelopes, setbacks and separation distances with respect to the ADG.

**Table 6 – ADG Summary of the Development**

<b>Apartment Design Guide (ADG) Key Controls</b>		
<b>Guidelines</b>	<b>Proposed</b>	<b>Compliance</b>
<b>Part 2F: Building Separation</b>		
<p><i>Minimum distances between buildings:</i></p> <p><i>Up to four storeys (approximately 12m)</i></p> <ul style="list-style-type: none"> <li>• 12m between habitable rooms/balconies</li> </ul> <p><i>Five to eight storeys (25m)</i></p> <ul style="list-style-type: none"> <li>• 18m between habitable rooms/balconies</li> <li>• 12m between habitable rooms and non-habitable rooms</li> <li>• 9m between non-habitable rooms</li> </ul> <p><i>Nine storeys and above (over 25m)</i></p> <ul style="list-style-type: none"> <li>• 24m between habitable rooms/balconies</li> <li>• 18m between habitable rooms and non-habitable rooms</li> <li>• 9m between non-habitable rooms</li> </ul>	<p><u>Building A and Building B</u></p> <p>Up to Level 6 = 9m</p> <p>Level 7 to 13 = 13.4m</p> <p>The proposed buildings are within the building envelope approved as part of the Concept Plan which allowed this non-compliance if privacy impacts were mitigated.</p> <p>Privacy impacts mitigated through privacy screens.</p> <p><u>Building A and Building E</u></p> <p>Level 8 to Level 9 = 20.5m</p> <p><u>Building A and Building D</u></p> <p>Level 6 to Level 13 = 18.5m</p> <p><u>Building B and C</u></p> <p>Level 6 to Level 8 = 15.5m</p> <p><u>Building C and Building D</u></p> <p>Level 6 to Level 8 = 20m</p>	<p>No - see 'Assessment' section of this report.</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

**Part 3D: Communal Open Space**

<p><i>Objective 3D-1</i> Communal open space (COS) has a minimum area equal to 25% of the site (3,647m<sup>2</sup> based on a site area of 14,591m<sup>2</sup>)</p>	<p>Podium (Level 6) = 3,664m<sup>2</sup> Building B (Level 7) = 205m<sup>2</sup> Total – 3,869m<sup>2</sup></p> <p>Communal open space = 26.5% of the site</p> <p>Level 5 of Building E has 279m<sup>2</sup> of COS shared between hotel patrons and available for use by upper level residential but this has not been counted towards the overall provision for the development. See Assessment Section of the report below.</p> <p>Provision of large foreshore recreation area to the north of the building as part of a separate DA20/0266.</p>	<p>Yes</p> <p>No - See 'Assessment' section of this report.</p>
<p><i>Development must achieve a minimum of 50% direct sunlight to the principle usable part of communal open space for a minimum of 2 hours between 9am and 3pm on 21 June (mid-winter)</i></p>	<p>50% of communal open space receives at least 3 hours solar access between 9am and 3pm mid-winter.</p>	<p>Yes</p>

**Part 4A: Solar Access**

<p><i>Objective 4A-1</i> Living rooms and private open spaces of at least 70% (179) of apartments in a building receive a minimum of 2 hours direct sunlight between 9am and 3pm at mid-winter.</p>	<p>70% (179) apartments</p>	<p>Yes</p>
<p><i>Maximum of 15% (38) of apartments in a building receive no direct sunlight between 9am and 3pm at mid-winter.</i></p>	<p>14% (36) apartments</p>	<p>Yes</p>

**Part 4B: Natural Ventilation**

<p><i>Objective 4B-3</i> At least 60% (153) of apartments are naturally cross ventilated in the first nine storeys of the building.</p>	<p>60% (153) apartments</p>	<p>Yes</p>
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Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	Maximum cross-through apartment depth 16.6m	Yes
<b>Part 4C: Ceiling Heights</b>		
Objective 4C-1 Measured from finished floor to finished ceiling level, minimum heights are; <ul style="list-style-type: none"> <li>Habitable rooms = 2.7m</li> </ul>	Floor to floor heights range from 3.15m to 3.8m. A condition is to be imposed specifying minimum 2.7m ceiling height for habitable rooms.	Yes
<b>Part 4D: Apartment Size</b>		
Objective 4D-1 Minimum internal areas of; <ul style="list-style-type: none"> <li>1 bedroom = 50m<sup>2</sup></li> <li>2 bedroom = 70m<sup>2</sup></li> <li>3 bedroom = 90m<sup>2</sup></li> </ul> *Additional bathrooms increase the minimum internal area by 5m <sup>2</sup>	All apartments comply with minimum size requirement.	Yes
Figure 4D.3 – Depth of a single aspect apartment relative to the ceiling height directly influences the quality of natural ventilation and daylight access. The maximum depth of open plan layouts that combine living, dining and kitchen space is 8m	All single depth apartments comply, except for 2 apartments in Building A which have a depth of 8.5m. Acceptable in this instance.	Yes
<b>Part 4E: Private Open Space</b>		
Objective 4E-1 All apartments are required to have a primary balcony as follows; <ul style="list-style-type: none"> <li>1 bedroom = 8m<sup>2</sup> (depth of 2m)</li> <li>2 bedroom = 10m<sup>2</sup> (depth of 2m)</li> <li>3 bedroom = 12m<sup>2</sup> (depth of 2.4m)</li> </ul>	All apartments comply except for 2 x 3 bedroom apartments on Level 7 of Building C which exceed the minimum area required but only have a depth of 2.3m. This has been conditioned to comply.	Yes subject to conditions
For apartments at ground level or on a podium or similar structure, private open space is provided instead of a balcony. Must have a minimum area of 15m <sup>2</sup> and depth of 3m	24 of the 34 podium apartments have courtyard-style apartments which comply with the minimum 15m <sup>2</sup> area requirement.  The other 10 apartments are oriented outwards from the podium and have balconies.	Yes

	These balconies all comply with the minimum ADG balcony requirements with the exception of 2 of the 3 bedroom apartments which are only 2.3m in depth (but have more than sufficient area – 25m <sup>2</sup> and 25m <sup>2</sup> )	
<b>Part 4F: Common Circulation and Space</b>		
<i>The maximum number of apartments off a circulation core on a single level is eight</i>	<p>Building B, C, D comply with this control.</p> <p>Building A – The eastern circulation core services 4 apartments per level. This lift is also 1 of 2 lifts to be used by the residents of Buildings A-D to access the main lobby and mail room in the Captain Cook Drive entry from the podium level.</p> <p>Building E – The circulation corridor services 11 units per floor (22 apartments in total).</p>	No – See 'Assessment' section of the report
<b>Part 4G: Residential Storage</b>		
<p><i>Objective 4G-1</i></p> <p><i>In addition to storage in kitchens, bathrooms and bedrooms the following storage is provided</i></p> <ul style="list-style-type: none"> <li>• 1 bedroom = 6m<sup>3</sup></li> <li>• 2 bedroom = 8m<sup>3</sup></li> <li>• 3 bedroom = 10m<sup>3</sup></li> </ul> <p><i>At least 50% of the required storage is to be located within the apartment.</i></p>	A condition of consent is included in <b>Appendix A</b> to ensure minimum provision of storage is met.	Yes

*State Environmental Planning Policy (Educational Establishments and Childcare Facilities) 2017*

The SEPP 2017 is referenced with respect to the proposal because the applicant is seeking a general use approval for a tenancy within the retail / commercial component of the building for a centre-based childcare facility. No details of the design or fitout of the tenancy, number of children or hours of use have been provided as part of the proposal, with the applicant advising that a separate development application will be lodged for the future use. SEPP 2017 is largely not applicable except for the reference within the SEPP

2017 to the Child Care Planning Guideline 2017. The applicant states that the proposed tenancy has been designed with consideration having been given to the SEPP 2017 requirements.

### **8.5 Local Controls – SSLEP 2015 and SSDCP 2015**

The approved Concept Plan sets out the general planning parameters for the site. Clause 3B(2)(f) of Schedule 6A of the Environmental Planning & Assessment Act indicates that the provisions of any environmental planning instrument or any development control plan do not have effect to the extent to which they are inconsistent with the terms of the approval of the Concept Plan. By and large, the numeric provisions of SSLEP 2015 and SSDCP 2015 are not applicable to this proposal. Further SSDCP 2015 largely replicates the before mentioned ADG design criteria. Notwithstanding this, a table is included in **Appendix H** addressing the main standards / controls within SSLEP 2015 and SSDCP 2015 relevant to the application.

### **8.6 Draft Environmental Planning Instruments**

#### *Draft State Environmental Planning Policy (Environment) (draft Environment SEPP)*

The draft Environment SEPP seeks to simplify the NSW planning system and reduce complexity without reducing the rigour of considering matters of State and Regional significance. The draft SEPP was exhibited between October 2017 and January 2018. The SEPP effectively consolidates several SEPPs including SEPP 19, SEPP (Sydney Drinking Water Catchment), and GMREP2 and remove duplicate considerations across EPIs. Relevant considerations have been taken into account against the in-force EPIs in this report.

#### *Draft State Environmental Planning Policy (Remediation of Land) (Draft Remediation of Land SEPP)*

The draft Remediation of Land SEPP seeks to repeal and replace SEPP55 in relation to the management and approval pathways of contaminated land. The draft SEPP was exhibited between January and April 2018. New provisions will be added which will:

- require all remediation work carried out without the need for development consent to be reviewed and certified by a certified contaminated land consultant,
- categorise remediation work based on the scale , risk and complexity of the work, and
- require environmental management plans relating to post remediation, maintenance and management of on-site remediation measures to be provided to Council.

The site and proposal have been assessed against the provisions of SEPP 55. Subject to implementation of the site auditor requirements and conditions of consent the proposal would meet the intentions of draft *Remediation of Land SEPP*.

### **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. A full copy of the State government responses is included in **Appendix C**.

### **NSW Department of Primary Industries (DPI Fisheries)**

The application was referred to NSW Department of Primary Industries (Fisheries) pursuant to s.4.47 of the Environmental Planning & Assessment Act, 1979 on the basis of the proposed works constituting Integrated Development. Whilst the applicant had sought to exclude the foreshore component of the Project Approval from the subject development application, stormwater plans submitted by the applicant indicated numerous works within the foreshore and in some case within the adjacent aquatic reserve.

On 16 May 2019 Fisheries advised Council of concerns with respect to the proposed stormwater works within the aquatic reserve. On 4 October 2019 Fisheries further advised Council by letter of the following:

*DPI Fisheries has received notice from Council that the stormwater outlets for this development are no longer included in this Development Application and will be constructed as part of the overall concept plan approval. DPI Fisheries has worked with the proponent and Council to ensure every part of all of the stormwater outlet, including energy dissipation measures, will be outside of the Towra Point Aquatic Reserve.*

*Therefore this particular development does not trigger an Integrated Development under the Fisheries Management Act.*

*Given the proximity of this site to the Towra Point Aquatic Reserve, DPI Fisheries would really like to emphasise with Council the importance of implementing, and maintaining in operational order, nest practice erosion and sediment control measures during the whole construction period of the Woollooware Bay Town Centre Precinct. This is required to protect the values of the adjoining Aquatic Reserve.*

Comment: This issue is addressed in the assessment Section of the report below.

### **NSW Department of Industries (National Resource Access Regulator)**

Similar to DPI Fisheries the application was also referred to NRAR to ascertain if a Controlled Activity Approval (CAA) was required under the Water Management Act 2000 (WMA 2000). NRAR advised that Woollooware Bay is now exempt from the need to obtain a CAA under the WMA 2000. All watercourses outside of the mapped area continue to be considered waterfront land and require assessment under the WMA 2000. NRAR advised that the subject application does not propose works within 40m of the mapped watercourse to the west of Sharks stadium and is therefore not considered to be integrated development under the WMA 2000.

### **NSW Department of Roads and Maritime Services**

The application was referred to NSW RMS for comment in accordance with the SEPP (Infrastructure) 2007. RMS has reviewed the submitted application and notes that the proposed scale of development is similar to that approved as part of the project application. It raises no objection to the application stating that all traffic related issues were dealt with as part of the Concept Approvals MP 10-0229 and MP10\_0230 (as modified) but reiterated that the requirements for the development of the neighbourhood retail centre must comply with the Concept Approval MP 10\_0229 Schedule 5 Statement of Commitments 3 - Traffic Management in relation to installation of traffic signals.

Comments: This is addressed further below in the comments from Council's engineer.

### **NSW Office of Environment and Heritage**

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

In the Concept Plan report, the PAC noted the special environmental significance of the site's surrounds and sought to address the limitations of the previous surveys through the imposition of Condition 22 on the Concept Plan. Condition 22 states as follows:

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

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

The EES were consulted with respect to the subject application. A response was provided on 23 May 2019, advising that the application is not nominated integrated development under the National Parks and Wildlife Act 1974 and that no action was required by their agency. This response does not particularly address Condition 22 of the Concept Plan, but as occurred with assessment of the three residential stage development applications, the environmental impact assessment of the development and compliance with Condition 22 was left to Council. EES have previously advised Council that the original PAC approval did not address all of the OE&H's issues and that OE&H remained concerned that additional ecological surveys

were required to better assess impacts of the development on national and internationally listed migratory and endangered shorebirds.

Comment: Council's Environmental Science unit has determined that the information submitted as part of the development application is satisfactory in addressing Condition 22 within the limitations of the Concept Plan approval.

### **Sydney Water**

Sydney Water was advised of the application and requested to provide comment. Sydney Water provided a response dated 1 May 2019 advising that the proposed development can be serviced with respect to water and waste water.

### **Ausgrid**

Council referred the application to Ausgrid with respect to Clause 45 of SEPP 2007 and with respect to Conditions 26-28 of the Concept Plan approval. **Appendix A** incorporates conditions to be imposed in order to protect its' assets and ensure safety of future occupants of the development.

### **NSW Police (Miranda Local Area Command)**

The Police advised that they generally have no objection to the proposal subject to conditions regarding the licensed premises. They did however suggest that in accordance with Council's Late Night Trading DCP, the Club should be subject of a Plan of Management given the major modifications proposed.

Comment: The conditions sought by the NSW Police have been included in **Appendix A**.

### **Design Review Forum (DRF)**

The application was considered by Council's DRF on 14 March 2019, during which concerns regarding the development proposal were outlined. A copy of the DRF report is attached as **Appendix G** with the conclusion outlined below:

- "1. The Panel understands that this application comes with a long history, which includes approvals in place for the lower non-residential parts of the project. Nevertheless, it is considered within the scope of a design based review to comment on aspects of the approved parts of the project where they are of significance in the current application. In particular, clarity of access, sense of address, identity and way finding are all compromised in the addition of the residential buildings that are the subject of this application, and they are issues that are grounding the conception of the project as a whole.*
- 2. The drawings make the whole project difficult to understand, with no sections included that illustrate the relationships of all parts of the project in an integrated way. In addition, the 3D model submitted was unable to function due to the large file, further hindering a clear understanding of the design and assessment of the scheme.*

3. *The access arrangements to the various parts of the project, which would be easily managed in a properly civic setting of public streets and development lots, requires a complex choreography of movement systems to manage. It is hard to believe that way finding will be anything other than difficult at best, relying heavily on signage and elaborate security arrangements.*
4. *As currently presented, a visitor arriving from the street will be confronted with a confusing presentation of options, and a circuitous journey from street to individual front door. The public street entry to 233 apartments is from one foyer, via 2 shuttle lifts to the podium level, through a shared lobby serving 3 apartments on that level, and then out on to the podium, from where paths diverge in all directions, threaded through communal open space, to 7 building entries.*
5. *Ideally every residential building should have its own entry lobby address to a public street. If the podium accommodates any public access to buildings, it might be of use to re-imagine its design. It could be thought of as a network of pedestrian mews, making use of a legible urban spatial type (albeit removed from the public domain) in its design and detail. Podium level apartments could have individual entries off the mews, and common building entries could be signalled architecturally. Paving, landscape, lighting, thresholds, and materials could all be considered with this in mind.*
6. *The main residential shuttle lift street entry seems somewhat concealed in the mostly commercial façade wrapping around the corner of Captain Cook Drive and Woollooware Road North. It could be better signalled as being the core residential entry with the green wall feature being extended to street level, creating a sense of address whilst visually grounding and telegraphing the main podium plaza/forecourt above.”*
7. *Considered in isolation, apartment plans are generally well resolved, except for the compromised natural light and ventilation provided to some of the common circulation spaces.*
8. *While the elevations are competent, the proposal suffers from the inevitable consequences when, even with good intention, so much is designed by one hand: the lack of authentic variety that many hands bring.*
9. *All of the above contributes to the overall impression of the project being conceived and designed as a homogenous enclave, with the residential part having little engagement with the public domain.”*

Comment: Some of the concerns raised by the DRF have been taken into account in design amendments by the applicant. The DRF comments are addressed in detail below in the Assessment section of the report below.

## Engineering (Assessment Team)

Council's Engineers have undertaken an assessment of the application with respect to flooding, stormwater management, vehicular access, parking and road works. The following key points are summarised in relation to each aspect below:

### Vehicular Access-way & Parking

- The development requires the formal creation of the northern section of Woollooware Road including a cul-de-sac and traffic lights. The design and requirements of this will form part of a separate approval under the Roads Act.
- Vehicle access to the development will be obtained from 2 locations, the first being from Captain Cook Drive in the south-western corner of the site and the second in the north-eastern corner of the site from the unformed section of Woollooware Road.
- The Captain Cook Dr ingress / egress will facilitate access to a loading dock for the western commercial tenancies and Cronulla-Sharks Rugby Leagues Club. This access point will also provide vehicle ingress / egress to the office, hotel, and retail parking areas. This access point requires signalisation (the installation of traffic lights) in order to meet RMS requirements.
- There are 2 vehicle access points on Woollooware Road, the first being access to the retail and residential parking levels and the second (in close proximity to the cul-de-sac head) to provide access to one of the loading docks (primarily for Woolworths, Dan Murphy's and the specialty retail but also serves as a loading dock for the upper levels of residential. Access to this loading dock will require trucks to reverse into the dock and leave in a forward direction. Swept path diagrams have been provided demonstrating this can be achieved for both a 19m long AV and 12.5m long HRV sized truck.
- All access point from Captain Cook and Woollooware roads are in accordance with AS2890 and SSDCP 2015.
- The longitudinal grade of the driveways are shown to be between 0%- 5% which complies with AS2890.1.; the internal aisles and parking spaces comply with AS2890.1 for residential and commercial uses on all levels.
- The proposed loading docks provide suitable access, manoeuvrability and loading space for HRV and AV sized trucks when assessed against AS2890.2.
- The applicant has provide an agreement between the existing Cronulla-Sharks Rugby Leagues Club and themselves, advising that 100 spaces within the development will be allocated to the club within the shopping centre carpark during peak periods. This is included as a condition in **Appendix A** and will need to be covered via an easement or form part of the shared facilities within the future stratum subdivision.

### Stormwater Management

The applicant has provided details for stormwater within the bounds of the site only – albeit these are just connection points to the majority of stormwater infrastructure for the development which will occur in the northern frontage of the site, in the foreshore area. The applicant has advised that they will be constructing the foreshore stormwater system for the development outside the boundaries of the building as per the PAC Approval MP10\_0230. Council officers consider the plans should have formed part of the subject application

but the applicant was adamant that stormwater works would be constructed as part of MP10\_0230. A condition requiring the provision of stormwater in accordance with MP10\_0230 is included in the recommended consent conditions in **Appendix A**. The condition requires the completion of the stormwater works prior to the issue of an OC for Stage 4 of the development (refer Staging Section of the Report below).

### **Environmental Waste Officer**

The application has been reviewed by Council's Waste Officer. The proposed waste storage, management and collection are acceptable and appropriate conditions of consent are contained within **Appendix A**.

### **Building Surveyor**

Council's Building Surveyor reviewed the subject proposal. No objection was raised to the proposal subject to the inclusion of a condition requiring an upgrade to the fire safety services of the existing Leagues Club building in accordance with Clause 94 of the Environmental Planning and Assessment Regulation 2000. A condition to this effect has been included in **Appendix A**.

### **Landscape Architect**

The application was referred to Council's Landscape Architect who advised that the proposed landscape outcome for the site is generally reasonable. Landscaping of the site is broken up into distinct areas namely:

#### *Captain Cook Drive Ground Level entry area / Southern elevation*

This entry area is a highly constricted space as this part of the site has to contend with high passing traffic volumes, a bus stop, limited pedestrian options, two vehicular entry/exits and a narrow shaded and exposed space in which to work with. The current plan does its best to deal with these environmental limitations. The space is not generous as the building is built on the boundary line not allowing any depth to establish a landscape of suitable scale. To this end the trees proposed should be larger to reduce the bulk of the building behind.

The proposed Tuckeroo trees should be replaced by a taller, narrower, wind, salt and shade resistant species such as *Araucaria hetrophylla* (Norfolk Island Pine). Tree species establishment has been an ongoing issue with all of the previous stages of the development – especially on the southern side of the development.

The proposed green wall element is a good response to the restrictions of this location as the space is not wide enough to support broad-scale planting. This element could work with the correct species mix. The idea of solid blocks of one species next to another would in theory be visually aesthetic, but what often happens is that one species will thrive as another dies back. It may be judicious to mix the planting rather than separate the species.

Further planting to the base of blank building panels with self-adhesive climbing species such as *Ficus pumila* (Climbing Fig) could further soften this harsh space further but will need to have ongoing maintenance undertaken to keep it maintained.

### *The proposed new street on Level 3*

The proposed new Level 3 street drop off level between the stadium and the residential / commercial building will have a completely different feel to the Captain Cook entry frontage landscape, being much more open and sunny, slower moving traffic and a friendlier pedestrian access with glimpses of distant vistas.

The landscape proposed in this area is dependent upon podium based planters, therefore, the tree species and the size of the planters are critical to the success of how this space will work into the future. The more open nature of this space lends itself to smaller human scaled trees that provide some shade and some interest. The large scale planters should contain umbrella shaped trees that have seasonal interest, provide shade and reinforce the use of local tree species. To this end, a species like *Glochidion ferdinandii* (Cheese Tree) could be used to create the formalised Avenue of trees.

To introduce a point of interest, the terminal turn around area located at the northern end of the terrace should contain a round-about planter that contains three feature trees – *Livistona australis* (Cabbage Palms). These trees should be planted as 5 metre tall high specimens in a tight group within the planter.

### *Residential podium level*

This residential podium will be the largest proposed within the entire staged WBTC development. This landscaped space provides numerous individual spaces that provide unique experiences for the residents. The generous size and variation of the spaces within the landscape that utilise landscaped mounds, private seating areas, viewing platforms, pools and children's play spaces, provides interest for the range of ages of the residents that are expected to live in these units.

The size and layout of the landscaped podium allows all round year usage of the space even though the proposed residential towers will bring shade to some of its elements in the cooler months. Additional areas of interest and interaction can be found within and to the north side of the development itself.

### **Aboriginal Heritage Officer**

Council's Aboriginal Heritage officer reviewed the Archaeological Assessment prepared by Godden McKay Logan (GML) submitted with the application. Concern was initially raised that follow-up work required by the OEHL by way of a Cultural Assessment by the local aboriginal people had not been undertaken. The applicant states that the assessment has been undertaken and council's expert has since resolved that the proposal is acceptable. Interpretive signage will form part of DA20/0266. Conditions of consent are recommended to address the unexpected finds requirement.

### **Environmental Science**

#### *Contamination*

Council's Environmental Scientist has reviewed all of the documentation submitted by the applicant. Multiple documents have been submitted with the most recent being the *Interim Site Audit Advice – Review of revised Remedial Action Plan and Gas Management Plan, Cronulla Sharks Development – Stage 4, Woolooware by James Davis – 13 May 2020, IA 08 1301-1304 Rev 1*.

This document states that the site can be made suitable for the intended use, subject to the implementation of the RAP and GMP. Council's Environmental Scientist requires minor modifications to the RAP and for these to be signed off by the Site Auditor. The relevant conditions have been included in **Appendix A**.

#### *Acid Sulfate Soils*

At the request of Council, the applicant submitted an Acid Sulfate Soil Management Plan prepared by ERM, dated 23 January 2020) (ASSMP). This report was reviewed by Council's Environmental Scientist who advised that the ASSMP did not involve targeted acid sulfate soil assessment (ASS) within the current site. The applicant was advised that this was an unacceptable approach to the assessment and management of PASS on the site.

The applicant submitted an amended report (dated 11 June 2020). This report confirmed that the main activity that is expected to uncover ASS/PASS is piling. The approach to address this as specified in the management plan is to carry out assessment on piling spoil ex-situ following excavation. This procedure will be applied to any potential ASS encountered during excavation. ERM have explained that this approach is consistent with the ASS management process undertaken during the previous stages of the WBTC development. This approach addresses the outcome of lab analysis from previous development on the other stages which indicates that liming rates for treatment of ASS material will vary significantly across the site.

The amended ASS Management Plan now includes plans showing the current and former site levels (given that considerable early work on the site has been done in recent months). The amended ASSMP, and acid sulfate soil management requirement can be addressed via condition of consent

#### *Green Travel Plan & Cycling Facilities*

Council's Environmental expert with respect to sustainability measures and green initiatives reviewed the application with respect to the Concept Plan requirement for a Green Travel Plan (GTP) and proposed cycling and end of trip facilities. Initial concerns regarding the accessibility and safety of the proposed end of trip facilities within the Ground Level of the retail component, along with appropriate locations on the northern and southern entry of the centre were raised with the applicant. Whilst the applicant did not agree to change the location of the end of trip facilities, improved access to these and a safer passage was proposed in revised plans. Conditions of consent are recommended to ensure satisfactory provision of bicycle storage lockers, racks and facilities.

The GTP provided by the applicant was reviewed and its intent, primary objectives and initiatives are supported. However there is a major concern that the objectives are unlikely to be achieved within the current proposed delivery model / framework of the GTP. Conditions of consent are recommended to ensure an improved chance for achieving a successful GTP. This is discussed further in the Assessment Section of the report below.

## **Environmental Health Officer**

The application was referred to Council's Environmental Health Officer for comment. The Health officer requested the submission of a Plan of Management for the proposed new hotel and the Club. The submitted Plans of Management are addressed in the Assessment Section of the report below. No other matters or issues were raised and relevant consent conditions have been included in **Appendix A**.

## **10.0 ASSESSMENT**

A detailed assessment of the application has been carried out having regard to the Matter for consideration under Section 4.15(1) of the Environmental Planning and Assessment Act 1979. The following matters are considered important to this application.

### **10.1 Consistency with Concept Approval**

The Concept Approval (MP10\_0229) contains five schedules which set out the requirements for the development. An assessment of the proposal with respect to the schedules and conditions has been undertaken and is contained in **Appendix D**.

The most recent modifications to the Concept Plan relevant to the subject application are MOD 2 and MOD 8. MOD 2 enabled the residential and hotel uplift above the approved retail centre, whilst MOD 8 enabled amendment to the urban control diagram to enlarge the north-western corner of the envelope for Building E. MOD 8 was in response to Council officer's assessment of the subject development application and the non-compliance of the proposed development with the approved envelope under MOD 2. The DPIE issued approval of MOD 8 in November 2019.

The following assessment addresses the minor discrepancies in the proposed development against the approved Concept Plan.

#### *A1 Development Description*

The approved concept plan specifies the Stage 1 Precinct (part of the subject site) as comprising *neighbourhood retail, medical and leisure centre and residential masterplanned estate, and redevelopment of the Cronulla Leagues Club facilities on the eastern carpark site.*

The proposed development is somewhat larger than the average neighbourhood retail, incorporating a full-line supermarket (Woolworth's), a second tier supermarket (ALDI) and a large packaged liquor outlet (Dan Murphy's) as well as 50 specialty stores, restaurants, a hotel, offices, childcare centre and medical centre. The proposed landuse activities are however consistent with those approved as part of the Project Approval (except for the hotel, offices and residential development) but these were included in the MOD 2 application.

#### *A2 Approved Plans and Documentation*

Condition A2 of the Concept Plan sets out the approved documentation and plans for the building envelopes permitted under MOD 2. It is noted that the documentation submitted with MOD 2 sought approval for 244 residential apartments and a hotel with 75 rooms. The subject application seeks approval for 255 apartments and a 71 key hotel. The minor variation in number of apartments is less of an issue, reflected in a changed

unit mix. Similarly, with the hotel rooms, there is little difference in the change in overall number, with the main consideration being that the hotel is still proposed.

### *Building Height*

In terms of the building envelopes, MOD 2 sets out a maximum parapet height and a maximum height for plant area above this. The envelope height is set by a maximum RL for each of the buildings (A – E) as well as the podium level, the Club and the outdoor deck area. The permitted height for each of the buildings is set out in the Concept Plan Compliance table in **Appendix D**. In summary, each of the buildings is compliant with the top of plant RL and Buildings B, C and E comply with the maximum parapet height. Building A exceeds the maximum parapet RL as a design measure to assist with screening the plant area above. The result is an increased parapet height but an improved architectural outcome and a building which is still compliant with the maximum top of plant height.

Building D exceeds the parapet height by 2.8m as a consequence of penthouse private open space areas, which is permitted by way of condition A8 of the Concept Plan. This states the following:

### **A8. PENTHOUSE APARTMENTS AND ROOFTOP AREAS**

*Minor variations to the maximum parapet height are acceptable in future applications for residential development, but only for the following reasons:*

- *provision of private/communal open space on rooftop areas; and*
- *provision of apartments.*

*When considering if a variation is minor, the consent authority is to be satisfied that:*

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

The partially enclosed section of the 2 roof top private open space areas of Building D extend to a height of RL55.820. This is deemed acceptable as:

- No portion of the building exceeds the maximum permitted plant height of RL56.665.
- The area is integrated into the design of the building by adopting complementary colours and materials. Further, to this the private open space structures will not be visible when viewed from the immediate locality.

### *Building Envelopes*

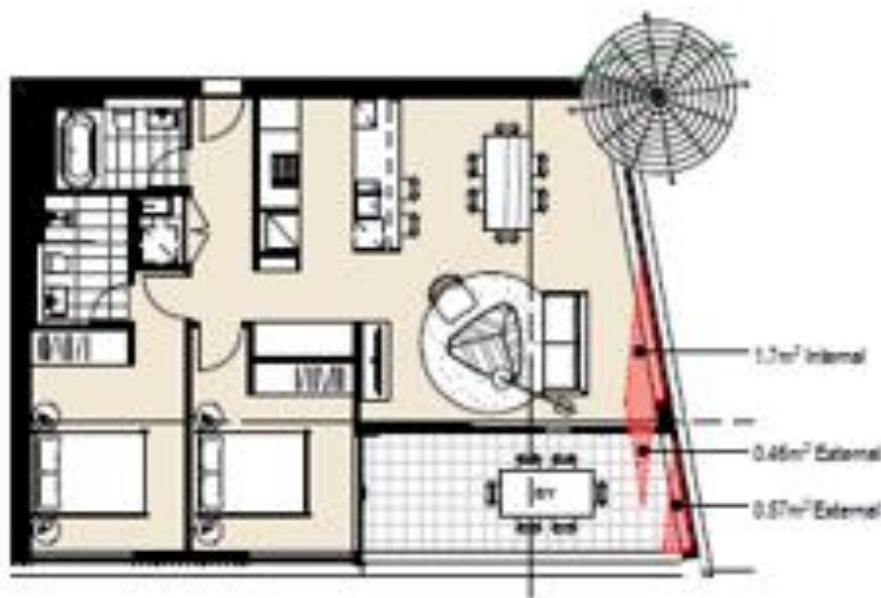
The proposed development complies with the building envelopes approved as part of MOD 2 to the Concept Plan, except for minor variations as follows.

- Building A - A small portion of the north-eastern fire stair measuring 0.7m x 3.3m extends outside the approved building envelope.

Comment: Variation is only minor and is supported.

- Building B - The south-eastern corner of the balcony to apartments B.06.17 and B7.19 extends outside the building envelope by 1m<sup>2</sup>.
- Building B - The north-eastern apartment (including the balcony) on Level 9 – 14 extends outside the building envelope ranging in width from 1.8m to 2.3m and a length of 11.6m (total area of 23m<sup>2</sup>).

Comment: The encroachment in this instance is off-set by under-utilisation of the portion of the envelope to the south. As no additional floor area is sought and the encroachment of the envelope is off-set by another portion of the envelope, the variation is accepted in this instance. It is noted that Council has not included this stack of apartments in the total of those apartments receiving adequate solar access. Refer **Figure 5** below.



**Figure 5** – South-east corner typical unit stack building B

- Building D – Level 10 to Level 13 – Northern balconies encroach 1.5m past the envelope. The plans show the balconies within a ‘zone for articulation’ however the Urban Form Control Diagrams do not include a ‘zone for articulation’ in this location.

Comment: The proposed variation is supported on the basis that it is reasonably minor and the encroachment involves balconies. The balconies are a lighter weight element and partially open, resulting in a varied form when viewing the building. The height of the building from the foreshore is such that the degree of encroachment would not be easily interpreted.

### *A3 Maximum Gross Building Area / Gross Floor Area*

Condition A3 of the approved Concept Plan specifies the maximum gross floor area (GFA) and gross building area (GBA) for the proposed development. The proposal is compliant with both the maximum GBA and GFA as set out in the Compliance Table in **Appendix D**.

It is noted that the GBA and GFA maximums for the development are tied in with Stage 3. Stage 3 involves conceptual improvements to the Sharks playing field facilities, grandstand extensions and provision of a Centre of excellence on the adjoining Sharks land. The proposed GBA and GFA for Stage 1 are such that a residual 20,477m<sup>2</sup> GBA and 6596m<sup>2</sup> of GFA remain available for the Club to utilise for development of Stage 3, when this occurs. No actual breakdown of the GFA between Stages 1 and 3 was provided as part of MOD 2, but given that the proposed development is essentially compliant with the approved building envelopes permitted under the modified Concept Plan, no objection is raised to the split with the GBA and GFA in this instance.

### *4 Car Parking*

The Concept Plan sets maximum parking rates for the various approved landuses. Whilst these rates are not consistent with SSDCP 2015 and contrary to what Council would require, they are nonetheless the requirements of the Concept Plan. The proposal is generally compliant with the maximum rates (as set out in **Appendix D**) albeit some variation to the maximum provision is proposed.

An under provision of parking is proposed for the hotel / affordable housing / first home purchaser component of the development, with 90 spaces permitted but only 75 proposed to be allocated within the development. Condition A4 does not specify the breakdown of parking between the hotel / affordable housing or first home buyers apartments and as such it is difficult to condition a certain number of spaces for each of the components. The plans show 53 spaces for the hotel and office use and 22 spaces for residential development. The breakdown is acceptable in this instance as the parking is located within Building E compliant with the relevant Future Environmental Assessment Requirement (FEAR). The 22 residential car spaces is consistent with the 22 apartments in building E.

FEAR 6 enables a maximum provision of 300 car spaces for the residential component of the development. The proposal complies with this.

Sub-clause 3 of Condition A4 specifies that future development applications shall demonstrate that car parking for Stages 1 and 3 can be provided within the maximum parking figures set out within the Concept Plan. The applicant states that a projected car parking forecast is not required in this instance as all of the parking to service the proposed development has been provided. A separate development application may be submitted in the future for the Stage 3 Centre of Excellence by the Club and the required 50 car spaces for this landuse will need to be provided on that development parcel at that time.

A breakdown of the parking requirements for the development and conditions of consent are included in **Appendix A** to ensure the appropriate allocation of spaces within the development is consistent with the Concept Plan.

### *A9 Voluntary Planning Agreement*

Condition A9 was imposed on the Concept Plan under MOD 2 as part of the DPIE led negotiations between the Council and the applicant to off-set the uplift in GFA on the site above that which had already been approved. The wording of the condition is set out in **Appendix D**, but in short requires the applicant to enter into an agreement with Council for the provision of:

- *A contribution of \$1,400,000 to Council for the provision of new bicycle links, including:*
  - *Woolooware Station to Cronulla Centre link*
  - *Connection to the Sutherland to Cronulla Alternative Transport link.*
- *Affordable housing and first home buyers initiative, comprising:*
  - *5% of residential floorspace proposed under this modification to be provided as affordable rental housing (20% discount on market rates) for a period of no less than 10 years*
  - *reserve 5% of apartments for first home buyers, which can be purchased with a reduced deposit amount of 5%.*

A draft of the VPA has been prepared by the applicant and submitted to Council and is currently going through the required process of reporting to Council and notification. It will be executed separately to this consent. A condition has been included in **Appendix A** requiring the provision of affordable housing units for a period of 10 years, consistent with the VPA Schedule.

### *B2 Riparian Setback*

Condition B2 specifies the varied riparian setback of 35m which is permitted along the northern frontage of the site (adjacent to the retail loading dock). The proposed building footprint maintains this 35m setback. Treatment of the vegetated setback within the riparian area will be the subject of DA20/0266.

### *Schedule 3 – Future Environmental Assessment Requirements (FEAR)*

#### *Built Form*

FEAR 1 requires that that specific consideration be given to the architectural design of the above ground car parking components of the proposed development. It specifically states that modulation and articulation of the buildings is required along with the use of a range of high quality materials and finishes. FEAR 1A takes this a step further, requiring the application to respond to the Design Guidelines included with MOD 2. The Design Guidelines require the following:

- *Above ground car parking for Building A - D to include an open architectural treatment, which will screen parking while facilitating natural ventilation; and*
- *Above ground car parking for Building E is to be screened with a facade that is consistent with the hotel / residential building above.*

Fear 2A is also relevant, requiring that a Building Design Visual Assessment is required to address above ground car parking and shall ensure the following:

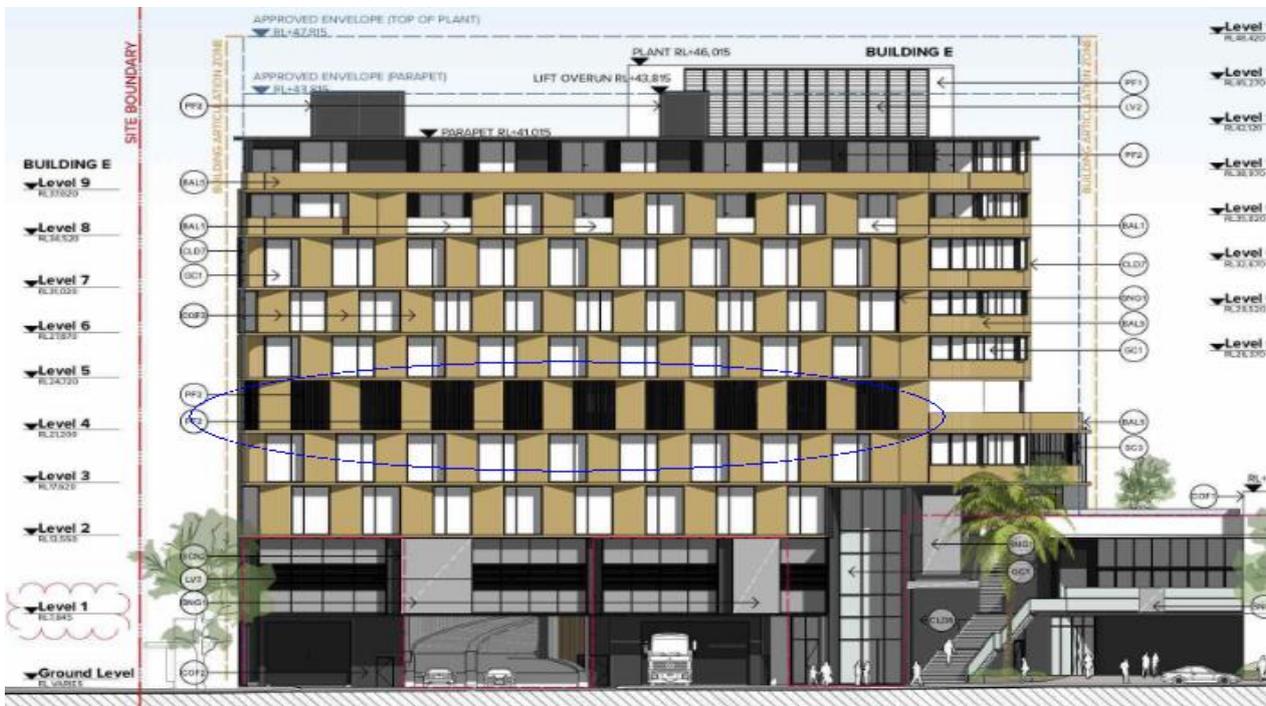
- *appropriately designed and have an acceptable visual impact*

- include architectural treatments or other methods screen the car parking contribute positively to the overall appearance of the development
- do not include excessive areas of louvres, solid walls or voids that are detrimental to the overall appearance of the development.

*Captain Cook Drive*

The proposed development incorporates six levels of parking (inclusive of Ground Level to Level 5). Ground Level and Level 1 are sleeved by the commercial / retail frontage to the building, the main residential lobby, the main hotel and Club entry and various service rooms / utilities etc. Apart from the large vehicle entry point and loading dock entry, there is no visible reference to the two levels of car parking which sit behind parts of the levels behind the façade.

The extent of car parking on Levels 2 through 5 is varied in terms of where it is located proximate to the Captain Cook Drive frontage. Building E contains no parking on Level 2, comprising parking on Levels 3 and 4 only. The Level 3 parking is setback behind the office component and as such no screening of the parking is required. On Level 4, the car parking abuts the southern wall but the building design incorporates the same external treatment as the levels below and above (metallic gold cladding system) replacing the windows with an alternative infill panel. The treatment effectively screens the parking at this level and results in an overall integrated façade treatment for Building E. Refer **Figure 6** below showing the Captain Cook Drive elevation of **Building E**.



**Figure 6** – Building E Level 4 parking shown circled in blue.

To the east of Building E is the parking levels which sit below Building A. These parking levels are setback a considerable distance from the parapet level of the retail podium below and at a different alignment. The elevational treatment comprises a narrow horizontal powder coated metal louvre set in a series of concrete

frames (Refer **Figure 7** below). This car park treatment is replicated on the western elevation to the internal street and on part of the northern elevation which also comprises several levels of upper level car parking.



**Figure 7** – Treatment of Upper Level Car Parking below Building A

Further east of this façade treatment is a vertical element incorporated by the architect in response to the DRF critique that the upper level residential buildings failed to connect to the Ground level and lacked a sense of address. This vertical element acts as an extension of the upper level residential development of Building A down to the street level, incorporating similar architectural features of the wrapping balconies and planters. This design solution represents an improvement over the original design and whilst not entirely successful at the Ground Level in terms of the building entry, does manage to successfully screen the upper level parking behind it and to add articulation and variation to an otherwise lengthy façade.

Further east of the Building A entry element the applicant utilises a greenwall to mitigate the visual impact of yet more upper level car parking. The greenwall maintains the same alignment as the lower level retail podium below, albeit is setback slightly from the parapet (approximately 4m). Whilst Council officers raised concerns with the DPIE at the MOD 2 stage of assessment in terms of utilising landscaping to screen a poor development outcome, the detailed design drawings and planting schedule provided by the landscape architects indicates a successful outcome based on a series of vertical planters and inbuilt irrigation system. The screening of this component of the car parking is completely reliant on the landscaping. A montage of the different façade treatment on captain Cook Drive below demonstrates that the design is effective in minimising the visual impact of the upper level car parking (refer **Figure 8**).



**Figure 8** – Montage of parking levels Captain Cook Drive

### *Woolooware Road*

The Woolooware Road elevation is less successful in terms of mitigating the upper levels of car parking. The architectural treatment of this façade is more functional than that facing Captain Cook Drive. The reasons for this are obvious, as this elevation is somewhat less visible (unless travelling west by car along Captain Cook Drive coming from Cronulla), is very much a service side of the development, comprising a large loading dock and vehicle entry / egress points. It is adjacent to a service station on the opposite corner. Design of the footprint of the building and the adjoining new road extension is also such that no pedestrian access is facilitated along the western side of Woolooware Road next to the development.

Notwithstanding this functional, or back of house usage of the lower levels of this side of the development, the architect has responded to the design guidelines and Council commentary and the revised plans include varied screening measures for the upper level car parking. The overall architecture comprises a series of six different vertical bays. The bays are infilled with a combination of either vertical painted metal slats, solid masonry and sleeving by apartments in Building C. The three most central bays comprise a design more reminiscent of a traditional stacked deck car park, with an external balustrade across an otherwise open carpark. Some of the proposed screening measures are shown in **Figure 9** below.



**Figure 9** – Eastern elevation proposed upper level car par screening

The proposed open style car park and balustrade is not an ideal urban design solution and in response to Council's concerns the applicant has proposed to introduce vertical green walls in-between each of the car park bays. This is a positive outcome from an environmental and aesthetic perspective but fails to resolve what is otherwise a somewhat disappointing resolution of the upper level car parking in this instance. Planting in front of each of the car park levels would assist to screen the cars or alternatively, a similar treatment to that on the northern and southern elevations of the building could be considered. This treatment is conditioned as part of the design change requirements in **Appendix A**.

*Northern Elevation (Foreshore Frontage)*

Similar to the Captain Cook Drive elevation of the building, the architect has utilised a variety of design measures to screen the 6 levels of car parking. The eastern end of the podium is a solid masonry finish with vertical and horizontal blades used to provide some architectural relief. Above this, the lower apartments in Building C sleeve the building, with car parking located behind. The western portion of the Ground Level and Level 1 of the proposed development contains commercial, retail and Club uses, with parking internalised on each level. No external screening of the parking is required at these levels. The upper level parking for Levels 2 – 5 is the same as that utilised in the Captain Cook Drive elevation, with a narrow horizontal powder coated metal louvre set in a series of concrete frames. The anticipated development outcome is shown in the montage in **Figure 10** below.



**Figure 10** – Northern Elevation of the proposed development showing car park screening

*Western Elevation*

The extent of upper level car parking in the western elevation is on Levels 3 and 4 of Building E. The lower levels of the building in this elevation were initially poorly conceived, with little detailing and a limited palette of materials. At Council's insistence the applicant agreed to extend the elevational treatment for the hotel and the unique gold coloured metal cladding panels so that it wrapped the entirety of the western side of the building. A similar use of the louvres in between the panels creates a visually interesting elevation, consistent with the requirements of the Concept Plan. **Figure 11** shows the proposed western elevation with the two car parking levels circled in blue.



**Figure 11** – Western Elevation

## *Residential Amenity*

### *5B Way finding*

FEAR 5B sets out the requirement that *future residents should have direct access from street and podium levels to the residential buildings above and that pedestrian routes are clear and easily navigable.*

A key concern for the DRF with the design of the initial proposed development is the 'stacked' nature of the residential buildings on top of the base level commercial building and how this translates to a functional and useable place for those living, working or visiting the development. Key comments critiqued the access arrangements to the development, the limited public street entry to the residential apartments with limited lifts and a recommendation that each of the residential buildings should have its own entry lobby to a public street.

Council officers also shared the concerns voiced by the DRF, with many similar points having been raised as part of the consultative process with DPIE prior to MOD 2 being granted. Once the building envelopes for the development were set by the DPIE, and having regard to the modified Project Approval, there was a limit to how far Council officers could go in requiring the applicant to make amendments to facilitate a redesigned project which planned from the ground up as a mixed use development, rather than a residential and hotel development on top of a retail / commercial centre. The issue of pedestrian access to the upper residential buildings has also been compounded by the 'internalised' nature of the centre's design and reliance on private car to access the development, which is not well-served by public transport.

The applicant responded to both Council and DRF concerns with a number of plan amendments and additional information. These included an extensive set of way finding diagrams; modification to the main residential entry on Captain Cook Drive to 'connect' it with Building A, in a visual sense; an increase in the size and scale of the rear residential entry / egress point (below Building C); and the submission of a Vertical Circulation Report.

The amendments to the development do not fully address the DRF requirements, as the residential Buildings B – E do not have a specific street address. The main residential entry on Captain Cook Drive however is now reasonably designed. It is visually linked to the upper level residential development and is sensitively located separately from the main commercial / retail entry or medical use. It is also adjacent the future bus bay / taxi pick-up / drop-off in Captain Cook Drive and as such is reflective of CPTED principles. The northern Ground Floor lobby will likely tend to be utilised for egress to the foreshore park and for exercise purposes, and is less of a 'street' address than the main Captain Cook Drive entry. It is nonetheless designed to be a specific entry point to the upper level residential, a large, well-lit space with double volume height. The external façade treatment will provide a visual queue that the space is a residential entry and will be further complemented by building identification signage.

The podium level communal open space remains well designed in terms of being useful for a variety of passive or active recreation opportunities and will afford residents a high degree of amenity whilst still incorporating pedestrian routes for residents to reach their individual buildings.

The way-finding diagrams submitted by the applicant in support of the proposed development have been

thoroughly reviewed. The diagrams illustrate the various paths of access to and from the different landuse activities within the proposed development, from both a pedestrian and vehicle perspective. Way-finding will initially rely heavily on effective signage for both residents and visitors or centre patrons, but over time familiarity will enable an easier transition throughout the development.

#### *Vertical Circulation*

A key concern for Council officers with the proposed upper level residential development, new hotel and the existing Club, was the potential lack of vertical circulation (lifts) for access to these landuses from street level. The concern related specifically to the following elements of the building:

- Proposed single lift access from the residential podium to the foreshore (shared with retail / commercial loading and servicing on the ground floor) for 233 apartments near to Building C;
- Shuttle lift access (2 lifts) from the main residential entry foyer in Captain Cook Drive to the residential podium for approximately 233 apartments. The same two lifts serve the apartments in part of Building A.
- Single lift access from Captain Cook Drive for both the hotel and the Club and future childcare centre.

In response to this concern the applicant provided correspondence from Donnelley Simpson Cleary Consulting Engineers Pty Ltd (DSC) dated 23 September 2019. The initial correspondence advised the following:

- An additional lift was proposed to be included adjacent to the retail service lift. This would be an express lift has to serve access from the Ground level and the foreshore to the Level 6 residential podium and would be for the use of residents only. This additional lift was considered to be sufficient to service 233 residential units and the predicted low population accessing this level from Ground via this elevator. The suggested average waiting times for a lift would be 50 seconds.
- In terms of the two shuttle lifts below Building A, it was advised that in Australia the lift waiting times and handling capacities are not governed by any standards or NCC/BCA requirements. Capacity studies based on 233 apartments plus the 22 apartments in building E, as well as use of the lift by visitors (from the approximately 47 shared parking spaces) showed the lifts to be satisfactory. The correspondence stated that the estimated average waiting time of 50 seconds or less to move 8% of the projected population is sufficient for the application.
- For the Building E hotel and Club lift the applicant provided an assessment based on game day or other high-volume events. It stated that the pedestrian traffic would be spread via four different elevators and traveller access points. The average number of people to be moved by the systems was calculated with the data showing that 876 people can be moved across the four vertical transport service access points each five-minute period or a total of 10,520 per hour. With the stadium capacity of 13,000 and Club of 3,240 DSC confirmed that the V/T system provided is sufficient for the application.

Whilst provision of a dedicated resident lift from the podium to the foreshore (adjoining Building C) was a positive amendment, concern was still raised with commentary in the DSC correspondence in that:

- Clarification was required that the single resident foreshore lift was acceptable on the basis of the 'predicted low population' accessing this lift. The concern is that it is the only direct route for residents to access the foreshore parkland and walking / cycling path from the podium or Ground Floor to the podium without needing to traverse throughout the building on various other lifts / stair combinations.
- Concern was still raised with respect to the Building A shuttle lifts in terms of the impact for general residents within Building A and the approximate wait time that might be experienced given the wider purpose their lifts provided to all of the podiums buildings. Confirmation was sought that the DCS report meant that 92% of people using the lifts would wait for more than 50 seconds.
- Confirmation was also required regarding the stair access from the football ground to the Club and whether this could be utilised to assist with reduced time for patrons after a game. Further, whilst it appears that there are other V/T options than the main lift, no hours of operation or indication of when the internal travelators / Club lift would be available or how access to and from the Club / hotel would operate after the main shopping centre was closed.

The applicant provided further correspondence from DCS (dated 30 January 2020) as well as a Retail Centre Plan of Management (RCPoM) prepared by EthosUrban. The applicant also amended the plans to provide a more satisfactory relationship between the residential podium lift and the shared residential servicing / retail lift.

The DCS correspondence stated that the single lift for residents from the podium to the foreshore was satisfactory on the basis that it would be infrequently used. It is difficult to qualify this statement, because, whilst there are other V/T options for residents to reach the foreshore, none of these is as direct as this lift or as easy to access. The adequacy of the single lift is questioned.

Similarly with the shuttle lifts below Building A, it is difficult to know what the potential usage of these lifts will be for external visitors to the upper level residential, or the frequency of mail collection by the residents and whether or not sufficient lifts have been provided so as not to diminish the level of amenity for the residents in the eastern side of building A, who rely on these lifts simply to come and go from their apartments. In terms of ADG compliance, there are 31 apartments (between 3 and 4 per floor) in the eastern end of building A which rely on the two shuttle lifts. A normal building would not require 2 lifts for this number of apartments, but given that the lifts in actuality serve an additional 220 apartments plus visitors for street level access, concern is raised as to the adequacy of these lifts.

The RCPoM sets out that the retail centre seeks to operate between the hours of 5am and midnight, with 24 hour access for deliveries and loading / staff servicing. The applicant states that the centre would be publicly accessible between 5am and midnight with the roller doors at either end of the Ground Level through link being open during this time. These hours are not acceptable having regard to the neighbourhood use and Council's Late Night Trading Policy (refer SSDCP 2015 assessment further

below). Hours of opening for the through link area are recommended as 6am to 10pm Sunday to Thursday and 6am to 11pm Friday and Saturday. The V/T options available for the Club and hotel uses can be utilised during these operating hours and as such no further issue is raised with respect to the V/T for the hotel / club component. A discussion on the hours of operation for the various landuse activities is discussed further below.

#### *FEAR 10 Travel Access Guide / Green Travel Plan*

FEAR 10 of the Concept Plan requires the applicant to submit a GTP for the development. The intention of the Green Travel Plan (GTP) is to reduce car dependency among the development's residents and for both the club and retail area's employees. This has been necessary due to the development's high residential population and its employees being situated in a location that is remote from mass transit links (railway station) and higher order retail services and facilities.

The objectives, targets and initiatives recommended in the GTP are supported however, there is concern that these can be achieved within the current proposed delivery model / framework. These are identified as follows:

- How is the management, reporting, surveys etc. noted in the GTP to be co-ordinated, resourced and funded? This may be through the Building Management Committee (BMC) and Hotel as suggested but many of the actions proposed require some specialist input such as survey design, analysis and reporting. It would be reasonable to expect that the various management bodies would not have the expertise to undertake these tasks effectively without appropriate resources and funding.
- To implement the GTP program on an ongoing basis a consultant may need to be engaged. Funding may have to occur through a levy on all residents or unit owners and commercial/retail shops.
- There is no certainty for Council that the GTP is implemented. It is suggested that an independent audit and review of actions be undertaken each year and posted on a dedicated webpage for the information of the residents and Council. If the initiatives are funded by a levy, reporting the outcomes and actions undertaken, KPI's etc. would be transparent.

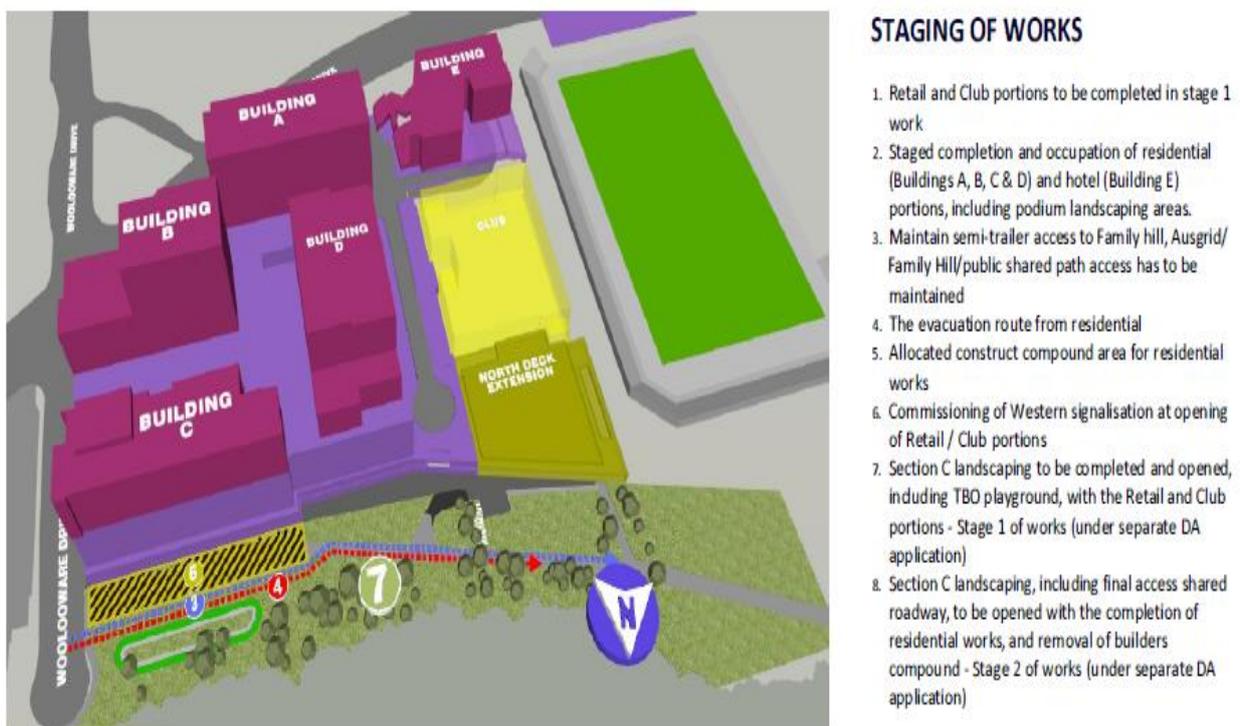
The FEAR also specifies a requirement for at least 4 dedicated parking spaces within the development for car sharing within the precinct. This has not been clearly shown on the plans and as such has been conditioned. Conditions of consent setting out the requirements for the GTP have also been included in **Appendix A**.

#### *FEAR 24 Staging of Development*

The requirement for staging of the overall Concept Plan development set out in FEAR 24 has not been well managed to date. The wording of FEAR 24 is somewhat ambiguous, apart from the requirement that the retail and club development should occur in the initial stages of the redevelopment. Whilst approval was obtained by the applicant for this component in 2013 (Project Approval MP10\_0230), construction works did not commence until the end of last year. The key reason for the delay was the intention by the applicant to seek additional development for residential and hotel purposes on top of the retail development with MOD 2.

The time delay between lodgement of MOD 2 with the state government and its approval in 2018 and the subsequent development application now being considered, has seen development of the Residential Precinct (Stage 2 of the Concept Plan) nearly complete. Issues with the staging and delivery of the foreshore landscape works as part of the Stage 2 Precinct has also been difficult to manage given the absence of an approved staging plan.

A similar situation presents itself again with the subject application. The Project Approval site incorporated the retail building as well as the foreshore landscape area to the north. The subject application seeks approval for the building only, excising the landscape portion of the site to be determined under a separate application (DA20/0266). Originally the applicant sought that the landscaped foreshore be delivered prior to the issue of the final residential stage OC. This was not acceptable to Council. The applicant has since amended its staging plan and seeks to deliver the foreshore landscaping prior to the issue of OC for the retail stage. Given that this work occurs under a separate DA20/0266, a linking condition has been included in **Appendix A** specifying the requirement for the foreshore landscape works to be completed prior to the issue of the OC for the retail centre. Refer to **Figure 12** below.



**Figure 12** – Proposed Staging of Occupation Certificates

The conditions in **Appendix A** have been drafted to reflect the issue of staged OC's and the delivery of the foreshore under DA20/0266.

## 10.2 Sutherland Shire Local Environmental Plan 2015

### Acid Sulfate Soils

See comments under heading “Environmental Science Acid Sulphate”.

### *Earthworks*

The relevant matters within Clause 6.2 have been considered and the application is acceptable subject to conditions.

### *Flood Planning*

A small portion of the frontage (towards the south-west corner) of the subject site on Captain Cook Drive is identified as being potentially affected by flooding. As a result Clause 6.3 of SSLEP 2015 requires Council to be satisfied of certain matters prior to development consent being granted. These matters include compatibility; with the flood risk; impact on flooding behaviour; measures to manage risk to life; impact on the environment; and social and economic costs. These matters have been addressed to Council's satisfaction as a result of the approved road works in Captain Cook Drive and Woolooware Road. The level of the road has been raised near this intersection to deflect flood waters. The development has also been designed to comprise the large entry forecourt to the development in the location of the potential flood affected area, such that no likely flood impact is anticipated. The proposal is acceptable having regard to Clause 6.3.

### *Stormwater Management*

Clause 6.4 of SSLEP 2015 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 and minimising the impacts on stormwater runoff.

The concept approval established the allowable building footprint and assessed the stormwater requirements to manage the impact on the adjacent Woolooware Bay. The applicant has sought to utilise the Project Approval to undertake the stormwater works for the subject development instead of the current application so as to negate the requirement for Council to assess these works on the sensitive foreshore. A condition has been included in **Appendix A** requiring that the applicant complete the stormwater works in accordance with the Project Approval and that such works are complete prior to the occupation of Stage 4 of the development (the retail centre). Any requirement for the applicant to vary the approved stormwater works will require modification to the consent condition and Council assessment of the stormwater plans. Subject to this condition Clause 6.4 has been satisfied.

### *Terrestrial biodiversity*

The subject land is identified as containing 'Biodiversity' on the Terrestrial Biodiversity Map. Clause 6.5 of SSLEP 2015 requires Council to consider the potential adverse impact of the development on vegetation / flora, fauna, biodiversity and habitat. Of further consideration is the conservation and recovery of flora and fauna and their habitats and the potential to fragment or diminish the biodiversity structure, function and connectivity of the land.

The site itself has little environmental value, but the mangrove forest and bay immediately to its north comprise important habitat. The suitability of the development for the site has been resolved at the state government level with both the Concept Plan and the Project Approval, with the building footprint, heights and envelopes having been established at this stage. Significant tree removal (approximately 75 trees) was also granted as part of the Project Approval and the applicant has sought to take up the consent with a CC

having been issued for early site works. The subject site has now been cleared with all hard surfaces such as the former car park surface and concrete slabs having been removed (except for the existing Leagues Club building) along with all of the previous vegetation.

The Concept Plan and Project Approval identified a number of potential impacts from the development on the local ecology (identified by the applicant's ecologist EcoLogical Australia Pty Ltd). These impacts included:

- Noise and light (for migratory birds and microbats);
- Fauna strike (as a result of extensive areas of glazing on buildings);
- Water quality (aquatic ecosystems would be impacted if pollutants such as sediment or litter were released into Woollooware Bay)

The EcoLogical Report includes nine management measures to minimise the extent of ecological impacts. These management measures have been considered in the assessment of the development and incorporated as conditions of consent where appropriate. Council's Landscape Architects have also assessed the extent of landscaping proposed for the development and considerable new planting will occur within the development, albeit this will largely all be on-slab. The key to increasing the vegetation for improved biodiversity on the site will be within the foreshore area which serves as a buffer between the new development and the adjacent wetland. The foreshore land is actually outside the boundary of the subject site however and the subject of a separate application (DA20/0266). That application will also be assessed against the requirements of Clause 6.5 of SSLEP 2015.

Clause 6.5 also requires Council to be satisfied of certain matters prior to development consent being granted. These matters include the design of the development to avoid or minimise the impact; management to minimise the impact if it cannot be avoided; and mitigation if the impact cannot be minimised. Subject to the recommendations contained within the Eco Logical Advice submitted with the application, appropriate mitigation measures will be in place to ensure the proposal is acceptable having regard to terrestrial biodiversity adjacent the site.

#### *Riparian land watercourses*

The subject land is identified as "Environmentally Sensitive Land" on the Riparian Land and Watercourses Map and as such the provisions of Clause 6.7 of SSLEP 2015 are applicable.

Clause 6.7 requires Council's assessment to consider certain matter including impacts on water quality, water flows, aquatic and riparian species, habitats, ecosystems, stability of the bed, free passage of fish and other aquatic organisms, and future rehabilitation. Council must also consider developments impact on water extraction and appropriate measures to avoid, minimise or mitigate the impacts.

The site is also identified as being within the Riparian Zone and the Wetland Buffer on the Wetlands and Waterways Map under SSDCP 2015.

The northern boundary of the subject site skirts the edge of the Riparian zone and wetlands buffer, which is largely aligned with the foreshore building line under SSLEP 2015. The proposed boundary of the development aligns with the building footprint permitted under the Concept Plan. No works north of this boundary is proposed as part of the application, with that area subject to the DA presenting as a highly modified and urbanised site which does not retain any natural features with respect to vegetation or landform.

As discussed above, the foreshore to the north of the subject site (DA20/0266) will require a more rigorous environmental assessment given its proximity to the wetlands and being within the waterway riparian zone.

Further, Clause 6.7 requires Council to be satisfied of certain matters prior to development consent being granted. These matters include the design of the development to avoid or minimise impact; management to minimise the impact if it cannot be avoided and mitigation if the impact cannot be minimised. The relevant matters have been considered as part of the assessment of this application and the proposal is acceptable within the limits of the Concept Plan subject to conditions.

#### *Environmental and scenic qualities of natural landforms*

Clause 6.8 of SSLEP 2015 requires Council to consider whether the development is likely to have any adverse impact on the environmental and scenic qualities of natural landforms.

The subject site is not affected by the mapping notation of Clause 6.8 but is situated directly adjacent to Woolooware bay, approximately 35m from the MHWM and the mangrove community of the RAMSAR wetlands. The scale and height of the development necessitate consideration of the impacts of the development on the environmental and scenic qualities of the adjacent natural area.

The Concept Plan has set the development footprint, building envelopes and maximum building heights for the site. The scale of the development enabled is such that the scenic qualities of the bay and its foreshore in this location will be forever changed. Whilst it is considered that the resultant built form is excessive and of an incongruous scale so close to the foreshore, the proposed development is compliant with the Concept Plan approval. In accepting this, Council has worked with the applicant to achieve a higher level of architectural detailing on the lower levels of the building on each of the facades.

The matters within Clause 6.8 have been considered as part of the assessment of this application and the proposal is acceptable on the basis that the parameters for development of the site have been met.

Further, Clause 6.8 requires Council to be satisfied of certain matters prior to development consent being granted. These matters include the design and siting of the development to avoid or minimise significant adverse environmental impact; management to minimise the impact if it cannot be avoided and mitigation if the impact cannot be minimised. Overall, the matters in Clause 6.8 have been addressed to Council's satisfaction.

#### *Foreshore Development*

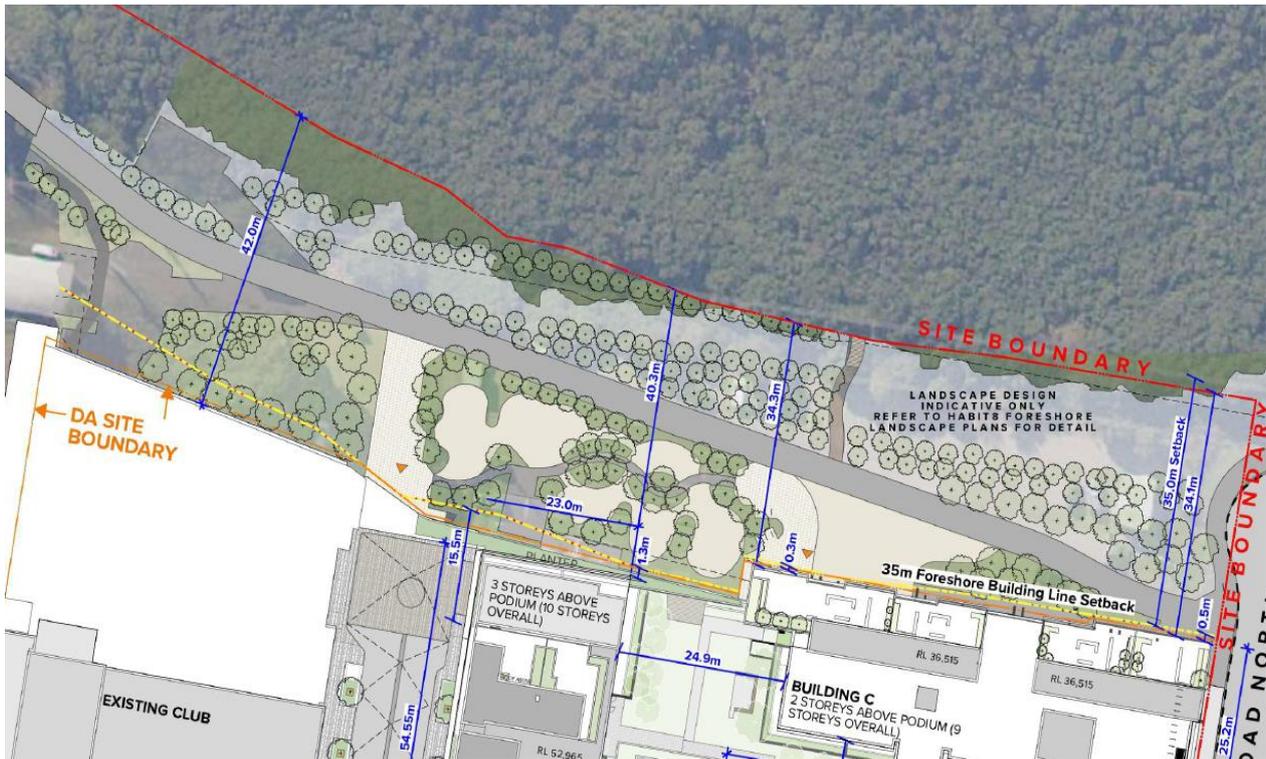
Clause 6.9(2) of SSLPE 2015 is relevant to the subject application. It prohibits works within the foreshore area except for specified types of development. 6.9(2)(a) – (c) set out the types of development which are permitted and then sub-clause (d) provides an 'out' for other types of development which don't fit within the earlier categories. Clause 6.9(2)(d) states as follows:

- (2) *Development consent must not be granted for development on the foreshore area except for the following— /*
- (d) *the erection of a building on the foreshore area (other than a building referred to in paragraph (a), (b) or (c)), if the levels, depth or other exceptional features of the site make it appropriate to do so.*

**Figure 13** below shows the location of the subject site and effectively the building footprint and its relationship with the foreshore mapping under SSLEP 2015. As can be seen from this, the approved building envelope skirts the southern edge of the foreshore building line, with just the smallest extent of encroachment where the foreshore line dips down to meet the outline of the development site. **Figure 14** shows the site plan of the proposed development with the foreshore setbacks marked. Whilst there are no exceptional levels, depths or features of the site which render it appropriate for a development of the scale proposed, the approved Concept Plan enables the development, having already established the building footprint and envelopes. The minor encroachment of the approved footprint on the southern-most tip of the mapping is accepted on the basis of the Concept Plan and the potential for minor discrepancies with the mapping of the MHWL. On this basis the minor development encroachment is considered ‘exceptional’ in this instance and to fall within the ambit of Clause 6.9(2)(d).



**Figure 13** – Subject site showing the foreshore area subject to Clause 6.9 of SSLEP 2015.



**Figure 14** – Site plan of the proposed development showing foreshore setbacks.

Before granting development consent to development on the foreshore area Council must be satisfied of certain matters. These matters include the appearance of the development; potential for environmental harm; retainment and restoration of natural qualities of the foreshore; impact on the use of the waterway; public access to the foreshore; heritage significance; sea level rise. Each of these elements has been assessed at the Concept Plan stage and as part of the subject application. The proposed development maintains the footprint and building envelopes established under the Concept Plan. The varied setbacks from MHWL were established under the Concept Plan and largely mirror Council's SSLEP 2015 Mapping. The area to the north of the proposed development will become a foreshore reserve area, with largely riparian planting. Public access will be maintained by way of a central walkway / cycleway connecting to the west and Woolooware Road. Public access easements are already in place to facilitate this. Further environmental assessment of the foreshore reserve will be undertaken as part of DA20/0266. Overall, the matters set out in Clause 6.9(3) have been adequately satisfied.

Further, Clause 6.9(4) requires Council to consider to the extent to which the development facilitates public access; reinforcement of the foreshore character and the management of sea level or change of flooding patterns as a result of climate change. These matters have been assessed as part of the application and the development is appropriate subject to conditions.

*Development on the foreshores of Port Hacking, Georges River, Woronora River and Botany Bay*

Clause 6.10 of SSLEP 2015 also applies to the subject site as is evidenced from the mapping shown in **Figure 15** below.



**Figure 15** – Development on the foreshores of Port Botany

Clause 6.10(3) of SSLEP 2015 requires Council to consider certain matters before granting development consent on foreshore land. These matters include public access; the suitability of the development; impact on the amenity of the foreshore; visual amenity and scenic quality; biodiversity; effect on ecological processes and cumulative impact. These matters were all considered as part of the Concept Plan and Project Approval and further assessed as part of this application. The proposal is acceptable within the limits of the Concept Plan approval.

#### *Energy Efficiency and sustainable building techniques*

Clause 6.15 of SSLEP 2015 contains matters for consideration relating to ecologically sustainable development and energy efficiency and sustainable building techniques. The applicant has submitted an ESD Report by Windtech dated November 29, 2018. The report sets out how the following design principles will be incorporated into the project during the construction and operational phases:

- Passive design – initiatives to reduce the reliance on mechanical heating and cooling.
- Water - initiatives to reduce the on-going water consumption of the development e.g. 80,000 litre rainwater tank for irrigating residential podium landscaping and the use of water efficient fittings and fixtures.
- GHG emissions – design initiatives include energy efficient lighting systems and mechanical heating and cooling systems; 4.0 star appliances; glazing systems with high visual light transmittance (VLT) to residential and non-residential tenancies.

- Indoor environmental quality – enhanced quality of life and health within well designed indoor spaces with increased acoustic attenuation; increased natural light; solar glare reflectance minimisation; natural ventilation and increased thermal comfort.
- Materials – initiatives to reduce energy use during construction phase and operational phase (e.g. materials with lower embodied content in terms of carbon emissions such as recycled timber components; cement reduction within the concrete; recycled content of the steel; engineered and composite wood products).
- Waste – initiatives to minimise waste contribution to landfill.
- Management – implementing plans and initiatives which minimise the environmental impact in terms of waste, water and energy consumption.
- Ecology – initiatives to preserve and enhance the ecological and biodiversity value.
- Transport – initiatives to reduced GHG emissions through alternative modes of transport.

It is also noted that photovoltaic cells are proposed to be located on the roof of Building A, with information provided by the applicant as to an embedded network within the development for electricity usage. Having regard to the above, the proposal is acceptable with respect to Clause 6.15.

#### *Urban Design*

Clauses 6.16 and 6.17 of SSLEP 2015 contain certain matters of consideration relating to urban design.

The Project Approval attempted to address the design deficiencies through conditions regarding activation of the Captain Cook Drive frontage particularly that area adjacent the forecourt and through site link. It also included a design condition B1A 3 for the shared zone / internal street on the ground level. The condition specified that the treatment of the space should be defined as a 'high quality, safe and welcoming shared space visually separated from the adjacent car park'. A similar condition has been included for the subject application.

The approved Concept Plan did not include any specific conditions or FEARS to address Council's concerns regarding the streetscape or activation. The northern elevation in particular has extremely limited ground level activation, instead relying on the Level 1 café / restaurant uses for passive surveillance and active uses. The downside to this is the lack of architectural merit for the ground level elevation, which is essentially the back of the ALDI and Dan Murphy's stores. Council has not proceeded to press the issue of increased ground level activation in front of Dan Murphy's on the basis that the applicant proposes to locate a large playground in front of this, directly adjacent the wall. The proposed playground will be fenced and contain soft and hard landscaping and play equipment. It forms part of the modified Concept Approval under MOD 5 which the applicant obtained through the LEC and will be assessed under DA20/0266. The playground will serve to screen the otherwise blank wall. Refer **Figure 15** below.



**Figure 15** showing part of the northern elevation of the proposed development

To the west of where the proposed playground will be located is a set of stairs which leads from the foreshore to the café / restaurant deck area but apart from this, no other detailing is now proposed. The proposed development initially contained vertical planter elements in the northern elevation in front of the retail centre as seen in the photomontage in **Figure 16** below but the most recent revised plans (**Figure 15** above) showed these vertical elements removed.



**Figure 16** – Photomontage submitted with the development application prior to plan amendments

Removal of this detail is disappointing from a design outcome in terms of the comparison between the photomontage and the revised plan. The proposed planters created some articulation and vertical emphasis in an otherwise horizontal plane and created some visual interest in the absence of any ground level activation from the retail centre. The northern face of the development provides perfect growing conditions and appropriate species within the vertical planters can contribute to the biodiversity opportunities in the foreshore. Conditions requiring the inclusion of the vertical elements in the lower level northern walls are included in **Appendix A**.

### *Archaeological Sensitivity*

Clause 5.10 of SSLEP 2015 requires Council to consider Council records indicate that the subject site is rated high in terms of Archaeological Sensitivity. A site inspection did not reveal any evidence of shell material or significant sandstone features within the development zone, which is largely within the footprint of existing developed land (hardstand carpark and built form).

To date two archaeological assessments have been prepared in relation to the WBTC site. The initial Archaeological Assessment was prepared by Godden Mackay Logan (GML) in 2011. This report made the following conclusions:

- The site has little or no potential to contain significant archaeological material.
- The site does not contain previously recorded Aboriginal sites, landscape features or potential archaeological features and the potential for any objects to be buried beneath the site is considered to be low.
- No further archaeological monitoring, recording or investigation of the site would be required.
- A copy of the report should be provided to the La Perouse Local Aboriginal Land Council (LALC) for comment and an assessment of cultural significance should be made on receipt of these comments.

Subsequent to the 2011 report, an addendum report was prepared in 2013 (also by GML). This report incorporated the findings of consultation with La Perouse LALC. The 2013 addendum report also included further assessment of the site's potential to possess intact archaeological deposits. The 2013 addendum report found that:

- The site does not have the potential to possess Aboriginal burials.
- The potential for the study area to possess intact Aboriginal archaeological deposits is considered to be low to nil.
- No further archaeological monitoring, recording or investigation is recommended.

The applicant advised Council in correspondence submitted with the subject application that *'a representative from the La Perouse LALC accompanied archaeologists on the study area inspection, and no comment was made regarding the Aboriginal cultural heritage value of the site. A copy of the 2011 and 2013 reports were provided to the CEO of the La Perouse LALC and a response received confirming that the recommendations of the Archaeological Assessment were supported.'*

The applicant has stated that documentation of the Aboriginal cultural heritage values of Woollooware Bay will be implemented through interpretive signage within the foreshore park, as part of the separate foreshore DA20/066. Council officers are working through a similar process at present with heritage signage as part of the foreshore landscape works in stages A1 and A2 approved under DA19/0274.

Notwithstanding the above and the fact that preliminary site works have commenced under the Project Approval, an unexpected finds condition is included in the draft consent conditions to ensure the correct protocols are in place in the event that Aboriginal relics are located during the on-going works.

### 10.3 Sutherland Shire Development Control Plan

Notwithstanding that the Concept Plan is the over-arching document to assess the proposal against, a number of chapters of SSDCP 2015 are applicable to the development. These are identified as follows:

- Chapter 13 – B2 Local Centre – Woollooware Bay
- Chapter 35 – Other Uses
- Chapter 36 – Traffic and Parking
- Chapter 37 – Late Night Trading
- Chapter 38 – Stormwater and Groundwater Management
- Chapter 39 – Natural Resource Management

Tables for some of the Chapters (namely 13 and 39) are included in **Appendix F**. Relevant discussion is also included below.

#### Signage

The signage proposed as part of the application has been assessed against the criteria in SEPP 64 as outlined above but SSDCP 2015 also contains signage provisions which must be considered in the assessment of the application. The signage provisions are contained within Chapter 35.6 of SSDCP 2015. The following table provides a breakdown of the proposed signage, per elevation and whether the signage is acceptable or not.

**Table 8 – Proposed Signage**

<b>Elevation</b>	<b>Signage Description</b>	<b>Complies? % Variation</b>	<b>Recommendation</b>
<i>Northern Elevation</i>	N01 – 610mm x 610mm N02 – Lightbox logo sign 3500mm x 3500mm	12.6.m <sup>2</sup> = < 25% of façade / complies	Acceptable
<i>Southern Elevation</i>	S01 – Pylon sign 12000mm by 3600mm S02 – Flexface Sign Box 5685mm x 4170mm S03 – Flexface Sign Box 5685mm x 2740mm S04 – Flexface Sign Box 5685mm x 9080mm S06 – Flexface Sign Box 5500mm x 6000mm S07 – Flexface Sign Box 5500mm x 10000mm S08 – Projecting sign box 1250mm x 1650mm S09 – Back-lit Sign Box 6500mm x 2000mm S10 – Light Box Logo Sign 1900mm x 1500mm S11 – Flexface Sign Box & Light Box Logo Sign 14500mm x 2700mm S12 – Residential Entry	N/A  245.48m <sup>2</sup> = < 25% of façade / complies	S01 sits outside the application site so not part of the subject application. Conditioned to be deleted.  S08, S09, S12 & S13 – excessive projection not supported (see Table 9 below)  Other signage is generally acceptable as it fronts a major road and appropriately sited within the architectural elements of the building rather than dominating the architecture. Separate consent will be required for inserts into signage panels once tenancies are

	Sign 4200mm x 1800mm S13 – Projecting Sign Box 1650mm x 1250mm		known.
Eastern Elevation	E01 – Profile-cut Logo 2800mm x 3000mm E02 - Projecting Sign Box 1660mm x 1250mm	10.475m <sup>2</sup> = < 25% of façade / complies	E01 Acceptable but E02 excessive projection
Eastern Elevation & (Level 3 Internal Street)	B01 – Halo Light Logo Sign 5400mm x 5600mm and Digital Screen 450mm x 8600mm B02 – Profile Cut Logo 3000mm x 2650mm B03 – Digital Screen 3000mm x 3247mm	43.851m <sup>2</sup> = < 25% of façade / complies	Acceptable subject to condition regarding timing of digital screen (B03) which is adjacent residential apartments and may result in light spill
Western Elevation	W01 – Signage platform 21000mm x 5100mm W02 – Flexface Sign Box 2470mm x 5100mm W03 - Back-lit Sign Box 6400mm x 1700mm	130.6m <sup>2</sup> = < 25% of façade / complies	W01 will need development consent for signage content when known. Potentially general advertising so may require further consideration with respect to SEPP 64. No issue with other signage
<b>Total</b>	<b>19 signs</b>	<b>443m<sup>2</sup></b>	

All of the proposed signage constitutes wall signage and as such the controls set out in Chapter 35.6.2 are applicable. An assessment of the proposed signage against the relevant controls is contained in the Table below.

**Table 9 – Controls for Wall Signage**

<b>Control</b>	<b>Complies? % Variation</b>	<b>Recommendation</b>
<i>Advertising on buildings (business identification signs) must relate to the use of premises - Commercial sponsorship advertising will not be permitted. Only the name of the adjacent business premises and the specific goods/services available is permitted. Advertising of companies or organisations not located on the site and of a general nature will not be permitted.</i>	All of the proposed signage for which consent is sought are business identification signage except for two of the signs – the Sharks signage zone (subject to a further DA) and the internal digital screen on Level 3 of the development for the Sharks Club.	Conditions included to require further DA for Sharks signage.
<i>The total area of all signs must not be greater than 25% of the elevation above awning level.</i>	Proposed signage complies as set out in Table 8 above.	Acceptable
<i>The size and shape of any signage must relate to the size and shape of the building it is attached to. Larger building facades are capable of accommodating larger signs without detracting from the appearance of the building.</i>	Proposed signage strategy for the building is generally acceptable. The elevation facing Captain Cook Drive accommodates the most signage which is appropriate given the main road it fronts.	Acceptable
<i>Wall signs must not protrude more than 300mm from the face of the wall or parapet</i>	Two of the projecting wall signs will exceed the 300mm depth (S08, S09, S12 and S13). The proposed projection of 2m for the	Conditioned to be deleted / amended

	S09 sign is excessive and an alternative design will be required. S13 Can be conditioned	
<i>Signs must not project above the parapet of the building or that part of the building to which they are attached.</i>	Proposal complies.	Acceptable
<i>Signage must be integrated with the design of the building, having regard to the design and architectural merit of the building and the streetscape and not obscuring architectural features (windows, decorative mouldings etc.) of the supporting building</i>	Proposed signage generally acceptable with conditions recommended with respect to signage S06 and S07 to fit within the architectural frame of the building.	Conditioned
<i>Signs must not cover mechanical ventilation inlets or outlets</i>	Can be conditioned	
<i>In commercial areas, signage should where possible achieve visual continuity with neighbouring buildings. The lines of adjacent buildings may be projected across the facade of the building, thereby defining horizontal panels in which signs may be located.</i>	The development is effectively on a stand-alone site with no similar scale adjoining buildings to the east or west. Leagues Club facilities to the west will maintain a different street setback to that of the proposed new development so there is no defining horizontal plane to align the proposed signs.	Acceptable
<i>Advertising signs must be integrated with the overall design of the building and harmonious with adjacent buildings.</i>	Signage design generally well integrated with design of the building and does not visually dominate the architecture, site or adjacent lower-key area.	Acceptable

The majority of the proposed signage will be illuminated and as such an assessment of the controls within Chapter 35.6.4 of SSDCP 2015 is applicable as follows:

**Table 10** - Illumination

<b>Control</b>	<b>Complies? % Variation</b>	<b>Recommendation</b>
1. <i>Illumination of signs must not result in acceptable glare or reduce safety for pedestrians, vehicles or aircraft.</i>	No roof signage proposed to impede aircraft safety. Majority of signage is at street level with only hotel signage projecting at upper level. No pedestrian or vehicle safety issues with all signage contained on the site or where there is a projection is in an area not for pedestrians but well above head height.	Proposed signage can be conditioned to ensure certain illumination.
2. <i>Illumination of signs must not cause light spillage into nearby residential properties, national parks or nature reserves.</i>	Minimal signage in northern elevation near sensitive natural environment. Closest residential dwellings unlikely to be affected by lightspill but can be conditioned for signage to be switched off at 10pm	Signage for shopping centre conditioned to switch off illumination late at night to preserve residential amenity in nearby Woollooware
3. <i>Depending of its location and its relationship to residential properties, Council may require that illumination be controlled by automatic time clocks extinguishing illumination.</i>	As with Point 2 above for nearby residential properties.	Conditioned to comply.

4. <i>The lighting intensity of a sign must be capable of modification or control after installation.</i>	Can be conditioned	Conditioned to comply.
5. <i>Illumination of a sign (except for floodlit signs) must not be external to the sign i.e. surrounding a sign.</i>	Proposed signage is generally lightbox (internally lit) with no external lighting of signs proposed	Conditioned to comply
6. <i>Electric wiring to illuminated signs must be concealed.</i>	Can be conditioned	Conditioned to comply
7. <i>Illuminated signs must not use complex displays, moving signs, flashing lights or the like</i>	B01 Sharks digital screen will contain moving text.  B03 Sharks digital screen will likely contain moving text or graphics / general advertising for the Club.	Acceptable given the size of the sign and its location angled away from the road and a considerable distance from the closest residential properties.  This sign is of considerable size and whilst internal to the development could adversely impact on west facing residents on Building D. Condition operating hours.

#### *Traffic and Parking*

Chapter 36 of SSDCP 2015 requires new development to adequately cater for its parking and loading needs on-site so as to minimise any impact off-site and within the local traffic network. The potential impacts of the proposed development on the operating capacity of Captain Cook Drive and the surrounding streets were assessed as part of MOD 2 to the Concept Plan. The works required by RMS as part of the original Concept Plan and subsequent Project Approval such as the signalised intersections and vehicle access points to the development, changes to the alignment and operation of Woollooware Road intersection are all now under construction. The proposed development maintains the same ingress and egress points as those shown in the MOD 2 approval.

The provision of car parking within the development, whilst less than that required under SSDCP 2015 is compliant with the requirements of the Concept Plan (refer **Appendix D**). The majority of the retail and commercial parking will be shared on a first come, first served basis and will be governed by the Management Body responsible for the Centre. Other landuse activities within the development such as the residential component has its own allocation of parking, inaccessible to the rest of the development. Allocated parking is also required for the Club (100 spaces proposed) by way of a separate agreement with the applicant. This has been conditioned along with the spaces proposed for the future childcare centre, as failure to provide these spaces would inhibit the safe and efficient operation of the future centre.

Design of the car park and vehicle entries, internal ramps, provision of motorbike parking and bicycle parking / storage etc. has been thoroughly reviewed by Council's engineers and is satisfactory subject to compliance with the necessary Australian Standards as conditioned in **Appendix A**.

No objection is raised to the proposed development on parking or traffic grounds.

### *Loading Dock Management Plan*

Condition F13 of the Project Approval sets out the requirements for the applicant to provide a Loading Dock Management Plan (LDMP) prior to the issue of an OC. As a result of the state government approval to allow the upper level residential landuse and the hotel above the retail development, Council officers were of the view that assessment of the loading operations of the development was necessary as part of the subject development application in order to understand the complex requirements of each of the proposed uses. The applicant was therefore requested to submit the LDMP as part of the application.

The most recent revised version of the LDMP prepared by McClaren Traffic Engineering is dated 10 February 2020. This LDMP has been assessed as satisfactory and will be conditioned to form part of the application documentation. In summary the proposed development will include two large loading docks described as follows:

#### *Loading Dock A*

This dock is located in the north-eastern corner of the site and is accessed from the northern end of Woollooware Road close to the cul-de-sac head. The dock is capable of accommodating two (2) vehicles up to 19m in length and one (1) vehicle up to 12.5m in length. This loading dock will serve:

- Residential and retail waste collection
- Removalist trucks
- Speciality retail shops
- Woolworths & Dan Murphys.

#### *Loading Dock B*

This loading dock is located on the south-western corner of the site and is accessed from Captain Cook Drive. This dock is capable of accommodating two (2) vehicles up to 19m in length, two Heavy Rigid Vehicles (HRV's, two (2) vans and other light courier vehicles. This loading dock will serve:

- Hotel Loading;
- Retail, Hotel and Residential (Building E) Waste Collection;
- Removalist trucks for Building E;
- Aldi Store;
- The Sharks Leagues Club;
- Speciality shops.

The LDMP also addresses the residential move-in strategy. This was a critical component of the development for Council to assess given the frontage of the site to Captain Cook Drive and the retail component of the development. There are no stopping options for vehicles or trucks in either Captain Cook Drive or Woollooware Road and given that both of the loading docks are full-scale commercial docks the safety of residents and for the removalist vehicles required consideration. Both docks will be utilised for residential moving and Council has also permitted a temporary loading area within the foreshore to the north of the site near the express lift from the foreshore to the residential podium. This is also detailed in a separate *Residential Move-In Strategy* submitted by the applicant.

Waste management within each of the loading docks has been assessed by Council's Waste Management Officer and is acceptable subject to conditions.

### Waste Management

The size and scale of the development as well as the mix of landuses necessitated a thorough assessment of the proposed waste management system. Council's Environmental Specification for Waste Management for New Multi-Dwelling Housing and Residential Flat Buildings (SSCES) is relevant to the proposed development. This specifies the amount of waste storage required for the residential component of the development.

Whilst two large loading docks were proposed the applicant had not initially given sufficient consideration to the need to separate residential waste storage from commercial waste. The required bulk waste room for residential storage was in an area which would have residents accessing the back of house areas of the large commercial loading dock for Woolworths and the specialty shops. Insufficient bin holding rooms were provided on each of the upper parking levels and no bin carting routes were provided. Residential waste storage and collection for those apartments in Building E had also not been appropriately considered.

As a consequence of this the applicant was requested to submit revised plans and a revised Waste Management Plan (WMP). The plans and WMP now clearly delineate waste storage areas for each of the landuses within the development; cartage routes for residential waste; relocated residential bulk waste storage rooms and collection arrangements. Subject to the implementation of the WMP, no objection is raised with respect to waste management on the site.

### Proposed Landuses

Chapter 37.3.2.1 of SSDCP 2015 sets out the controls applicable to various landuses and the permitted hours of operation for areas of high, intermediate or low activity. The subject site (along with the wider WBTC precinct) is identified as a 'Low Activity' area. The landuses and the permitted hours are set out in **Table 11** below.

HOURS OF OPERATION FOR LATE NIGHT TRADING PREMISES (Non - licensed)						
Use Type	Base Hours			Extended Hours		
	High	Intermediate	Low	High	Intermediate	Low
Community facilities	6am to midnight	6am to 11pm	6am to 10pm	6am to 3am	6am to midnight	6am to midnight
Entertainment facilities	6am to midnight	6am to 11pm	6am to 10pm	6am to 3am	6am to midnight	6am to midnight
Function centres	6am to midnight	6am to 11pm	6am to 10pm	6am to 3am	6am to midnight	6am to midnight
Medical centres	6am to 1am	6am to midnight	6am to 10pm	24hr	6am to 3am	6am to midnight
Neighbourhood shops	6am to 1am	6am to midnight	6am to 10pm	24hr	24hr	24hr
Recreation facilities (indoor)	6am to midnight	6am to 11pm	6am to 10pm	6am to 3am	6am to midnight	6am to midnight
Restaurant or café (unlicensed)	6am to midnight	6am to 11pm	6am to 10pm	6am to 3am	6am to midnight	6am to midnight
Restricted premises	6am to midnight	6am to 11pm	6am to 10pm	6am to 3am	6am to midnight	6am to midnight
Service stations	6am to 1am	6am to midnight	6am to 10pm	24hr	24hr	24hr
Sex services premises	NA	NA	6am to 10pm	NA	NA	6am to 10pm
Shops	6am to 1am	6am to midnight	6am to 10pm	24hr	24hr	24hr
Take away food and drink premises	6am to 3am	6am to 1am	6am to 10pm	6am to 3am	6am to 1am	6am to midnight
All other unlicensed premises trading after 10pm not included above	6am to 1am	6am to midnight	6am to 10pm	24hr	24hr	24hr

**Table 11 – Hours of operation for Late Night Trading Premises**

Licensed premises types and permitted hours of operation are set out in 37.3.2.2 as shown in Table 12 below:

Use / License Type: Hotel (including general bar license) Pubs and small bar <sup>2</sup> Registered clubs Restaurant or Café (on premises license) Limited: Functions held by non-profit organisations	Activity Area (As mapped)	Base Hours					
		High		Intermediate		Low	
		Monday - Saturday	Sunday	Monday – Saturday	Sunday	Monday – Saturday	Sunday
	Indoor	6am to midnight	10am to 10pm	6am to 11pm	10am to 10pm	6am to 10pm	10am to 9pm
	Outdoor	6am to 10pm	10am to 9pm	6am to 10pm	10am to 9pm	6am to 9pm	10am to 9pm
Packaged Liquor  Bottle shops / packaged liquor outlets and drive in liquor stores	All bottle shops / packaged liquor outlets / drive in liquor stores must cease trade at 10pm						

Use / License Type: Hotel (including general bar license) Pubs and small bar <sup>2</sup> Registered clubs Restaurant or Café (on premises license) Limited: Functions held by non-profit organisations	Activity Area (As mapped)	Extended Hours		
		High	Intermediate	Low
		Monday- Sunday	Monday – Sunday	Monday – Sunday
	Indoor	6am to 3am	6am to midnight	6am to midnight
	Outdoor	6am to midnight	6am to 11pm	6am to 10pm
Packaged Liquor  Bottle shops / packaged liquor outlets and drive in liquor stores	All bottle shops / packaged liquor outlets / drive in liquor stores must cease trade at 10pm			

**Table 12** – Licensed Premises Hours of Operation

SSDCP 2015 sets out an explanation of ‘base’ hours and ‘extended’ hours as follows:

#### *Base hours*

*These are standard operating hours that late night trading premises may reasonably expect if a development application is approved.*

#### *Extended hours*

*These are operating hours beyond base hours, but only where Council has determined that the premises have been (or will be) well managed, including compliance with the Management Plan. Extended hours will be considered by Council as maximum operating hours.*

The proposed development includes a number of different landuse activities. Whilst many of these landuses were endorsed in principle under the Project Approval, a specific condition of that consent (Condition A7) required that all of the uses (other than the continued use of the Leagues Club) required separate approval. As stated earlier, the applicant has obtained use approval (and fitouts) for the Woolworths, ALDI and Dan Murphy’s stores. No other approvals have been obtained. Use approval sought under this application includes the hotel, offices, specialty retail and restaurants.

#### *Hotel*

A Plan of Management for the hotel was submitted by the applicant. It is proposed that the hotel will operate between 7:00am and 11:00pm, 7 days a week. Management of the hotel will be on-site 24 hours, 7 days a week. SSDCP 2015 requires base hours till 10pm. Given the proximity of the hotel to proposed residential development it is recommended that the base hours be applied for weekdays, with Friday and Saturday nights being permitted to trade till 11pm for a 12 month trial period. The submitted PoM is generally acceptable and has been conditioned to form part of the consent.

### *Offices*

The proposal seeks approval for office use on Levels 2 and 3 of Building E. No specific end user details are provided but the floors are clearly set out with offices in varying sizes from 38m<sup>2</sup> through to 95m<sup>2</sup>. Amenities are provided on each floor and allocated parking is available within Building E. Lift and stair access to the loading dock and parking levels is acceptable. Hours of use for the offices are not specified in the application, nor is the use specified in SSDCP 2015. In this respect, conditions are included in the recommendation for these to be the base hours of 6am to 10pm as required by Chapter 37 of SSDCP 2015 (**Table 11** of this report).

### *Child Care*

Notwithstanding that the Project Approval granted use approval for one of the tenancies within the retail centre as a childcare centre (south-west tenancy on Level 1) the applicant has provided limited additional detail with respect to the use or operation of this as part of the subject application, other than to illustrate the pedestrian and vehicle access arrangements as part of the way-finding strategy (as discussed above). These are reasonable and conditions have been included in the consent to ensure that specific car parking places are allocated to ensure that the servicing needs of the future centre are assured.

The applicant has otherwise advised that a separate development application will be submitted in the future for the fit-out and use of the child care centre. Assessment of the application against SEPP 2017 will occur at that stage.

### *Retail Uses*

The applicant has sought a blanket approval for the specialty retail uses but as with the above, the uses are not known at this stage, other than those major anchor tenancies which have already been granted under separate development applications. Separate applications for the fitout and use will be required once the end uses are known.

### *Restaurants*

The applicant is seeking a blanket first use approval for cafes or restaurants with less than 50 seats. Similar to the above no additional details have been provided with the application for the fitout, use or operation of any of the restaurants / food outlets within the development. This will be subject to separate development applications once end uses are known.

### *Medical Centre*

The proposed medical centre is to be situated in the captain Cook Drive frontage to the development split between Ground Level and Level 1. It would comprise approximately 1530m<sup>2</sup>. Similar to the above no additional details have been provided with the application for the fitout, use or operation of the medical centre and as such this will be subject to a separate future development application.

### *Club*

The applicant has submitted a Plan of Management for the Club which has been reviewed by Council officers. The PoM details that:

- The maximum number of patrons inside the Club is 4,098.
- Internal areas of the Club have unrestricted premises hours in accordance with Liquor Licence LIQC 300226727.
- The external deck area is proposed to operate between 8:00am and 11:00pm.
- No amplified music involving live bands with drums and bass guitars is permitted inside or outside the club at any time.

The Club deck is a large area (approximately 1700m<sup>2</sup>). The separation between this and Building D is approximately 20m. Whilst the residential apartments in Building D commence three levels above the club deck level and are proposed to be acoustically attenuated, the potential for noise disturbance from this area is considerable. The restriction on amplified music is a necessary mitigation measure, but a further restriction on the hours of operation for the deck – particularly during the week, is considered appropriate. A 10pm closing would be consistent with the restricted premises requirements for the low activity area as set out in SSDCP 2015. On weekends this could be extended to 11pm as a trial arrangement for 12 months. Conditions limiting the hours of operation, amplified music and compliance with the PoM are included in **Appendix A.**

#### *Shopping Centre*

The RCMP proposed hours of operation for the retail centre of 5am to 12am seven days a week, with operational hours for restocking and other staff activities to occur 24 hours, 7 days a week. The proposed hours are not consistent with SSDCP 2015 requirements for a Low Activity area. The proposed development is no longer for just a retail centre as once approved under the Project Approval. 255 residential apartments will be located above the centre, with a further 650 on the other side of the Leagues Club grounds. The golf course and playing fields which sit to the west and south of the site along with the bay to the north, provide a quiet night-time context. The traditional low-density neighbourhood of Woollooware also sits to the south-east of the development and would stand to be adversely impacted by a 5am to midnight operation 7 days per week. It is recommended that the base hours be maintained Sunday to Thursday, whilst an operating time till 11pm for Friday and Saturday nights could be trialled.

In terms of the proposed 24 hour loading, staff access or re-stocking for the centre, this is considered excessive. The objectives of Chapter 37 relevant to local amenity aims to protect neighbourhood amenity in the vicinity of late night trading premises, particularly residential land uses. Chapter 37.5 of SSDCP 2015 recommends the movement of garbage and refuse from inside the premises to outside storage bins or areas should not occur after 10pm and before 8:00am Monday to Saturday or before 9:00am on Sunday and Public Holidays. It allows movement of waste (other than cans/bottles or other waste movement with a risk of undue noise) from inside to outside the premises outside these hours provided noise is minimised. In terms of loading / unloading of goods, SSDCP 2015 requires this to occur before 7pm and before 8:00am Monday to Saturday or before 9:00am on Sunday and Public Holidays.

As the proposed development contains two central loading docks, no external storage or collection of waste will occur outside the building. Loading Dock B is more internalised than Loading Dock A, simply by nature of its design and the distance from the driveway entry off Captain Cook Drive. There is more potential for

extended hours for waste collection or loading / unloading in this area as trucks can enter and leave in a forward direction. Loading Dock A is designed to require vehicles to reverse into it by way of a manoeuvre in the cul-de sac on Woolooware Road. The noise from reversing trucks has the potential to result in potential noise impacts for the upper level residents who are directly above in Buildings B and C. Noise will also travel further at night and may impact on residents in nearby Woolooware. Loading and waste collection for this loading dock should therefore be limited to the hours recommended in SSDCP 2015.

### *Safety and Security*

Chapter 37.6.1 sets out the objectives and controls for late night premises with respect to safety and security. The key objective is to ensure the safety of patrons and staff through the responsible management of late night trading premises and their surrounding environment. In this instance, the retail centre, hotel and club are largely internalised within the development. The internal street on Level 2 which provides direct pedestrian access to the Club from the adjacent car park, and a pick-up / drop off for the hotel, will be the key area for management within the development. The scale of the hotel and residential buildings flanking this road has the potential to exacerbate the potential noise impacts from vehicles and people leaving the Club at a late hour. The Club PoM and the RCMP will be required to address this. Other matters such as signage on premises windows, and the requirements for CCTV installation throughout the centre and Club areas has been conditioned.

The NSW Police reviewed the proposed development and had no particular objections subject to subject to conditions regarding the licensed premises and a suggestion that the Club should be subject to a requirement for a Plan of Management given the major modifications proposed. The Club PoM along with the RCMP and PoM for the Hotel will all be required to be implemented by way of conditions of consent.

### *Greenweb*

Chapter 39 of SSDCP 2015 sets out Council's Greenweb strategy. The Greenweb is a strategy to conserve and enhance Sutherland Shire's bushland and biodiversity by identifying and appropriately managing key areas of bushland habitat and establishing and maintaining interconnecting linkages and corridors. The subject site is identified as being within a Greenweb support area.

All of the planting proposed as part of the development is on-slab, with the exception of the large tree proposed within the entry forecourt to the development on captain Cook Drive. The residential podium level is the largest planted area and Council's Landscape architect is accepting of some exotic species in this area given its lack of connectivity with any ground level areas within the Greenweb. Conditions of consent are imposed to require Greenweb plantings throughout the development.

### *Tree Removal*

The Project Approval endorsed tree removal on the site and the applicant has since removed the trees as part of a recently issued CC for early works on the site. Removal of the trees outside of the Council application process limits the ability for tree replacement in accordance with Council's policy, which given that some 75 trees were removed, would have resulted in substantial re-planting requirements. There is a limit to how many large trees can be planted within the adjacent foreshore as a result of the high voltage power lines and Ausgrid easement which extend the full length of the frontage however some opportunities exist close to the building. Planting within this area will be fully assessed as part of DA20/0266.

## **11.0 DEVELOPMENT CONTRIBUTIONS**

The proposed development has a value of greater than \$100,000. In order to provide high quality and diverse public facilities, the proposed development will attract Section 7.12 Contributions in accordance with Council's adopted Section 7.12 Development Contribution Plan 2016.

This contribution is based upon the proposed cost of the development and has been calculated at 1% of \$233,640,000.00 (the estimated cost of development identified on the development application form). The applicant has already paid contributions under the Project Approval in the order of \$611,670.56. The current Section 7.12 levy for the proposed development is \$2,336,400.00 minus the amount already paid, resulting in a requirement for \$1,724,729.44.

## **12.0 DECLARATIONS OF AFFILIATION, GIFTS AND POLITICAL DONATIONS**

Section 10.4 of the Environmental Planning and Assessment Act, 1979 requires the declaration of donations/gifts in excess of \$1000. In addition Council's development application form requires a general declaration of affiliation. In relation to this development application a declaration has been made that there is no affiliation.

## **13.0 CONCLUSION**

The subject land is located within Zone B2 Local Centre pursuant to the provisions of SSLEP 2015. The proposed mixed use development and the various landuse activities sought as part of the proposal are permissible within the zone subject to development consent.

The application was placed on public exhibition and submissions were received from 21 households. The matters raised in these submissions have been discussed in **Appendix B**.

The proposal represents the last stage in the WBTC redevelopment. The WBTC is enabled as a result of a state government Concept Plan granted in 2012 and more recently modified for the subject site by MOD 2 in 2018. The MOD 2 application essentially built upon a Project Approval issued in 2013 for a retail centre on the site and which grew to the scale of development now contained in the subject application. Council officers have assessed the application having regard to the approved Concept Plan and the established building footprint, heights and envelopes, building setbacks, GFA, landuse activities, car parking requirements and servicing. The proposal is generally compliant with all of the key elements of the Concept Plan other than those more minor issues addressed in the report. Council has worked with the applicant to ensure the architectural treatment of each of the elevations of the proposed development is as refined as possible, requiring amendments to the lower level podium and improved car parking screening. The incorporation of the proposed palette of materials and finishes is important in ensuring the end quality of the development. Matters raised in this report as being deficient with the application, such as some of the vertical circulation, signage, hours of operation and landscaping are design matters which can be readily dealt with by way of conditions.

The application has been assessed having regard to the Matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979. Subject to the changes being adopted as set out in the report, the application will not result in any significant impact on the environment or the amenity of nearby residents. Following assessment, Development Application No. DA18/1448 may be supported by 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).