

SUTHERLAND SHIRE COUNCIL ASSESSMENT REPORT

Panel Reference	2019SSH003
DA Number	DA19/0021
LGA	Sutherland Shire Council
Proposed Development	Demolition of existing structures and construction of a mixed use development containing 42 units with stratum subdivision
Street Address	Lot 4 Sec 1 DP 1688, Lot 2 Sec 1 DP 1688, Lot 3 Sec 1 DP 1688, Lot 1 Sec 1 DP 1688, 1-7 Boyle Street, Sutherland.
Applicant	Vic Lake Architects
Date of DA lodgement	15.01.2019
Number of Submissions	Six
Recommendation	Approval
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	The development has a capital investment value of more than \$30 million and as such is nominated under Schedule 7 "Regionally significant development" of SEPP (State and Regional Development) 2011. The applicant's submission indicates that the proposed development has a value of \$30,149,671.00.
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> • State Environmental Planning Policy (State and Regional Development) 2011 • State Environmental Planning Policy No. 65 (Design Quality of Residential Flat Development) • State Environmental Planning Policy No. 55 (Remediation of Land) • State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (BASIX SEPP) • Sutherland Shire Local Environmental Plan 2015 (SSLEP 2015) • Sutherland Shire Development Control Plan 2015 (SSDCP 2015) • Apartment Design Guide (ADG) • Section 7.11 Developer Contribution Plans.
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> • Recommended conditions of consent- Appendix A • Pre-DA letter PAD18/0043- Appendix B • Design Review Panel (DRP) comments- Appendix C • SEPP 65 Compliance Table – Appendix D • ADG Table – Appendix E • DCP Compliance Table – Appendix F • Heritage Items Statement of Significance - Appendix G
Report prepared by	Kylie Rourke- Environmental Assessment Officer Sutherland Shire Council
Report date	30 September 2019

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**No**

Does the DA require Special Infrastructure Contributions conditions (S7.24)?

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

Conditions**Yes**

Have draft conditions been provided to the applicant for comment?

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

EXECUTIVE SUMMARY

REASON FOR THE REPORT

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 \$30,150,000.

PROPOSAL

The application is for demolition of existing structures and construction of a mixed use development containing 42 residential units, 4 x ground floor retail tenancies, 1 x first floor commercial tenancy, a 4 level basement containing 140 parking spaces and stratum subdivision.

THE SITE

The site is located on the (northern) corner of Boyle Street and Eton Street Sutherland, and benefits from 3 street frontages, a southern frontage of 48.76m to Boyle Street, an eastern frontage of 36.56m to Eton Street and a northern frontage of 48.76m to Mccubbens Lane. The sites only shared property boundary is to the west, which adjoins a carpark servicing Boyles Hotel. The subject site is a regular, rectangular shape with a total site area of 1783.73m², and has a fall of 1.5m to the south, toward Boyle Street.

MAJOR ISSUES

The main issues identified are as follows:

- Building envelope including building height and setbacks
- Building Separation
- Common Open Space and Deep soil landscaping
- Vehicular Access

ASSESSMENT OFFICER'S RECOMMENDATION

THAT:

1. The variations to the building envelope specified in Sutherland Shire Development Control Plan 2015 is supported.
2. That Development Application No. DA19/0021 for Demolition of existing structures and construction of a mixed use development containing 43 units with stratum subdivision at Lot 4 Sec 1 DP 1688, Lot 2 Sec 1 DP 1688, Lot 3 Sec 1 DP 1688, Lot 1 Sec 1 DP 1688 1-7 Boyle Street Sutherland be approved, subject to the conditions contained in Appendix "A" of the report.

ASSESSMENT OFFICER'S COMMENTARY

1.0 DESCRIPTION OF PROPOSAL

The proposal is for the demolition of all existing structures and the construction of a 7/9 storey mixed use building. Details of the proposal include:

- Demolition of existing structures within the site;
- Four levels of basement parking containing 140 car parking spaces, 14 bicycle spaces and 9 motorbike spaces.
- 4 x Ground Floor Retail Tenancies
- 1 x First Floor Commercial Office Tenancy;
- 42 residential apartments consistent of 5 x studio, 2 x 1 bed, 26 x 2 bed and 9 x 3 bedroom dwellings;
- Communal open space is proposed in the form of rooftop garden space on level 7;
- Construction of the Boyle Street/Mccubbens Lane through block pedestrian link, new pavement construction installation of seating, trees, and public bicycle racks;
- Council dedication of 2m wide strip along Mccubbens lane for road widening.

Separate applications for the use of the commercial tenancies will be required following the determination of the subject application.

A vehicular exit point for residents, employees and visitors is provided off Mccubbens Lane, alongside a dock for deliveries and waste collection. A second vehicular access point for entrance of non-commercial vehicles is provided off Boyle Street.

Pedestrian access to the ground floor retail tenancies is provided via the pedestrian through block link, Boyle Street and Eton Street. Access to the office component is via an open-plan lobby off Eton St, and access to the residential component is via a secure lobby off Boyle Street.

A site plan and Computer Generated Image of the proposal is provided below.

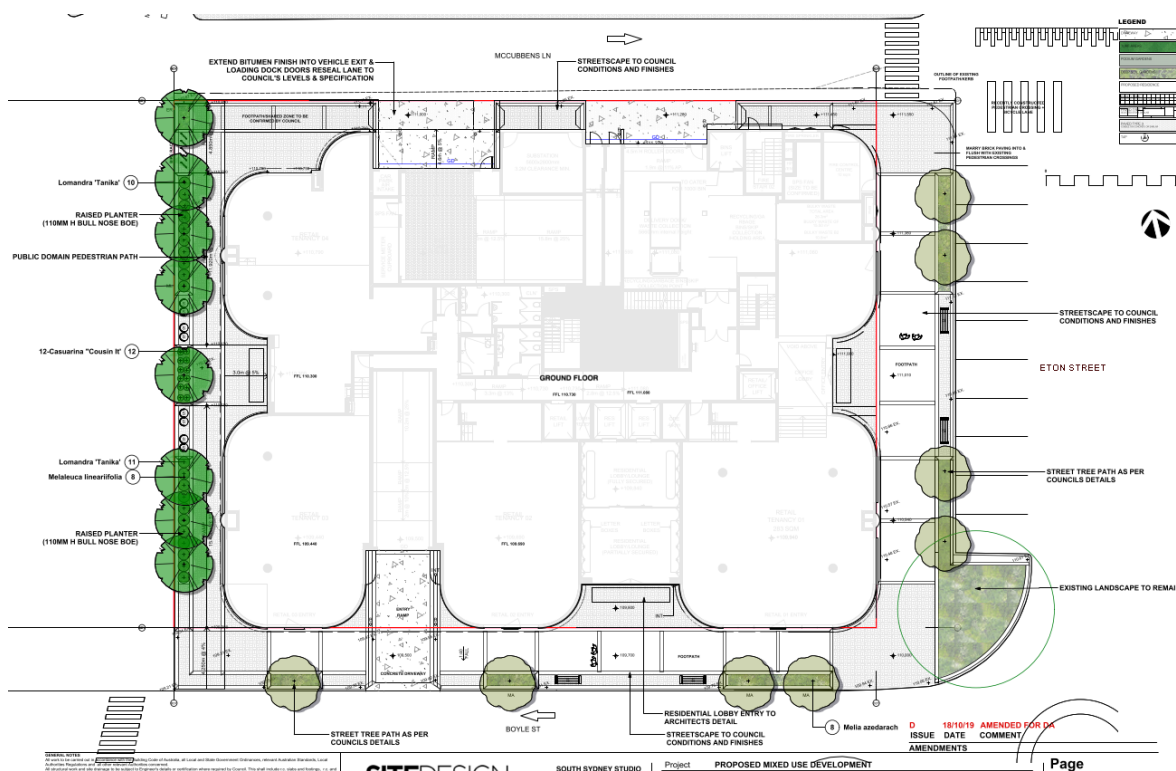


Figure 1: Site Plan of proposed mixed use building at 1-7 Boyle Street Sutherland.



Figure 2: Computer Generated Image (CGI) of proposal- viewed from south-west.

2.0 SITE DESCRIPTION AND LOCALITY

The site is located on the (northern) corner of Boyle and Eton Street Sutherland, and benefits from 3 street frontages, a southern frontage of 48.76m to Boyle Street, an eastern frontage of 36.56m to Eton Street and a northern frontage of 48.76m to Mccubbens Lane. The sites only shared property boundary is to the west, which adjoins a carpark servicing Boyles Hotel. The subject site is a regular, rectangular shape with a total site area of 1783.73m², and has a fall of 1.5m to the south, toward Boyle Street.

The site comprises four individual sites as follows:

- Lot 1 Sec 1 DP 1688 (1 Boyle Street)
- Lot 2 Sec 1 DP 1688 (3 Boyle Street)
- Lot 3 Sec 1 DP 1688 (3 Boyle Street), and
- Lot 4 Sec 1 DP 1688 (5-7 Boyle Street)

Existing on the site is a (vacant) restaurant, a paint store, a recording studio, and a small retail complex which adjoins an existing cross-block pedestrian link from Boyle St to Mccubbens Lane. No. 3 Boyle Street, was formerly the Sutherland Police Station, and is currently occupied by the recording studio.

The subject property is listed in Council's Contaminated Land Register as being 'potentially contaminated land' due to previous historical land uses and the underground fuel tank infrastructure which currently exists on the site.

Boyles Sutherland Hotel is located to the west of the site. The Hotel is identified as a locally significant heritage item (Item No. 3636). To the north, beyond Mccubbens lane is a 2/3 storey commercial building comprising primarily office uses. To the east of the site, the site has a frontage with Eton Street which carries traffic in both directions. There is perpendicular street parking to the west side, parallel parking to the east side and perpendicular parking bays at the centre of Eton Street.

The eastern side of the street is characterised by the landscaped grounds of Sutherland Primary School. The site contains two local heritage items, the former Sutherland Intermediate High School building (Item No. 3614), and Sutherland Primary School (Item No. 3618).

To the south of the site, beyond Boyle Street is 1 and 2 storey commercial buildings containing a variety of retail and office uses.

The site is located within the Sutherland Commercial Core, the main administrative centre of the Sutherland Shire Council area. Sutherland Railway Station, a major rail transport interchange, is a 3 minute walk from the site. The density permitted on the site was increased under Sutherland Shire Local Environmental Plan 2015 (SSLEP 2015) from a maximum height of 8 storeys (i.e. 24m) and Floor Space Ratio (FSR) of 3:1, to a maximum height of 30m and FSR of 3.5:1.

The Sutherland to Cronulla Active Transport Link (SCATL) is a Transport for NSW project, developed in consultation with Council, with the aim of providing a shared two-way pedestrian and bicycle path to connect key destinations between Sutherland and Cronulla and encourage walking and bike riding in the area. The 10km/h "shared zone" adjacent to the site in Mccubbens Lane is the westernmost section of the SCATL and has recently been completed. The route is scheduled to be delivered in stages, Figure 3 below illustrates the Stage 1 Sutherland to Kirrawee approved SCATL route.



Figure 3: Sutherland to Kirrawee approved SCATL route.

A locality plan and an aerial photo of the subject site are provided below.

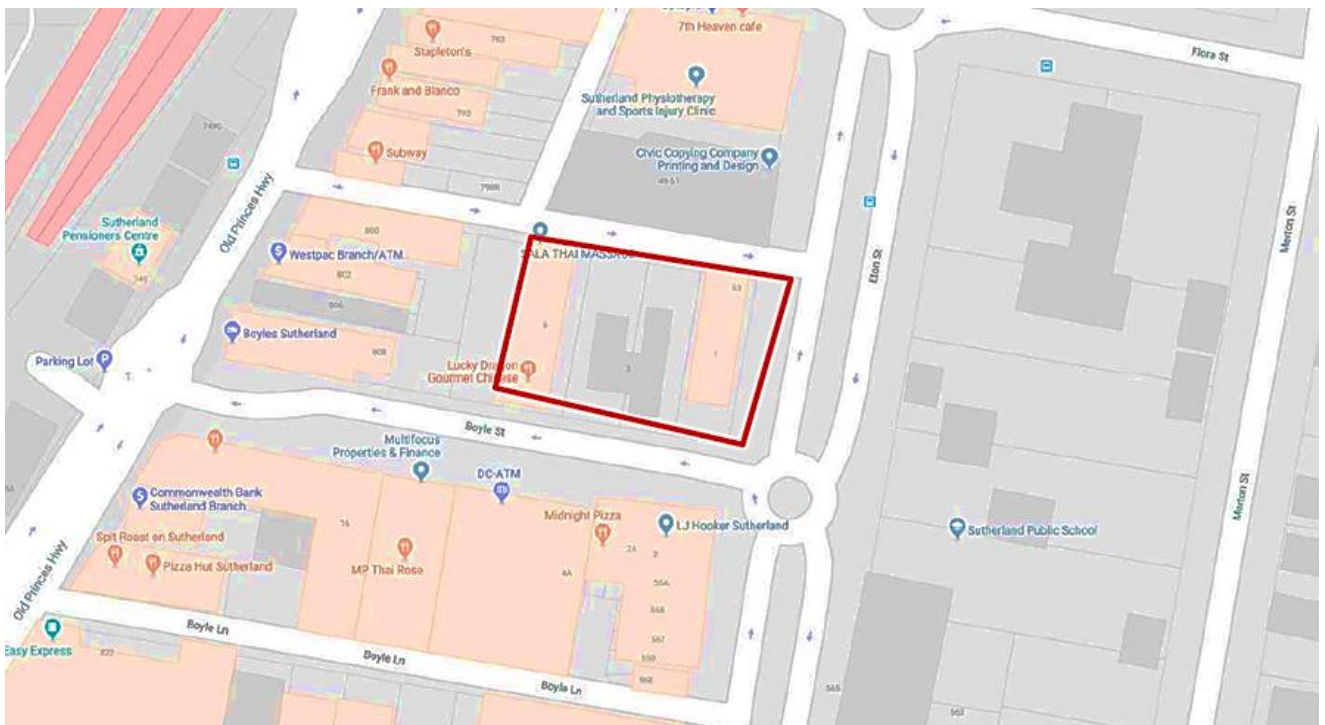


Figure 4: Locality Plan- site identified in red.



Figure 5: Aerial photograph, subject site identified in yellow.

3.0 BACKGROUND

A history of the development proposal is as follows:

- The site has been the subject of a pre-application discussion (PAD) between the applicant and Council held on 12 June 2018. A full copy of the advice provided to the Applicant is contained in **Appendix "B"** of this report. One of the key concerns regarding the PAD design was the number of vehicular crossings proposed off McCubbens lane, and the potential conflicts this may create with future bike riders and pedestrians using the SCATL route.
- The current application was submitted on 14 January 2019.
- The application was placed on exhibition, with the last date for public submissions being 19 February 2019. Six submissions were received.
- On 20 March 2019, the SSPP (comprising Bruce McDonald (Chair), Nicole Gurrán, Steve Simpson, Michael Forshaw) was briefed on the proposal. Key issues discussed was the need to resolve vehicular access issues, building envelope compliance including inconsistency of DCP provisions with LEP and ADG, ADG separation, and noise insulation.
- Council officers met with the Applicant on 17 April and 2 July 2019, and on-site meeting was held. During these meetings, the building setback requirements, contaminated land and awning design were discussed.

- The application as lodged, proposed a design relatively similar to the Pre-DA proposal, proposing all vehicular access from Mccubbens Lane. The proposal was amended during the assessment in response to issues raised by Council Officers. The main concerns related to traffic, contamination and boundary setbacks. Amended plans were submitted in response to these concerns, and included an additional vehicular access point to the basement level off Boyle Street, and a reduction in residential units from 43 to 42. These plans have been relied upon for the assessment.
- Additional information was lodged on multiple occasions including, 26 August, 17 September and 1 October 2019 and 21 October 2019.

4.0 ADEQUACY OF APPLICANT'S SUBMISSION

In relation to the Statement of Environmental Effects, plans and other documentation submitted with the application or after a request from Council, the applicant has provided adequate information to 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 57 adjoining or affected owners of the proposal and six submissions were received from the following properties:

Address	Date of Letter/s	Issues
806-810 Old Princes Hwy Sutherland (Boyles Hotel)	14.02.2019	<ul style="list-style-type: none"> • Noise from existing pub affecting future residents • Traffic
49-51 Eton St Sutherland (Southside Denture Clinic & Hizard Dental Laboratory)	14.2.2019	<ul style="list-style-type: none"> • Parking- reduction in on-street parking (specifically disabled space on western side of Eton St adjoining the development) from development and construction works.
2/55-61 Belmont St Sutherland	31.01.2019	<ul style="list-style-type: none"> • Overdevelopment • Character • Lack of Affordable housing • Infrastructure- rail
3 Portview Place Burraneer	31.01.2019	<ul style="list-style-type: none"> • Support, but request additional land be acquired and the design is modified to be built over Mccubbens Lane.
8 Allawah Close Bangor	30.01.2019	<ul style="list-style-type: none"> • Overdevelopment • Infrastructure- roads and rail
22 Gailes Street	18.01.2019	<ul style="list-style-type: none"> • Overdevelopment

6.0 MAJOR ISSUES ARISING FROM SUBMISSIONS

The main issues identified in the submissions are as follows:

Issue 1: Noise from pub affecting future residents

The owners of Boyles Hotel raised concern that future residents of the development may be affected by the existing pub operation including mechanical ventilation fans on the roof, early deliveries of steel kegs, musical entertainment, and patrons arriving and leaving the hotel. The pub currently has no issues with noise complaints and wish for this to continue.

Comment: The current legislative framework (most relevantly the Protection of the Environment and Operations Act 1997) primarily burdens the source of environmental noise, in this case the pub, with the responsibility of ensuring surrounding properties are not unreasonably affected by noise, rather than the noise receiver (the development). The Liquor Licence and Development Application conditions for the Pub also contain restrictions with the aim of managing amenity impacts such as hours and operation and waste management. The parameters contained in the existing legislation and approvals specific to the site are capable of reasonably managing amenity for future residents. A condition of consent is proposed to manage noise impacts from the ground and first floor commercial premises to ensure noise impacts on residents from noise from within the development itself are minimised.

Issue 2: Traffic

The majority of residents raised concern about the inadequacies of the existing road network to cater for the expected increase in traffic. Both objection to and support for access off McCubbens lane was indicated.

Comment: Council initially raised concern that the vehicular entrance point proposed under the original design (off McCubbens Lane) would result in unacceptable impacts on traffic, particularly queue lengths on the Old Princes Highway. Amended plans were submitted in response to these concerns, which propose a second vehicular access point from Boyle St. The modified design is acceptable.

Issue 3: Parking

The loss of on-street parking, including the existing disabled parking space on Eton St, was raised as an item of concern by one objector. Maintenance of existing parking spaces and loading throughout construction phase was requested.

Comment: The proposal does not necessitate the removal of on-street parking spaces on Eton Street. The two driveways that will require modification to the existing road design are proposed on McCubbens Lane and Boyle Street. Neither of these locations contain off-street parking (both frontages are no stopping zones). The development provides the correct volume of parking for the commercial and residential development required under SSDCP2015, and is deemed acceptable with regard to parking provision. Any impact on carparking during the construction phase will be managed by Council to minimise disruption and ensure community safety.

Issue 4: Overdevelopment

Multiple objectors raised concern that the local area (in general) is being overdeveloped and local infrastructure and rail network does not have the capacity for the additional residents.

Comment : The development is consistent with the core development standards and zone objectives contained in SSLEP2015, and therefore the height, bulk, and scale could be considered to be what would reasonably be expected on the site. The delivery of rail infrastructure is not within the power or control of local government, and is outside the scope of the subject application.

Issue 5: Lack of Affordable Housing

One objector raised concern that the development does not include any affordable housing.

Comment: There is no legislative obligation for the developer to provide affordable housing on the site, as part of this Development Application.

Issue 6: Design

One objector recommended that the design be modified to accommodate the land currently occupied by McCubbens Lane, for a better design outcome.

Comment: The development site comprises all sites required under the site specific amalgamation requirements contained in SSDCP2015. The design of the proposal has undergone rigorous assessment by the DRF, and Council, guided by the provisions of the ADG, and the final design is acceptable.

Information Session

An Information Session was held on 12 February 2019 and 3 people attended.

Revised Plans

The applicant lodged revised plans on multiple occasions including, 26 August, 17 September and 1 & 21 October 2019. In accordance with the requirements of SSDCP2015 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. Notwithstanding, Council notified parties that originally objected to the development (by email) that amended plans had been submitted, and no additional objections were received.

Submission Review Panel (SRP)

The submissions received were discussed with the Team Leader and given the nature of the issues raised it was decided that referral to Council's SRP was not required.

7.0 STATUTORY CONSIDERATIONS

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

The following Environmental Planning Instruments (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 No. 65 – Design Quality of Residential Flat Development (SEPP 65).
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.
- State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP).
- Sutherland Shire Local Environmental Plan 2015 (SSLEP 2015).
- Sutherland Shire Development Control Plan 2015 (SSDCP 2015).
- Apartment Design Guide (ADG)

Section 7.11 (Previously S94)

- Section 7.11 2016 Contribution Plan – Sutherland/Kirrawee Centre Precinct.

8.0 COMPLIANCE

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

State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55) requires Council to consider whether the land subject to the development proposal is contaminated; and if the site is contaminated, Council must be satisfied that the site is suitable or can be made suitable (i.e. following remediation) for the proposed land use.

The subject property is listed in Council's Contaminated Land Register as being 'potentially contaminated land' due to its (previous and current) use as a paint wholesaler and the underground fuel tank infrastructure which currently exists on the site. Council's records do not contain any information regarding the decommissioning of underground fuel tanks at the property.

A Stage 2 Environmental Site Assessment & Remediation Action Plan (JK Environments, September 2019) has been undertaken in addition to a Preliminary Site Investigation (STS Environmental, September 2018), which was lodged with the Development Application. The Stage 2 assessment identified imported fill, fuel storage- including at least two suspected underground storage tanks (USTs), use of pesticides; hazardous building materials and off site potential sources of contamination at the site. Overall, significant widespread contamination was not identified.

The Remedial Action Plan has been prepared on the basis of the above information, and the remediation strategy suggests the removal of the USTs and associated infrastructure, and excavation and off-site disposal of the fill is the most appropriate strategy for the remediation of the site.

Though the submitted contamination assessment was deemed sufficient in addressing the legislative requirements of SEPP55 (at DA stage), some shortfalls in the criteria used in the assessment of the soil and groundwater contamination were identified, and a revised remedial action plan is required to be prepared.

The site can be made suitable for the proposed development provided the (revised) Remediation Action Plan is implemented. A site validation report is to be prepared on completion of remediation activities and submitted to the consent authority to demonstrate that the site is suitable for the proposed development.

The site can be made suitable for the proposed development in accordance with requirements of SEPP 55.

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

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

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

State Environmental Planning Policy (State and Regional Development) 2011 identifies State and Regionally Significant development in NSW. Schedule 7 of the SEPP identifies this application as regionally significant development as it has a capital investment of more than \$30 million. As such, the application is referred to the South Sydney Planning Panel for determination.

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

State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (SEPP 65) and the accompanying Apartment Design Guide (ADG) seeks to improve the design quality of residential flat development through the application of a series of 9 design principles. The proposal is affected by SEPP 65. Sutherland Shire Council engages its Design Review Forum (DRF) to guide the refinement of development to ensure design quality is achieved in accordance with SEPP 65. The Panels comments are provided at Appendix C to this report, and the applicant has taken these comments into consideration in the development of the design.

In the context of the SEPP65 considerations, the proposal has been developed in a competent manner, providing a high quality aesthetic and a composition of built form that appropriately responds to the desired future character of the Sutherland Centre.

A detailed assessment of the proposal having regard to the design quality principles of SEPP 65 is set out in Appendix D to this report.

9.1. Apartment Design Guide (ADG)

The applicable design guidelines for the proposed development are contained within the ADG, and are based on the 9 design quality principles set out in SEPP 65. The ADG illustrates good practice and these guidelines are largely replicated in Council's DCP. The proposal is generally compliant with the recommendations contained in the ADG, with the exception of some separation distances within the development, common open space volume and deep soil landscaping provision.

The variations to building separation proposed between the two towers are supported on the basis that the amenity within the apartments is acceptable. Some minor changes to the interface between units 205 and

204 have been recommended to improve privacy to these units. The deficient volume of common open space and deep soil landscaping is supported given the context of the site within a town centre, where public open space is abundant and freely available, and deep soil landscaping would conflict with the provision of active street frontages. These variations are discussed in further detail in Section 11.3, 11.4 & 11.5 of this report table. A compliance checklist against the ADG design criteria is contained at Appendix E.

It is noted that SSDCP2015 also establishes site planning controls such as envelopes and boundary setbacks through the “Sutherland Potential Built Form Plan”, which primarily focuses on achieving development that is an appropriate scale and context for the centre, and is considered in conjunction with the ADG requirements.

9.2. State Environmental Planning Policy (Infrastructure) 2007

The NSW Department of Planning (now the Department of Planning and Environment) published the *Development near Rail Corridors and Busy Roads- Interim Guidelines* in 2008. The Guidelines refer to Clause 87 *Impact of Rail Noise or Vibration*, of the State Environmental Planning Policy (Infrastructure) 2007 (SEPP(Infrastructure)) detailing noise criteria for residential developments affected by railway noise.

This application is identified as potentially affected by rail noise, comprising residential accommodation located 70m from the T4 Illawarra rail line and is identified on Council's Road and Rail Noise Buffer Map.

Clause 87 of SEPP(Infrastructure) requires Council to consider whether there is likely to be an adverse impact from rail noise or vibration. In this event, the building must be designed to include noise and vibration attenuation measures to minimise impacts to future occupants as per the NSW Department of Planning's - Interim Guideline.

A Rail Noise and Vibration Assessment (Day Design, 4 September 2018) has been submitted, which details an analyses of rail noise and vibration levels through the roof, walls, glazed doors and windows. Given the distance from the train line to the closest façade of the building, and the amount of the train pass-by's expected on the train line, the level of noise emission is such that no specific acoustic measures are necessary to meet the internal noise criteria to comply with the acceptable limits. The building construction is acoustically acceptable, with regard to impacts from rail noise and vibration.

9.3. 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 Council's LEP and DCP objectives and controls.

9.4. Sutherland Shire Local Environmental Plan 2015

The proposal has been assessed for compliance against Sutherland Shire Local Environmental Plan 2015. A compliance table with a summary of the applicable development standards is contained below:

Sutherland Shire Local Environmental Plan 2015			
CLAUSE	REQUIRED	PROPOSAL	COMPLIANCE
cl.4.3 Height of Building	Max 30m	Max. 29.99m (To lift overrun)	Yes
cl.4.4 Floor Space Ratio	Max 3.5:1 (6243.06m ²)	3.46:1 (6175.8m ²)	Yes

9.5. Sutherland Shire Development Control Plan 2015

The proposal has been assessed for compliance with SSDCP 2015. The development has been designed in accordance the amalgamation pattern and land dedications prescribed by SSDCP2015. The building is largely compliant with the SSDCP2015 site specific building envelope control, with the exception of the height of the north-western (20m) component, and some minor protrusions into the Eton/Boyle Street 4m street setback. These variations are discussed in further detail in Section 11.1 & 11.2 of this report.

A compliance table with a summary of the applicable development controls is contained at Appendix F.

9.6. 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 SEPP19, SEPP (Sydney Drinking Water Catchment), and GMREP2 and remove duplicate considerations across EPI's. 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 has been assessed against the provisions of SEPP 55, the outcome of which is detailed in sections 9.1, 10.6 and 11.13 of this report. The proposal is satisfactory with regard for the provisions 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:

9.1 NSW Police Force

The DA was referred to the Sutherland Shire Police Local Area Command- Crime Prevention Officer in accordance with the *Crime Risk Assessment – Police & SSC Protocol 2010*. The comments made by the Crime Prevention Officer have been taken into account in the assessment of the DA.

After conducting a Safer by Design Crime Risk Evaluation, the crime risk for the development was identified as *medium*. NSW Police has recommended treatment options for consideration in terms of improving Crime Prevention Through Environmental Design factors such as lighting, access control and way-finding. Should the application be supported, the Police recommend a condition of consent to address the above with a requirement for appropriate lighting, CCTV, and security access be installed to the development.

9.2 Design Review Forum (DRF)

The application was considered by Council's DRF on 11 April 2019, during which concerns regarding the development proposal were outlined. A copy of the DRF report is attached as Appendix C with the conclusions outlined below:

- Awning height and extent: the Panel felt that the awning height suffered from being more of a design signature than a response to the site context;
- The design of the lane: a better sense of urban retail edge should be designed that allows pedestrians to hug the perimeter of the retail façade rather than be separate from it. The panel recommended to set back the retail further than 3m (from the western boundary).
- The congested and confusing entries: it is unclear which is which from the street. The panel recommended relocating the commercial entry to the better suited Eton Street.
- Lane activation issues: improve the visual presentation to the corners of the retail component, engaging them more to Mccubbens Lane.
- DCP & ADG setbacks are to be further analysed, particularly meeting building separation requirements.
- Amenity: snorkels, and use for light and cross ventilation was not compliant with ADG.
- The projecting balcony form on Eton St should be reconsidered.

Following the DRF meeting, the applicant further developed the design and the issues raised by the DRF have been satisfactorily addressed. The awning was reduced in height, the pedestrian thorough block link was redesigned to provide increased setbacks and a better connection to the ground floor retail component, a separate commercial entry point was provided off Eton Street, building separation was addressed, the building "snorkels" were deleted, and the Eton St balcony projection was deleted. The north-western corner of the ground floor retail component (retail tenancy 04) was redesigned to provide a

5m setback to the north to accommodate potential future outdoor dining options and windows oriented to the lane are now proposed in this location to better activate the Mccubbens Lane frontage.

In the context of the SEPP 65 considerations, discussed in further detail in part 9 of this report, the proposal has been developed in a competent manner. The applicant amended the design to respond to each of the recommendations of the DRF, and overall the architectural design of the proposal is of a high quality.

9.3 Engineering

Council's Engineers have undertaken an assessment of the application with respect to traffic, the Sutherland to Cronulla Active Transport Link (SCATL) public infrastructure works, drainage, vehicular access and parking, waste storage and collection.

Queuing on the Old Princes Highway and conflicts with bicycle riders were originally raised as issues for the development, given the 10km/hour shared zone associated with the SCATL route has been constructed within the Mccubbens Lane frontage adjoining the site. The amended plans, which introduced a driveway exit point from Boyle Street have effectively resolved these issues.

The proposed vehicular access, basement manoeuvring and parking design are all acceptable having regard to the relevant Australian Standards and no objection to the design is raised subject to conditions. Further discussion regarding access to the site for waste services is provided in the "Assessment" section of this report.

The public domain works required to be undertaken by the applicant include the upgrade to the road pavement in Mccubbens lane to formally identify it as a shared zone (associated with the SCATL route) and reduce conflicts between pedestrians/cyclists and vehicles accessing the site. The application also proposes upgrades to Boyle Street, Eton Street and Mccubbens lane including, paving, seating and street tree planting. The site is located within the Sutherland Precinct carries specific requirements with respect to Public Domain upgrades for new developments under the Public Domain Design Manual (PDDM). Any works in the public domain will fall within the specific works required under a separate Road Frontage Design application, required to be lodged with Council prior to the release of the Construction Certificate. A condition of consent has been imposed detailing these requirements.

A condition of consent has been recommended to ensure the detailed design of the through block pedestrian link which will permit public access across private land, is properly defined, and developed to relate cohesively to the surrounding public land.

9.4 Environmental Science- Sustainable Transport

The proposed bicycle facilities were considered by Council's Sustainable Transport Officer. The amended plans have addressed the provision of bike parking facilities which are safe and convenient, relocating them to a more practical location on the basement 01 level. End of trip facilities (showers) have also been provided in the basement and both commercial levels to encourage the use of bicycles as a mode of transport for employees, which is of particular importance given the location of the site adjacent to the

SCATL route, and good public transport facilities. The proposal as amended is now compliant with SSDCP2015 bicycle requirements.

9.5 Environmental Science- Waste

Waste generation rates, volume and type of bins, the design of the proposed waste facilities, and method of collection were considered by Councils Waste Policy & Strategy Officer. The proposal was deemed acceptable, subject to conditions of consent specifying details of the construction of the waste storage areas including surface treatments, and the provision of minimum numbers of garbage and recycling bins.

9.6 Environmental Science- Contamination

The proposal was referred to Councils Environmental Scientist for comment on site contamination. A Stage 2 Environmental Assessment was undertaken and Remedial Action Plan (JK Environments, 16 September 2019), was prepared and was reviewed in conjunction to the previous report prepared by STS Environmental (September 2018). Though the assessment was deemed sufficient in addressing the legislative requirements of SEPP55 (at DA stage), some shortfalls in the criteria used in the assessment of the soil and groundwater contamination were identified, and a revised remedial action plan is required to be prepared.

To ensure the site is further investigated, remediated, validated and signed-off by a site auditor prior to construction, a condition of consent has been recommended to require the involvement of a NSW EPA accredited site auditor to ensure that the revised remedial action plan (to be required following the further investigation work to be undertaken after demolition) is prepared. This condition will ensure the site is made suitable for the proposed development. These conditions have been included in the recommended conditions of consent.

9.7 Landscape Architect

The proposal was considered by Councils Landscape Architect with regard to the design of the communal open space on Level 07, the pedestrian through block link, the achievement of landscape strategy described in SSDCP2015, and the proposed podium planting. The overall landscape concept was supported.

The landscape treatment for the through block link was considered as simple and easy to be repeated when the adjoining site (Boyles Hotel) is developed, at which time the full 6m lane envisaged under SSDCP2015 can be realised. The width of the through block link awning was recommended to be reduced to 2m to allow sufficient room for the tree canopy to be developed. Tree species for this space have been conditioned as part of the DA. Other minor changes to the design have been recommended to remove conflicts with the Mccubbens Lane pedestrian link, and functionality of common open spaces.

A single tree (a Privet species) exists on site. No objection is raised to its removal given this species can be removed without Council permission.

The relationship of the building to the public domain was considered. The existing street trees *Ulmus parviolia* (Chinese Elm) in Eton & Boyle St were considered to be in good health and worthy of retention.

No street trees are proposed to be removed as part of this application, and conditions of consent have been imposed requiring their retention and protection during construction works. The detailed design of planting and finishes in the Public Domain surrounding the site fall outside of the scope of the subject application, however will be considered as part of the future road frontage works application. A condition of consent has been recommended detailing the frontage works considerations, and the requirement to lodge this application prior to the release of the Construction Certificate.

9.8 Building Surveyor

Council's Building Surveyor has considered the proposal with respect to the submitted BCA report (BCA Logic, 5 September 2018). The report identifies a number of non-compliances with the BCA (deemed to satisfy provisions). These non-compliances are proposed to be addressed by way of performance solutions in lieu of modifying the design of the building. The BCA report identifies the need for a fire control centre, which has been indicated on the ground floor level of the architectural plans. The proposal was considered satisfactory, without the need for specific conditions of consent.

9.9 Environmental Health

Council's Environmental Health team has undertaken an assessment of the application in terms of internal noise levels for the proposed residential units and also with regard to the impacts of plant machinery and equipment. The submitted Rail Noise and Vibration Assessment prepared by Day Design (4 September 2018) was considered. No objections are raised subject to the imposition of suitable conditions of development consent.

9.10 Heritage Architect

Council's Heritage Architect considered the proposal in terms of its impact on three heritage items of local significance listed by SSLEP2015, being the Boyles Hotel, the former Sutherland Intermediate High School building (now part of Sutherland Primary School) and Sutherland Primary School. Impacts on the heritage items are minimal, and the proposal was supported.

9.11 Architect (Assessment Team)

Council's architect has undertaken an assessment of the application, with a particular focus on the breach in the site specific building envelope prescribed under SSDCP2015.

The advice received concluded that the building envelope control specified in SSDCP2015, was developed based upon the "gross" site area, which included the land dedications which are unable to be built upon. These areas are associated with the 2m wide strip of land required to be dedicated as a pedestrian way on the northern boundary, and the 3m wide strip of land on the western boundary required to be dedicated as a through block pedestrian link between Boyle Street and Mccubbens Lane and constitute a reduction of 704.2m² of "buildable area" for the site. The building envelope control also may not have properly considered the slope of Eton Street.

The FSR of 3.5:1 (6243.06m²) permitted under SSLEP2015 is therefore squeezed onto a dimensionally smaller “nett” site area. The consequence of this method of development control evolution is that the resultant building envelope only constitutes 7% additional volume allowance for the desired building design features, which falls short of the minimum 25-30% recommended under the ADG. The merits of the building envelope breach are discussed in detail in the “Assessment” section of this report below.

10.0 ASSESSMENT

A detailed assessment of the application has been carried out having regard to the Heads of 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 Building Height

A maximum building height of 30m applies to the site under SSLEP2015, in which the proposal fully complies. Site specific building heights are prescribed under SSDCP2015, and the building envelope plan listed for *Site 6: Amalgamated site composing lots 1A, 1-3, and 5-7 Boyle Street*, Chapter 24 SSDCP2015. A variation is proposed to the height prescribed under the DCP for the north-west component of the building.

The SSDCP2015 site specific building envelope prescribes 3 separate components with 3 different height limits which dictates the massing of the building. The below excerpt from the DCP describes these heights, for each component:



Figure 6: Reproduction from SSDCP2015, Chapter 24, Design Guidelines for the development of 1-7 Boyle Street.

Compliance with the building envelope height limits is shown in the table below:

	SSDCP2015 Site Specific Max. Height	Proposed Building Height	Complies
North- Eastern Tower	30m (8-9 storeys)	29.99m (9 storeys)	Yes
North-Western Tower	20m (5-6 storeys)	26.1 (7 storeys + COS awning)	No
Building Base	10m (2-3 storeys)	9m (2 storeys)	Yes

The 3 components are contained within the prescribed building envelope with the exception of the north-western tower exceeding the 20m height limit by 6.1m (a 30.5% variation to the DCP control). The non-compliant element relates to residential level 06, and the awning over the communal open space on level 07. An elevation of the variation (as viewed from Boyle St) is illustrated below:

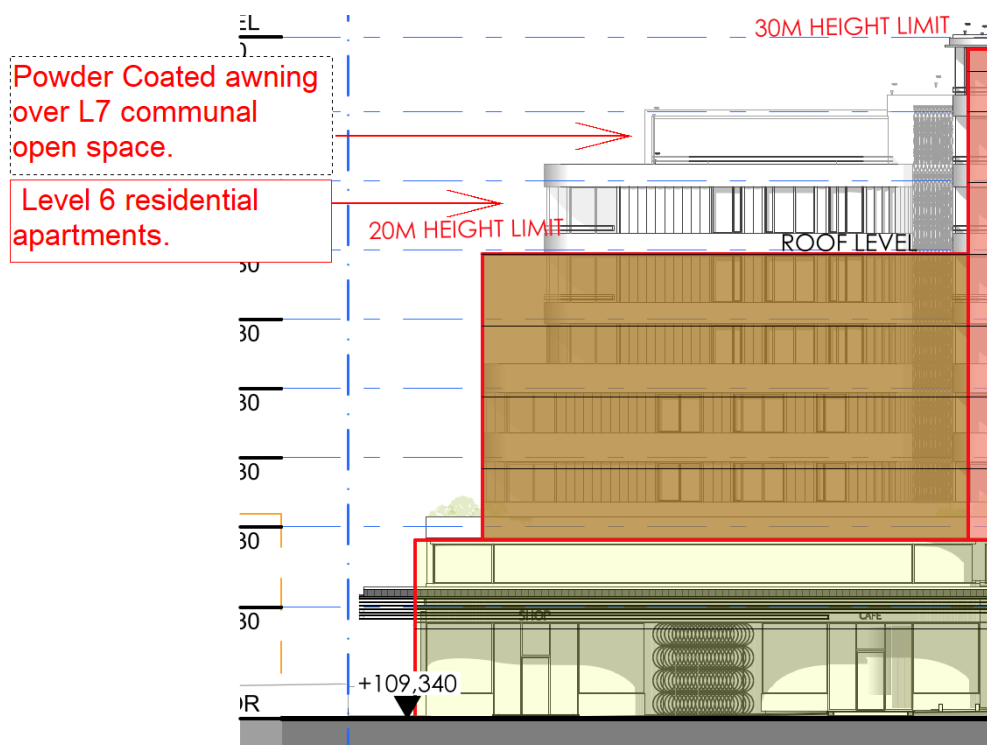


Figure 7: SSDCP2015 20m building envelope (coloured in tan) variations – South elevation (Boyle St).

As discussed in section 10.11 of this report, the building envelope was formulated based upon the subject site's gross area. The building envelope parameters do not appear to have considered the impact of the land dedications (which constitute over 700m² of the site) on the achievable yield. The DCP envelope also applies lesser setbacks than recommended under the ADG. Figure 8 below illustrates the difference between the 4m setbacks to the boundary with Mccubbens lane prescribed by the DCP envelope control (red line), in comparison with the 6m (or 9m to the centreline of the lane) recommended under the ADG:

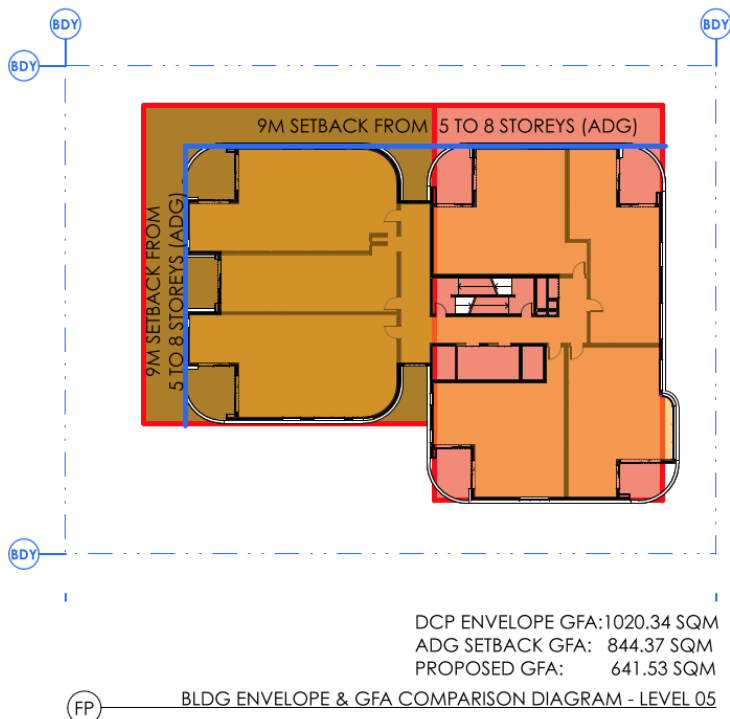


Figure 8: Building Envelope & GFA comparison diagram- Level 05. The red line indicates the DCP building envelope, the blue line indicates the setback required under the ADG.

When applying the primary development controls, including height, FSR and ADG setbacks, a compliant building cannot fit within the DCP building envelope. A unique situation has been created whereby the DCP envelope does not successfully co-ordinate the primary development controls, which is one of the key aims of a site specific building envelope.

The applicants modelling of a building envelope which would comply with the DCP and ADG setback requirements, inclusive of a 25-30% allowance for building design and articulation (as per the ADG recommendations) concluded that a maximum FSR of 3.06:1 – 3.28:1 can be achieved, which is well below the maximum 3.5:1 permitted under SSLEP2015.

SSDCP2015 (Chapter 24, CI 4.2.2) specifies the circumstances where a variation to the building envelope can be considered. CI 4.2.2 provides that the outcomes from the development must be demonstrated to be: *as successful as or better than those that would be achieved under the built form plan in relation to:*

- *The buildings compliance with SEPP65 including solar access, building separation and residential amenity.*
- *Whether the surrounding land will be able to achieve its full redevelopment potential without compromising the ability to meet SEPP 65.*
- *Whether solar access to footpaths, open space or the public domain is compromised.*
- *Whether the proposed development is as successful in terms of its transitional relationships to surrounding development, and in particular any heritage items in the vicinity of the site.*

The building is satisfactory with regard to the provisions of SEPP65, and as described in the table appended to this report, the design meets the solar access and residential amenity guidelines contained in the ADG. The building separation is also generally compliant with the ADG.

The boundary setbacks of the building are generally greater than required under the DCP building envelope. Further, the site satisfies the amalgamation plan, ensuring that future development on adjoining sites will not be unfairly burdened in trying to meet the provisions of SEPP65, and they will be capable of achieving their redevelopment potential.

When reviewing the mid-winter shadow diagrams, it is apparent that the greater shadow impact is attributed to the taller 30m tower due to its closer position to the Boyle Street frontage and the sites orientation. As illustrated in Figure 9 below, the difference between the shadow from a compliant 20m tall building and the non-compliant 26.1m tall building (which is 50% composed of an open form awning with substantial boundary setbacks) on the public domain is minimal.

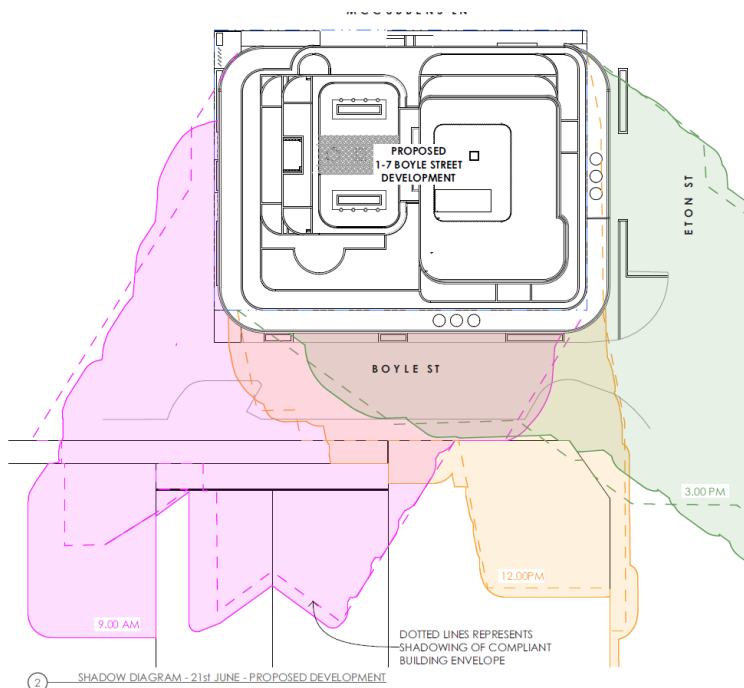


Figure 9: shadow impact comparison between compliant, and non-compliant 20m tower element.

From a visual impact perspective, the most prominent view of the site is from the western elevation (Eton Street). From this vantage point, the height breach would be difficult to perceive, given that it is associated with the lower tower element which is set behind the taller tower. From the street, it would be difficult, to see the awning structure, given that it is setback from the building edge, and it will not significantly contribute to the buildings massing.

The outcomes from the development are as successful as those that would be achieved if the development were to comply with the DCP building envelope. Regardless, it would be unreasonable to require strict compliance with a development control which is demonstrated to have not properly considered the unique site conditions, and that is compliant with the maximum height limit prescribed under SSLEP2015. The DCP building envelope variation is acceptable.

10.2 Boundary Setbacks- Eton Street and Boyle Street

Small portions of the building encroach into the 4m street setback which applies to level 2 and above at the Eton Street and Boyle Street frontages. These variations include:

- Level 2 balcony associated with unit 202, 203 and 204, which is setback 1m from Eton and Boyle St;
- A portion of corner units (203, 303, 403, 503, 603, 703 and 802) positioned at a 3m setback;
- Articulation bands provided at a 2.8/3.8m setback.

An example of these variations is illustrated at Figure 10 and 11 below:

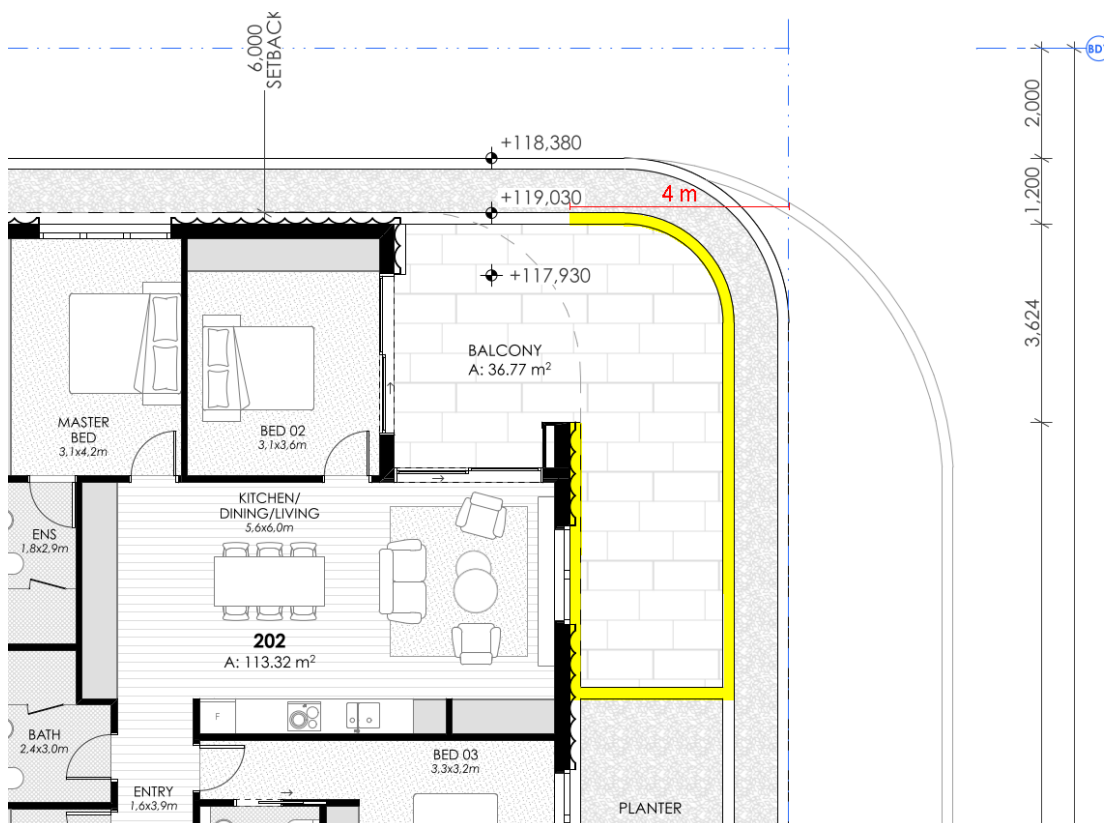


Figure 10: Level 02 variation to the 4m setback are related to the balcony space and articulation band as illustrated in yellow.

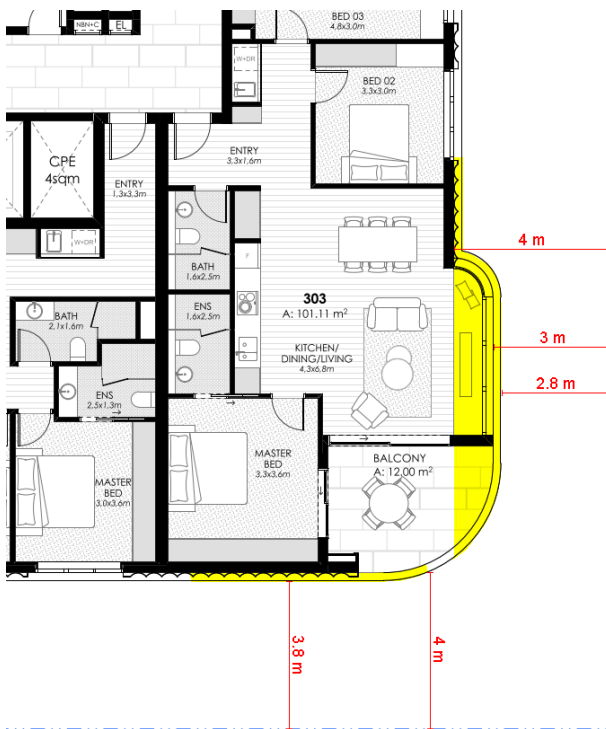


Figure 11: Boyle/Eton Street corner- Level 03: variations to the 4m setback are related to the corner treatment, and articulation band as illustrated in yellow.

The balcony protrusions into the setback are minor, and provide the benefit of increased amenity through the efficient use of the proposed concrete slab for private open space. The projections toward the Boyle/Eton Street corner create a visually interesting building through articulated elements, which address a prominent corner. The Eton/Boyle Street corner is central and a prominent feature in the locality, and the design response highlights this feature.

The proposal is consistent with the ADG and the overriding intent of the building setback control, to define the street edge and contribute to the future streetscape character. The minor protrusions into the 4m setback are acceptable.

10.3 Building Separation

The ADG requires a 6m setback be provided between apartments on the same site where a habitable room or balcony faces a blank wall. A 12m setback is required between habitable rooms/balconies. Small portions of opposing apartments within the development located at the corners of the 30m and 20m towers, do not meet the minimum building separation distances recommended by the ADG.

Opposing units: north

A 3.2m separation distance is provided between the unit 201 balcony and the blank wall associated with unit 207 which is repeated on level 3. When measuring from the closest point between the two buildings (diagonally) the separation distance reduces to 2.5m. An example of this relationship is illustrated at Figure 12 below:

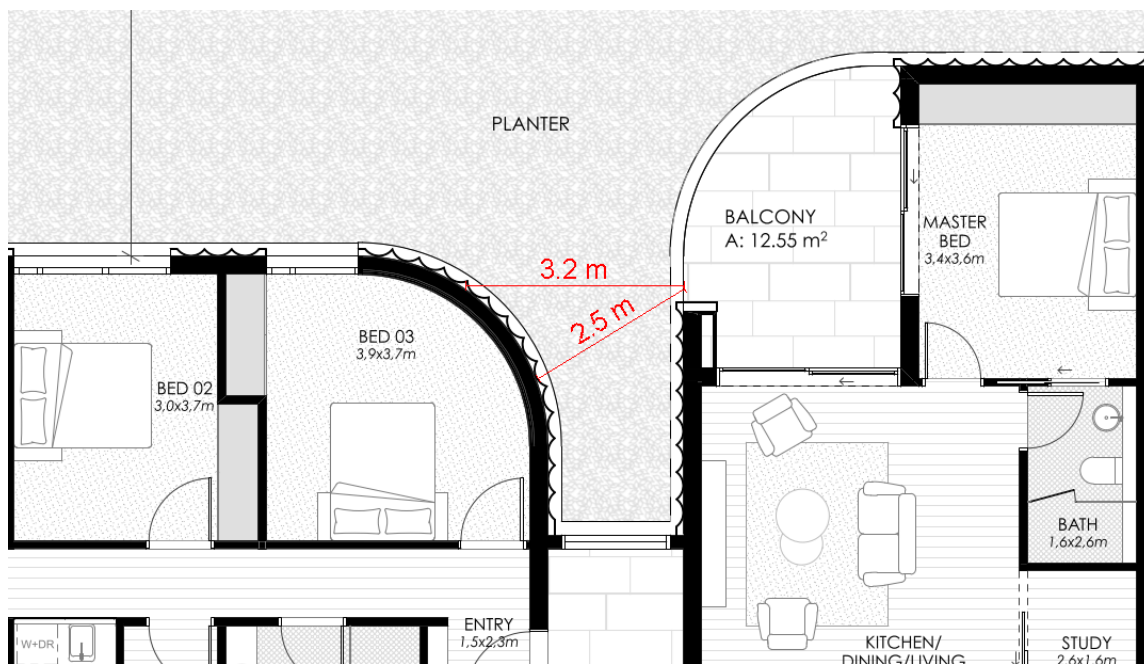


Figure 12: Relationship between blank wall of unit 207 and balcony of unit 201.

The non-compliant section affects a small 0.8m length of the balcony, before the buildings peel away from each other. Given the staggered position of the buildings, and the dual aspect of the balconies, the unit 201/207 interface, replicated on level 3, will not compromise privacy or access to light, and is acceptable.

At the same location at level 4 to level 6 the separation between the unit balconies and blank wall is a minimum of 2m. Again these balconies have dual aspects, one of which is north, which enables these units to benefit from good solar access, access to light and air and a sense of openness from the northern aspect. The deviation from the design guidelines is therefore supported.

Opposing units: south

A 2.4m separation distance is provided between one of the unit 204 living room windows and the bedroom wall of unit 205. When measuring from the closest point between the two buildings (diagonally) the separation distance reduces to 2.1m. The non-compliant element resolves when the unit 205 wall curves away from unit 204. This relationship is repeated on each level up to level 6. An illustration of this relationship is provided at Figure 13 below:

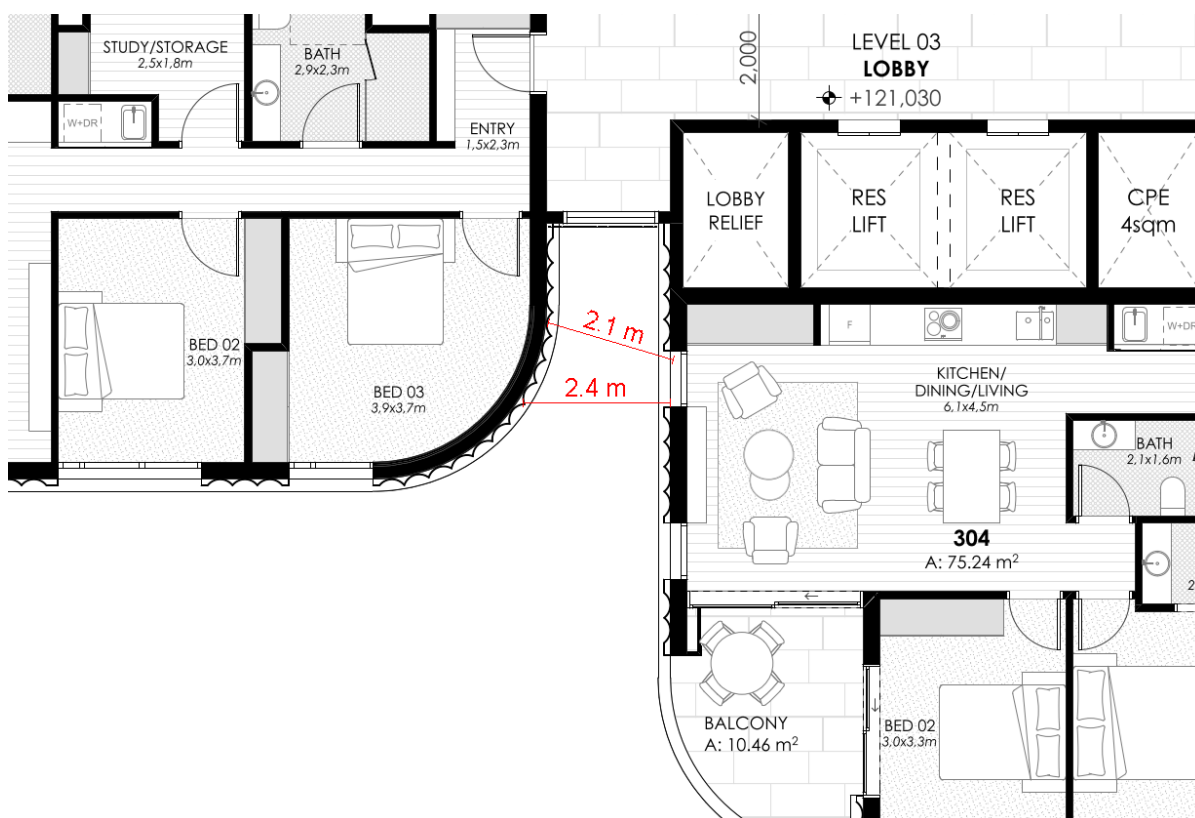


Figure 13: Relationship between unit 305(left) and unit 304(right)).

The designer has addressed the non-compliances by offsetting windows, orienting apartments in different directions, and providing additional windows to compensate living spaces with multiple sources of light from different aspects. The balconies are positioned at an oblique angle to the bedroom windows, limiting overlooking.

Unit 204 & 205 balconies

The Revision C plans have also introduced a larger balcony to service unit 205 which is 4.6m from the opposing unit 204 living room window, and the unit 204 balcony. This relationship is not replicated on the levels above. Under the above conditions, the ADG recommends a 12m separation distance. To address the deficiency, a condition of consent is recommended to delete the eastern portion of the unit 205 balcony. A privacy screen is also recommended to be attached to the western elevation of the unit 204 balcony. The changes are marked on Figure 14 below.

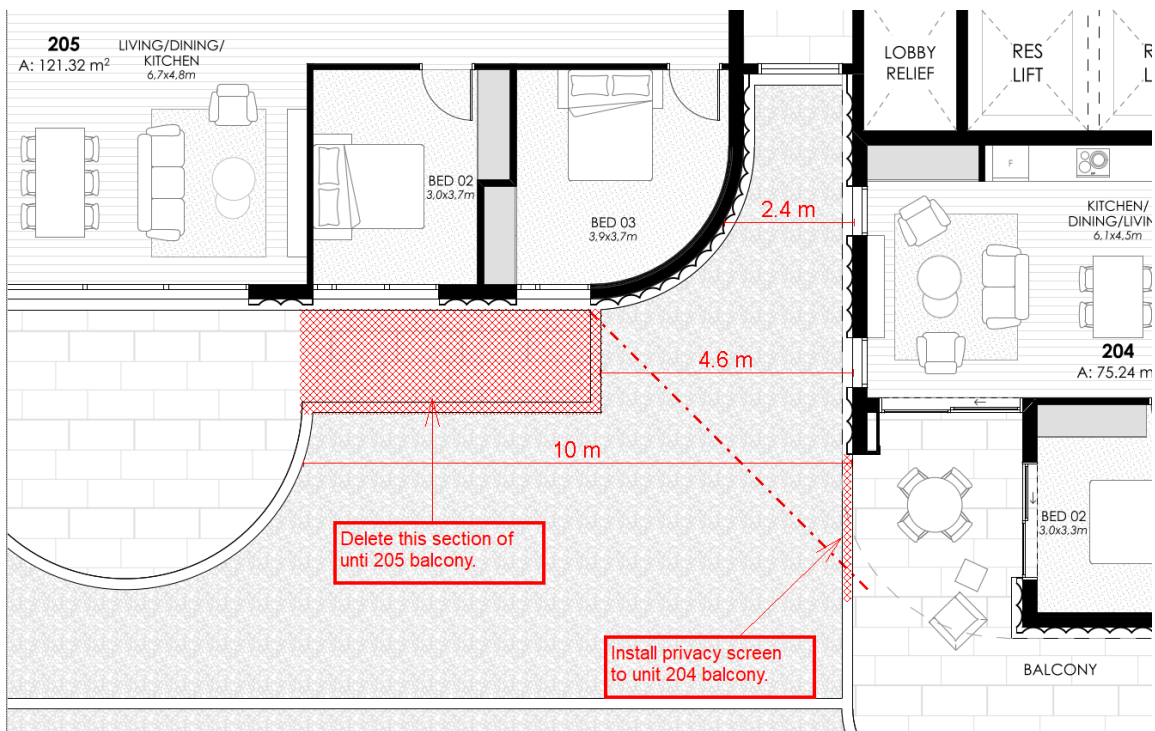


Figure 14: Relationship between unit 205(left) and unit 204(right) balconies, and recommended amendments.

Subject to the recommended design change conditions, the proposed building separation does not compromise amenity to adjoining land, or within the development itself. The variations are a result of the building being articulated into separate components, rather than for example, a literal interpretation of the building envelope control where the building could comprise long unarticulated “boxes”. The design response provides a more interesting building whilst maintaining amenity to units, despite small portions of the building not strictly complying with the ADG separation distances. Compliant apartment sizes, solar access and natural ventilation have been achieved. The proposal provides good overall amenity to each unit, and the above variations are supported.

10.4 Communal Open Space

Communal open space which has a minimum area equal to 25% of the site (445.84m²) is required under the ADG. The proposal provides a rooftop communal open space on level 7 which is equal to 15% of the site area (or 266.35m²), and as such the proposal falls short of the minimum volume recommended under the ADG by 189.49m².

In lieu of the minimum volume of common open space, a smaller, high quality space is provided in the form of a rooftop terrace on level 07. The pedestrian through block link, will also be accessible to residents, and usable by the general public. This space will supplement the rooftop terrace, providing additional landscaping, and opportunities for passive use by residents. The ADG recognises such spaces as a legitimate consideration for sites located in town centres, where it is difficult to locate common areas at ground level.

The context of the development in the Sutherland Centre, offers residents a high standard of amenity through a range of retail activities, cafes, and parks, within walking distance of the proposed dwellings.

The new retail activities proposed by the development itself, will contribute to the range of retail activities available to residents.

The proposed communal open space is consolidated into a well-designed, accessible, easily identified and usable area, which is well resourced with furniture, shade and planting. Public open spaces are located in close proximity to the site. The variation to common open space volume is supported.

10.5 Deep Soil Landscaping

The Design Guidelines contained in the ADG require the subject site to provide 7% of the site as a deep soil zone, with a minimum dimension of 6m. The proposal provides 1% and therefore does not meet the numerical requirement. The design guidance in the ADG provides that achieving the design criteria may not be possible on some sites including where:

- *the location and building typology have limited or no space for deep soil at ground level (e.g. central business district, constrained sites, high density areas, or in centres)*
- *there is 100% site coverage or non-residential uses at ground floor level*

The site is located within the Sutherland Centre, and there is 100% coverage of the site (excluding lane dedications), and non-residential uses at ground level. Provision of compliant deep soil planting in this context, would conflict with street activation with ground floor retail uses, and the provision of pedestrian access through and around the site. Deep Soil planting has been provided along the western boundary, where it can be mirrored on the adjoining site when it is developed in the future. Alternative forms of planting have also been provided on-structure, on level 2, 4, 7 and 8, which will provide good amenity to residential apartments. Acceptable stormwater management has been achieved. The proposal satisfies the exemption criteria specified under the ADG for deep soil zone provision, and is acceptable.

10.6 Vehicular Access

The application originally proposed all vehicular access from McCubbens Lane. Councils Traffic and Transport Engineers identified issues with this component of the design, citing conflicts with SCATL users, and the efficient operation of the local road network. A key issue was the traffic implications for the north bound lane as a result of queuing on the Old Princes Highway from vehicles waiting to turn right into McCubbens Lane to enter the site. The Old Princes Highway is a collector road, with one way traffic flow in each direction. McCubbens Lane is identified as a “semi active street frontage” under SSDCP2015.

To address the engineer concerns, the applicant amended the design of the ground floor and basement levels to provide a basement entry ramp for non-commercial vehicles off Boyle St. To address the impact of the ramp and associated void on the Boyle St streetscape, decorative pre-finished metal garage door panelling is proposed, to allow the ramp to present as an architectural feature, rather than a service area.

A consequence of the driveway amendment, was that the ground floor plate was able to be reconfigured and tenancy 04 oriented toward McCubbens Lane and provided with a 5m setback. The amended design provides opportunities for outdoor dining adjacent to the lane, effectively activating this part of McCubbens Lane.

While the amended design sacrifices a portion of the Boyle Street frontage (an active frontage) to a non-active use dedicated for access, on balance, the benefits it presents for lane activation, reduction in conflicts SCATL conflicts, and improvements in local traffic flows, result in an acceptable outcome.

10.7 Storage

In addition to storage in kitchens, bathrooms and bedrooms the ADG requires storage to be provided proportionally to the size of the apartment. The scheme is compliant with the minimum storage volume and design recommended under the ADG with the exception of the following:

- The storage proposed for studio units 206, 306, 406, 506 and 606 is proposed in the kitchen, and located in a position that would ordinarily be logically occupied by the kitchen pantry.
- The applicant's storage area calculations for the two bedroom units 402, 502, 602 and 702 indicate compliance, however the volume of the internal storage is only 3.5m³ and therefore deficient of the minimum 50% or 4m³ required inside each dwelling.

Adequate and well-designed internal storage is an important component of apartment design, and is particularly critical for studio apartments, where internal space is limited. A condition of consent is recommended to ensure that the minimum storage volume is provided for each unit, and that this storage is provided outside of storage in kitchen, bathroom and bedrooms.

10.8 Stratum Subdivision

A Plan of Stratum Subdivision has been submitted which illustrates the two proposed stratum lots, lot 1 as the commercial stratum lot, and lot 2 as the residential stratum lot.

Each lot has been allocated car parking consistent with the architectural plans which are compliant with the SSDCP2015 rates. Conditions of consent have been recommended to ensure easements are created as required for the shared services, vehicular access, and the pedestrian through block link. Conditions of consent have also been recommended to require any future stratum by-laws allocate bicycle parking, motorbike parking, the bin lift and the loading dock as a "shared facility". With the imposition of the recommended conditions of consent, the proposed stratum subdivision is capable of accommodating the needs of the future occupants of the site, and is acceptable.

10.9 Waste Collection

Residential waste is proposed to be collected by a private contractor from the loading dock accessed off Mccubbens Lane once a week. Residents can access the bin room through the common residential lift. Councils pre-booked clean up collection service is proposed to cater for the disposal of stored bulky waste. A commercial waste store for the commercial tenancies is proposed on the Basement 02 level. Commercial bins are proposed to be collected twice a week by a private collection vehicle on alternate days from the residential bins collection. Retail and office staff can access the bin room through the common retail/office lift.

On the day of collection the applicant proposes that the Strata Manager will organise for the transfer the garbage and recycling bins from the residential garbage bin area in the Basement level 3 and the commercial garbage room on basement level 02 to the bin collection point through the bins lift.

Both commercial and residential waste is proposed to be collected by a private MRV vehicle, which can be accommodated by the proposed loading dock. The swept path diagrams provided by McLaren Traffic Engineering demonstrate that a HRV truck will collide with the existing building awning at the intersection of Old Princess Highway & McCubbens Lane and therefore a HRV vehicle is unable to service the proposed development. Given the constraints with the lane, only entry and exit point for service vehicles, and that waste will be privately serviced, the design accommodation of an MRV (rather than the larger HRV vehicle) is acceptable.

10.10 Earthworks

The proposal includes earthworks and Clause 6.2 of SSLEP 2015 requires certain matters to be considered in deciding whether to grant consent. These matters include impacts on drainage; future development; quality and source of fill; effect on adjoining properties; destination of excavated material; likely disturbance of relics; impacts on waterways; catchments and sensitive areas and measures to mitigate impacts. The four levels associated with the basement parking and storage will require bulk excavation to depths of approximately 14m below ground level, which extends from boundary to boundary. The site is contaminated, and the basement excavation will aid in the removal of potentially contaminated soils, consistent with the Remedial Action Plan.

Conditions of consent have been recommended to ensure that a dilapidation report is prepared to assist in the resolution of any future disputes about damage to adjoining properties. The conditions also require a geotechnical report be prepared detailing constraints to be placed on excavation equipment to minimise vibration damage and loss of support to buildings in close proximity to the site. The recommendations of this report will be required to be implemented during construction works.

Following the application and compliance with the recommended conditions, the relevant matters have been considered and the application is acceptable with regard to impacts from excavation works.

10.11 Stormwater Management

Clause 6.4 requires Council to be satisfied of certain matters in relation to stormwater management prior to development consent being granted. These matters include maximising permeable surfaces; on-site stormwater retention minimising the impacts on stormwater runoff. The subject site exists as almost entirely impervious, and with little existing stormwater management infrastructure managing runoff.

Stormwater measures are identified on the engineering plans, including a 3m³ rainwater tank to be used for irrigation purposes, and a stormwater treatment device. These works will form part of the works required to be completed as part of the subject development. Conditions to this effect are included in **Appendix A**. Subject to these conditions Council is satisfied that there is sufficient certainty regarding the environmental impact of the development with regard to Stormwater Management.

10.12 Urban Design (Residential Buildings)

Clause 6.16 of SSLEP 2015 contains certain matters of consideration relating to urban design. These include the extent to which recognition has been given to the public domain in the design of the development and the extent to which high quality design and development outcomes will be attained. Clause 6.17 of SSLEP2015 requires the consent authority to consider the extent to which the design minimises adverse impacts on adjoining land, such as overshadowing and overlooking, the extent to which the streetscape will be improved, and opportunities for the provision of affordable housing.

These key matters have been given consideration and have been met as follows:

- The development enhances the public domain, providing a 2m land dedication to widen the existing (public) laneway, and allocating private land that will be accessible to the public through the provision of a through block pedestrian link.
- The development provides retail uses at the ground floor level, activating the public street at Boyle and Eton Streets, the through block link and to a lesser extent, the Mccubbens Lane frontage. Activation of these spaces will enhance the public domain, and improve passive surveillance of the streets.
- The building form, proportions and compositional strategies proposed for the development are of a high quality.
- The site features, which include 3 street frontages minimise impacts on adjoining private land. Shadows from the development are shared across public land, primarily the road reserve.
- The proposal is compliant with the recommended separation distances to adjoining land, which allows future development to be developed without the creation of privacy issues, such as overlooking.
- The proposal gentrifies the existing site with a modern building with active uses in place of older style buildings which poorly respond to the commercial context of the site, and the pedestrian environment. The development will result in a marked improvement for the streetscape and pedestrian experience.

The proposal is considered to be acceptable with regard to the urban design considerations of SSLEP2015.

10.13 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.

10.14 Heritage

Boyles Hotel, the former Sutherland Intermediate High School building (now part of Sutherland Primary School) and Sutherland Primary School (including the original building and grounds) are located in close proximity to the site and each are separately identified local heritage items of environmental significance under SSLEP2015. Each item's statement of significance is detailed within Appendix #.

SSLEP2015 requires the effect of proposed development on heritage significance to be considered before granting consent to any development with respect to a heritage item (cl.5.10). The proposal was considered in conjunction with the findings of the Heritage Impact Assessment submitted in support of the proposal (Weir Phillips, November 2018).

The proposal is located east, and adjacent to the car park of Boyles Hotel. In total 14m separates the proposed building from the hotel building. The proposal is located 36m west of the grounds of Sutherland Public School, which contains the heritage listed high school and public school buildings.

The conclusions of the Weir Phillips report are accepted. The proposed building will not interfere with the understanding of the heritage items in the vicinity as being good examples of their respective type, and the principal view corridors towards the heritage items are maintained. The contemporary design, and neutral colour palette will ensure the proposal is sympathetic to the setting of the items, particularly Boyles Hotel. The 3m setback from the western boundary provides an appropriate visual curtilage to the Hotel. The upper levels reduce in floor plate, thereby helping to reduce the perception of massing and scale.

As a result of the spatial separation, building design and massing, the proposal is deemed to have minimal impacts on the heritage items.

10.15 Contamination

The presence of USTs on the site, and the site's use as a paint wholesaler reinforces the need to ensure that the site is suitable for its intended use. As the proposal includes a 4 level basement, a large volume of potentially contaminated soil will be excavated and disposed of.

A Stage 2 Environmental Assessment has been undertaken which states that widespread contamination was not identified, but the potential for localised contamination in the vicinity of USTs was acknowledged. To address these items, the application has provided a Remediation Action Plan. A site validation report is proposed to be prepared on completion of remediation activities to demonstrate the remediation is successful. Though the contamination assessment was deemed sufficient in addressing the legislative requirements of SEPP55 (at DA stage), some shortfalls in the criteria used in the assessment of the soil and groundwater contamination were identified, and a revised remedial action plan is required to be prepared.

The (amended) RAP, and future validation of the success of the remediation, provides a level of certainty that remediation will be carried out in accordance with the relevant requirements to ensure the ongoing safety of future users, and the environment. The recommended conditions of consent also provide additional assurance that the RAP will be implemented throughout construction, and a copy of the Site

Audit Statement be provided to Council following site validation, prior to the issue of the Construction Certificate.

10.16 Archaeological Sensitivity

Council records indicate that the subject site is rated low in terms of Archaeological Sensitivity. The site is highly disturbed and a site inspection did not reveal any evidence of shell material or significant sandstone features within the development zone. The proposal does not warrant an Aboriginal Archaeological Study being undertaken.

11.0 DEVELOPMENT CONTRIBUTIONS

The proposed development will introduce additional residents to the area and as such will generate Section 7.11 Contributions in accordance with Council's adopted Section 94 Development Contribution Plan. These contributions include:

Regional Contribution:	\$191,554.30
Local Contribution:	\$568,445.70

These contributions are based upon the likelihood that this development will require or increase the demand for regional and local recreational space and infrastructure facilities within the area. It has been calculated on the basis of 42 new residential units with a concession for 4 existing allotments.

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 no declaration has been made.

13.0 CONCLUSION

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

The development has been designed in accordance with the maximum building height and FSR prescribed by SSLEP2015 and the amalgamation pattern and land dedications prescribed by SSDCP2015. The building is largely compliant with the SSDCP2015 site specific building envelope control, with the exception of the height of the north-western (20m) component, and some minor protrusions into the Eton/Boyle Street 4m street setback.

The building envelope control presents a unique scenario whereby the parameters set by the envelope do not allow the FSR on the site to be fully realised. The street setback variations are supported on the basis of improved amenity for units, with positive impacts on the street presentation. The applicant has demonstrated that the outcomes from the development are as successful as those that would be achieved if the development were to comply with the DCP building envelope, and as a result, the proposal satisfies the SSDCP2015 criteria to permit a variation to the building envelope control.

The variations to the recommended ADG building separation between the two towers are supported on the basis that the amenity within the apartments is maintained. Some minor changes to the interface between units 205 and 204 have been recommended to improve privacy to these units. The deficient volume of common open space and deep soil landscaping is supported given the context of the site within a town centre, where public open space is abundant and freely available, and deep soil landscaping would conflict with the provision of active street frontages.

Vehicles primarily access the site from McCubbens Lane, with the exception of the basement entry ramp provided off Boyle Street. The Boyle Street entry will service non-commercial vehicles (and bicycles) only. The loss of 'active frontage' in this location is offset by the benefits to the traffic flows on local network, particularly on the Old Princes Highway, and the reduction of conflicts with bicycle riders using the adjoining shared zone.

The site is located within the vicinity of a number of heritage items of local significance. The impacts on the heritage significance of these items will not be compromised by the proposed development.

The development is relatively foreign in its current context, however is consistent with the style and density of development envisaged under Councils controls, and will result in increased residential density around the railway station.

In response to public exhibition, six submissions were received. Key issues arising from the submissions were noise from the Boyles Hotel affecting future residents, traffic and parking, overdevelopment, affordable housing and building design. The matters raised in these submissions have been dealt with by design changes or conditions of consent where appropriate, and to the extent reasonable given the building is largely compliant.

The application has been assessed having regard to the Heads of Consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979. The application will not result in any significant impact on the environment or the amenity of nearby residents. Following assessment, Development Application No. DA19/0021 may be supported for the reasons outlined in this report.

RESPONSIBLE OFFICER

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