

SUTHERLAND SHIRE COUNCIL ASSESSMENT REPORT

Panel Reference	PPSSSH-10
DA Number	MA19/0303
LGA	Sutherland Shire
Proposed Development:	S4.56 modification to DA18/0323 - changes to the apartment mix, internal layouts and external facade
Street Address:	S/P 545, S/P 9336, S/P 48254, S/P 67206 – 5 to 9 Ozone Street, Cronulla
Applicant/Owner:	Ozone Cronulla Pty Ltd
Date of DA lodgement	26 September 2019
Number of Submissions:	3
Recommendation:	Approval
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	
List of all relevant s4.15(1)(a) matters	<p>i.e. any:</p> <ul style="list-style-type: none"> relevant environmental planning instruments proposed instrument that is or has been the subject of public consultation under the Act and that has been notified to the consent authority relevant development control plan relevant planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4 coastal zone management plan relevant regulations e.g. Regs 92, 93, 94, 94A, 288
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> Appendices: <ul style="list-style-type: none"> A – Draft Conditions of Consent B – SSPP Record of Deferral - 21 November 2018 C – ADG Compliance Table D – SSDCP 2015 Compliance Table E – Architectural Plans Site Maps & Site Photos
Report prepared by:	Alach M, Sutherland Shire Council
Report date	

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)?

**Yes / No / Not
Applicable**

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

Conditions

Have draft conditions been provided to the applicant for comment?

Yes

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

REPORT SUMMARY

REASON FOR THE REPORT

This report is referred to the Sydney South Planning Panel (SSPP) as the original proposal (DA18/0323) was approved by the Land and Environment Court on 2 April 2019. As this application is a Section 4.56 it is required to be determined by the SSPP as Council only has delegation for Section 4.55(1) and (1A) applications.

APPROVED PROPOSAL

The application seeks approval for modification to DA18/0323. DA18/0323 was granted approval for demolition of all existing structures and the construction of a nine storey residential apartment building containing 32 apartments on 2 April 2019. The development includes a mix of 1, 2 and 3 bedroom apartments. Three levels of basement car parking accessed from a new driveway at the south-western corner off the site off Cecil Monro Avenue, including 59 residential spaces, 1 visitor space, 1 car wash space and 2 trades/service vehicle spaces.

PROPOSED MODIFICATION

The proposed modification to the approved development involves modifying the external façade, apartment mix and internal layout to allow for an increase in the number of units from 32 to 38.

THE SITE

The subject site is located on the western side of Ozone Street, Cronulla and also has frontages to Ocean Grove Avenue and Cecil Monro Avenue. It is irregular in shape and has an area of 1,592m². The land is relatively flat. It is currently occupied by three residential apartment buildings that are each three storeys in height. The site adjoins two mixed use buildings immediately to the west at 14 and 18 Gerrale Street. The locality is characterised by residential flat buildings ranging in heights of 3 – 13 storeys. The site is at the eastern periphery of the Cronulla commercial centre.

ASSESSMENT OFFICER'S RECOMMENDATION

1.0 THAT:

- A. That Modification Application No. 19/0303 for amendments to modify the external façade, apartment mix and internal layout to allow for an increase in the number of units from 32 to 38 at S/P 545, S/P 9336, S/P 48254, S/P 67206, 5 to 9 Ozone Street, Cronulla be approved, subject to the draft conditions of consent detailed in Appendix "A" of the Report.

ASSESSMENT OFFICER'S COMMENTARY

2.0 DESCRIPTION OF PROPOSED MODIFICATION

An application has been made under the provisions of Section 4.56 of the Environmental Planning and Assessment Act, 1979 (EP&A Act) to modify the terms of Development Consent No. DA18/0323.

Council by Development Consent No. DA18/0323 issued on 2 April 2019 granted approval for demolition of existing structures and construction of a residential apartment building containing 32 apartments and 3 basement parking levels on the subject property.

The proposed modification involves amending the external façade, apartment mix and internal layout to allow for an increase in the number of units from 32 to 38 with 70 car parking spaces including the following:

Basement 3

- Reconfigure car parking and storage layout to increase car parking from 26 to 36 spaces.
- Delete garages.

Basement 2

- Reconfigure car parking and storage layout to decrease car parking from 22 to 20 car spaces and provide 2 trades/service vehicle spaces and 2 carwash bay/visitor spaces.
- Delete garages.

Basement 1

- Reconfigure car parking and storage layout increasing car parking from 14 to 16 spaces.
- Car parking to be open accept 2 garages.

Ground to Fifth Floor Levels

- Reconfigure floor layout increasing the number of units from 4 to 5.
- Increase the length and depth of the balcony at the northern end of the building.

Sixth and Seventh Floor Levels

- Reconfigure the floor layout of each unit and increase the length and depth of the balcony at the northern end of the building.

Eighth Floor Level

- Amend lobby window at the rear (western elevation) and balcony at the front (eastern elevation).

Roof Level

- Relocate the pool plant to underneath the pool deck and include an outdoor shower to each private open space.

Apartment Mix

The modification application results in the following changes to the apartment mix of the building:

Apartment Mix	Approved DA18/0323	Proposed MA19/0303
1 bedroom	3	4
2 bedroom	17	21
3 bedroom	12	13
TOTAL	32	38

External Elevations

- Modify the front façade to accommodate the additional units and modify materials and finishes.

3.0 APPROVED DEVELOPMENT

Approval was granted for demolition of all existing structures and the construction of a nine storey residential apartment building containing 32 apartments. The development includes a mix of 1, 2 and 3 bedroom apartments. Three levels of basement car parking accessed from a new driveway at the south-western corner off the site off Cecil Monro Avenue, including 59 residential spaces, 1 visitor space, 1 car wash space and 2 trade/service vehicle spaces.

The detailed development assessment report in relation to this development under Section 4.15 of the EP&A Act is attached to Development Application file No DA18/0323. At present the development is yet to be commenced.

4.0 SITE DESCRIPTION AND LOCALITY

The site is irregular in shape with a total area of 1,592m². It has a primary eastern frontage to Ozone Street of 53.42m, a northern frontage to Ocean Grove Avenue of 30.225m and a southern frontage to Cecil Monro Avenue of 24.375m. Its western boundary adjoining 14 & 18 Gerrale Street has a length of 56.38m, excluding a 3.06m return of a “dog leg” part way along the boundary. The site has a slight fall of just over 1m from its north-western corner (RL16.5) to its south-eastern corner (RL15.46). (Refer to Figures 2 and 3 for location and aerial photographs for the site.



Figure 1 – Site Location



Figure 2 – Site

The site is currently occupied by 3 detached apartment buildings. Each building is 3 storeys in height, containing car parking on the ground floor and residential apartments within the two storeys over. There are 5 trees on the site and a further 2 that straddle the street boundary of Cecil Monroe Avenue. Directly adjacent to the site on Ozone Street are ten parking spaces angled at 90 degrees to the kerb, interspersed by two large palm trees and a third smaller tree.

Adjoining the site immediately to the west are two sites with street addresses of 14 Gerrale Street and 18 Gerrale Street. The former is occupied by a 4-storey mixed use building known as “Mare Blu” containing ground floor commercial and apartments over. The latter is presently occupied by a 3 storey apartment building, known as “Angelo House” that has been subject to a DA (DA18/0349) that was refused on 1 October 2019, proposing demolition of the building and construction of a mixed use development with a height of 9 storeys plus rooftop communal open space and swimming pool.

The site is located at the eastern periphery of Cronulla Centre and is within close proximity to major public transport nodes, community facilities and public services. Cronulla railway station is a 6 minute walk from the site. The development site was “up zoned” under Sutherland Shire Local Environmental Plan 2015 (SSLEP 2015) from a maximum height of 6 storeys (i.e. about 18m) and Floor Space Ratio (FSR) of 2:1 to a maximum height of 30m and FSR of 3:1.

The site is surrounded by residential apartment buildings and mixed use developments of varying scale. “The Cecil Apartments” directly to the south at 20 Gerrale Street is the largest nearby building at 14 storeys high, with the ground floor containing the residential lobby and commercial tenancies that face Gerrale Street. Of particular note, the basement levels of The Cecil Apartments extend below the road pavement Cecil Monro Avenue up to the southern boundary of the subject site. This is because Cecil Monro Avenue was originally private land but was dedicated as public roadway upon construction of The Cecil Apartments in the late 1980s.

The waterfront residential apartment buildings to the east range in height from three to five storeys. Other notable buildings nearby are “The Belgrave” and “Breeze” on the western side of Gerrale Street to the west of the site, each being nine storeys in height with ground floor commercial uses, “Drift” apartments to the north on the opposite side of Ocean Grove Avenue, which is six storeys in height, and 1 Ocean Grove Avenue which is seven storeys high with ground floor commercial uses. Residents of these apartment buildings and The Cecil Apartments presently enjoy water views over the development site.

5.0 BACKGROUND

A history of the development proposal is as follows:

- A pre-application discussion (PAD) was held on 28 November 2017.
- The original application was considered by SSPP on 21 November 2018 and the panel agreed to defer the determination for the following reasons: (Appendix B)
 1. *The adverse impacts of the development, in particular view loss, have been addressed as per the relevant considerations in the LEP.*
 2. *The amended design addresses the comments of Council’s Design Review Forum (DRF) at their meeting on 25 October 2018. This submission is to be reconsidered by the DRF and their comments along with an updated Design verification statement be provided to the Panel.*

An amended report, including the applicant's submissions be prepared by Council is to be submitted to the Panel for their reconsideration of the application.

- An appeal was lodged with the Land and Environment Court and the development application was approved on 2 April 2019.
- The current modification application was submitted on 26 September 2019.
- The application was placed on exhibition, with the last date for public submissions being 18 November 2019. Three submissions were received.
- An information session was held on 6 November 2019.
- On 17 January 2020 the applicant was advised in writing of concerns with the application.
- On 6 February 2020 a meeting was held with the applicant and preliminary revised plans were provided on 7 February 2020.
- On 2 March, a final email was provided to the applicant advising of remaining concerns. Concerns identified included architectural matters, apartment layout, solar access, adaptable and livable units and engineering matters.
- The modification application was heard at an SSPP briefing on 19 February 2020.
- The applicant provided revised architectural plans on 20 and 27 March 2020 and 16 April 2020.

6.0 NATURE OF MODIFICATION SOUGHT

This application proposes the modification of Development Consent No. DA18/0323 pursuant to Section 4.56 of the EP&A Act. An assessment of the type of modification proposed has been carried out in accordance with the provisions of the Environmental Planning and Assessment Regulation 2000 (EP&AR 2000) and a Section 4.56 is the appropriate type of modification application.

7.0 PUBLIC PARTICIPATION

As the application involves modification under Section 4.56 of the EP&A Act, the application has been notified in accordance with the Sutherland Shire Development Control Plan 2015 (DSSDCP 2015). Two hundred and ninety six adjoining or affected owners were notified of the proposal and 3 submissions were received and raised the following issues:

Address	Date of Letter/s	Issues
20 Gerrale Street	14 November 2019	Traffic Parking Waste Collection
16 Ozone Street	26 November 2019	Excavation
3/14 Gerrale Street	1 October 2019	Noise from plant room

The issues raised in these submissions are as follows:

Issue 1: Traffic

Comment: Traffic generation is addressed in the 'Specialist comments' section of this report.

Issue 2: Parking

Comment: Parking provided with the development remains compliant with the relevant parking controls contained within Clause 17.3, Chapter 19 of SSDCP2015.

Issue 3: Waste Collection

Comment: Waste collection is addressed in the 'Specialist comments' section of this report.

Issue 4: Excavation

Comment: Conditions of consent were included on DA18/0323 requiring geo technical and dilapidation reports to be carried out prior to the commencement of works. (See conditions 'Damage to Adjoining Properties' and 'Dilapidation Report')

Issue 5: Noise from plant room

Comment: Conditions of consent were included on DA18/0323 addressing noise from residential air conditioning units and noise and vibration control from the residential car park. Another noise condition is recommended as part of this modification application addressing noise from plant and equipment use with the development.

Issue 6: Privacy

Comment: Concern was raised with regards to potential privacy impacts due to some balconies increasing in length and depth along the northern end of the building. To minimise potential overlooking impacts from the use of these balconies, a condition is recommended as part of this modification application requiring the installation of fixed aluminium privacy screens wrapping around the north western corner of these balconies.

Submission Review Panel (SRP)

As a result of the submissions received, the issues raised were discussed and it was determined that given the nature of the submissions, referral to Council's SRP was not required in this instance.

Information Session

An information session was held for the modification application on 6 November 2019 and 2 people attended the meeting. The issues raised at the session were waste management, excavation, traffic and parking and privacy impacts from the balconies at the northern end of the building. A general discussion with the residents was had relating to setbacks, zoning, views, safety and security and traffic congestion in Cronulla.

8.0 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 a residential flat building, is a permissible land use within the zone with development consent from Council.

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

- State Environmental Planning Policy (Coastal Management) 2018
- State Environmental Planning Policy (State and Regional Development) 2011
- State Environmental Planning Policy No. 55 (Remediation of Land) (SEPP 55)
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.
- 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).
- Section 7.12 Development Contribution Plan 2016 - Sutherland Shire.

9.0 COMPLIANCE

9.1 State Environmental Planning Policy (Coastal Management) 2018

State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP) seeks to balance social, economic and environmental interests by promoting a coordinated approach to coastal management consistent with the Coastal Management Act 2016. The CM SEPP applies to land within the coastal zone across NSW. All foreshore land within the Sutherland Shire is identified as being within the coastal zone, in some instances the coastal zone extends beyond waterfront properties. In addition, much of the Sutherland Shire foreshore is identified as being within the coastal environment area and the coastal use area.

Before granting development consent on any land within the coastal zone the consent authority must be satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land. Council is satisfied that the proposed residential flat building is unlikely to cause increased risk of coastal hazards on that land or other land. It is noted at this stage Council does not have any certified coastal management programs which require consideration.

The subject site is within the coastal zone and is also identified on the CM SEPP map as coastal use area. The site is about 90m from the foreshore located to the east.

Development on land within the coastal use area (clause 14)

The site is identified as being land within the “coastal use area” on the CM SEPP map. This requires the consent authority to consider certain factors and be satisfied of certain requirements before development consent is granted.

Specifically, the consent authority must consider whether the proposed development is likely to cause an adverse impact on existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability; overshadowing, wind funnelling and the loss of views from public places to foreshores; the visual amenity and scenic qualities of the coast, including coastal headlands; Aboriginal cultural heritage, practices and places, and cultural and built environment heritage.

These factors have been considered in the assessment of this application, including the bulk, scale and size of the proposed development and its impact on the surrounding coastal and built environment. The proposal is acceptable with regard to most of the above considerations including access to the foreshore and overshadowing and will have negligible impact on views from public places to the foreshore. The building has generally compliant setbacks from all streets and will respect the existing character and visual qualities of the public domain. The proposal will not adversely impact the visual amenity of this coastal locality and is consistent with relevant considerations of the CM SEPP.

9.2 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.

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

SEPP 55 requires a consent authority to consider whether the land is contaminated and, if so, whether the land will be remediated before the land is used for the intended purpose.

A search of Council’s records including the contaminated land register revealed that the adjoining site to the west (14 Gerrale Street) is listed as potentially contaminated due to the former use of that site as a service station between approximately 1955 and 1996. Council’s Environmental Scientist reviewed the initial contaminated land documentation submitted with the DA and requested a supplementary “review” from the applicant’s environmental consultants.

Based on the review of all information submitted and a review of Council’s historical files regarding adjoining previous land uses, Council’s Environmental Scientist concluded that the site is suitable for the proposed residential use. Suitable conditions of consent were applied as a “precautionary” approach, to address the unlikely scenario that unexpected soil contamination is detected during waste classification works or as identified by the unexpected finds protocol during construction.

9.4 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. An amended BASIX Certificate has been submitted with the amended proposal. The proposal generally achieves the minimum performance levels / targets associated with water, energy and thermal efficiency. State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development – Design Quality Principles

9.5 State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (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 subject to assessment under the provision of the SEPP.

9.6 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 Council's DCP. A table with a compliance checklist of the against the ADG design criteria is contained **Appendix "C"** to this report.

9.7 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:

Standard/Control	Required	Proposed	Complies? (% Variation)
Sutherland Shire Local Environmental Plan 2015			
Building Height (Clause 4.3)	30m	30m	Yes
Floor Space Ratio (Clause 4.4)	3:1 (4,776m ²)	3.0:1 (4,771.7m ²)	Yes

9.8 Sutherland Shire Development Control Plan 2015

The proposal has been assessed for compliance with SSDCP2015. A compliance table with a summary of the applicable development controls is contained in **Appendix "D"**.

10.0 SPECIALIST COMMENTS

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

Architect

Council's Architect considered the modification application and raised the following concerns with the application:

'The additional information does not provide comfort that an introduction of strong vertical articulation is better than the original design of a more considered proportionality of the façade into smaller visually 'digestible' parts is appropriate. This strong vertical articulation gives more emphasis to the building's height which in conjunction with its broad 'across the block building form' creating an even more dominant development. In this regard, the response is not convincing and the previous concerns regarding the overall aesthetic as well as the internal amenity impacts remain unresolved.

To identify some of the shortcomings of the proposed revised design, the following more detailed matters are a few of the obvious areas where the higher quality of the original approved development has been reduced:

- The introduced curved entry indentation taken to the full height of the building not only emphasises the building height but also compromises the amenity of the units over through narrowed balcony areas.*
- The reduction of the green wall presentation around the northern corner of the entry in conjunction with the straightening of the entry's side walls greatly reduces its original 'welcoming' nature as well as putting the adjoining northern ground floor unit's private spaces closer to the more active / noisier part of the development. It is also noted that the original opening width of approximately 4.0m would be narrowed to 2.5m.*
- The redesigned lobby space that removes the second set of entry doors and front sliding door address significantly reduces the ambiance quality of the original design.*
- The relocation of the open plan Kitchen, Living / Dining spaces for the central Units from the southern side of the unit to the northern diminishes solar access to those spaces.*
- The lack in the quality within the choice of materials and finishes and the revised window proportions as proposed by the revised design loses an important aspect that provided the original design's visual interest vigour.*
- The removal of the ground floor fences will greatly affect the security of those Units. Unit G03 will be most affected with no ability to create any defence to the direct open aspect to the main entry.*

Revised plans were received showing the curved entry indentation at the front of the building deleted, the green wall on the ground floor relocated to the southern side of the entry, a second set of doors added to the entry, solar diagrams demonstrating the stack of units G03 – 503 will receive 2 hours of solar access and including a planter bed adjacent to the living and private open space area of unit G03.

Council's Architect considered the revisions made to the proposal and does not support the proposed scheme as *'The consequences of the proposed revisions achieves more units and a lesser quality of external materials and finishes resulting in poorer internal and external amenity and a more visually dominant building form.'* Therefore, to improve the aesthetics of the building, the following condition is recommended by Council Architect to provide a softer more residential appearance in the context of the centre.

- The ground floor level (base of the building) is to be finished in sandstone cladding.

Development Engineer

Council's Engineer considered the revised plans addressing parking dimensions, garages to be retained and allocation of spaces to dwellings. No significant concerns were raised, subject to conditions of consent.

Waste Management Officer

Council's Waste Management Officer considered the modification application. No significant concerns were raised, subject to a condition requiring a waste carousel and compactor prohibit access by residents is provided with the development.

Building Surveyor

Council's building surveyor considered the modification application and advised that there are departures with regards to the fire hydrant booster (E1.3 of BCA) and Sprinklers (E1.5 of BCA) that will rely on performance solutions. The resolution of these items is required prior to the issue of a construction certificate.

Traffic

Council's traffic engineer considered the modification application and no significant concerns were raised with regards to traffic generation and increase in number of units.

11.0 ASSESSMENT

A detailed assessment of the application has been carried out having regard to the matters for consideration under Section 4.56 of the EP&A Act. The following matters are considered important to this application.

11.1 Solar Access

The apartment design guide (ADG) recommends that living room and private open spaces of at least 70% of apartments in a building should receive a minimum of 2 hours of direct sunlight between 9am and 3pm at mid-winter.

The modified design does not comply with the ADG, resulting in 22 out of 38 apartments (57%) receiving 2 hours of solar access to both their living and private open space areas. A further 3 of 38 apartments achieving compliant solar access to their private open spaces only, which equates to a total of 65% of units (a shortfall of 2 units). It is acknowledged, however, that a further 5 of the remaining apartments achieve compliant solar access to their second living areas, which equates to a total of 71% of all units.

Spaces	Units	Total
Living and Private Open Space	G03, G04, G05, 103, 104, 105, 203, 204, 205, 303, 304, 305, 403, 404, 405, 503, 504, 505, 603, 701, 703, 802	22
Living Only (relying on secondary space (family room))	201, 301, 401, 501, 601	5
Private Open Space Only	602, 702, 801	3

Notwithstanding the non-compliance with solar access, the design guidelines for solar access encourages buildings to be designed *maximising a northerly aspect* and *minimise the number of single south aspect apartments*. In addition, the ADG states that *where significant views are oriented away from the desired aspect for direct sunlight* achieving compliant solar access may not be possible. In this case, the design includes 14 apartments with a northerly aspect, 15 apartments with an easterly aspect and 9 apartments with a south easterly aspect.

Oriented:	Units	Total
North	G04, G05, 104, 105, 204, 205, 304, 305, 405, 504, 505, 603, 703, 802	14
East	G02, G03, 102, 103, 202, 203, 302, 303, 402, 403, 404, 502, 503, 602, 702	15
South Easterly	G01, 101, 201, 301, 401, 501, 601, 701, 801	9

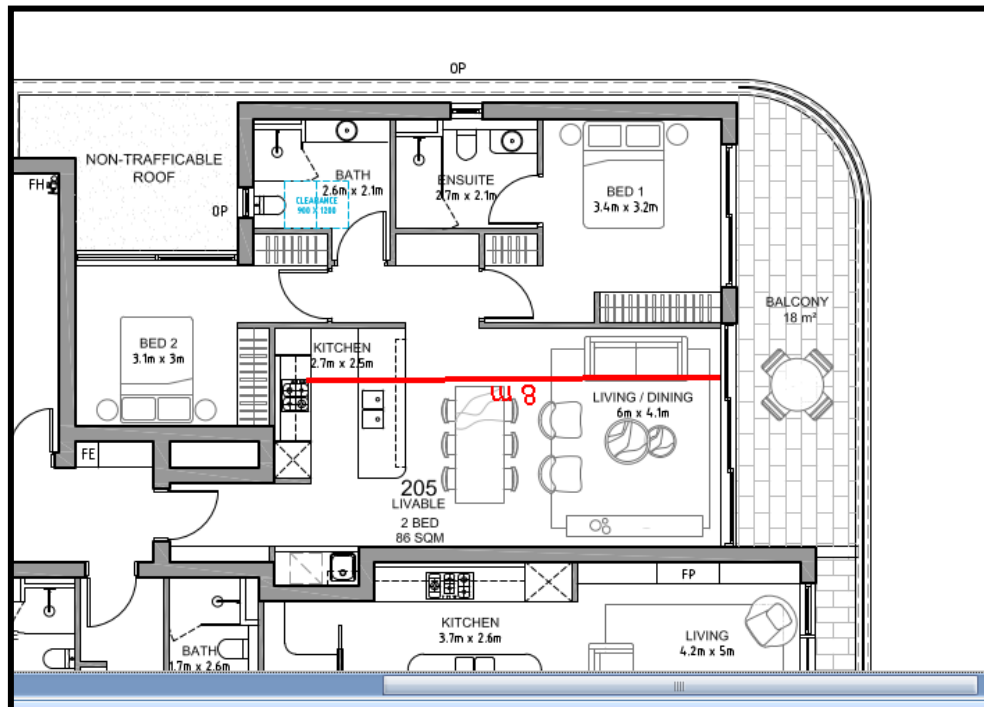
The building has been designed with units taking advantage of either a northerly or easterly aspect, resulting in only 9 units with a south easterly aspect. In addition, five of the south easterly aspect units have a second living area at the rear with a north facing window that will receive 2 hours of solar access.

While 5 units will not receive 2 hours of solar access to their private open space due to the site configuration, there will be two common open space areas available on the site. One located in the front north eastern corner and a second at the rear on the western side of the site. Both these spaces will receive adequate solar access providing residents with options to utilise during winter.

In this case, given the sites orientation and that most units will have either a northerly or easterly aspect, the proposal is acceptable.

11.2 Apartment Layout

The design criteria within the ADG recommends that open plan layouts (where the living, dining and kitchen areas are combined) the maximum habitable room depth is 8m from a window. The combined open plan layout of units 105, 205 and 305 are proposed with a length of 8.5m, exceeding the maximum room depth recommended. These units have been designed with open plan layouts facing north, with 2.7m ceiling heights and kitchens located at the rear. This results in the refrigerator, stove top and cabinetry of the kitchen located furthest away from the window.



Measurement indicating a depth of 8m measured from the sliding door of the unit.

In this case, given the orientation of the units and extent of glazing proposed to the room, the non compliant room depth is considered to be minor and will unlikely result in significant adverse impacts on the amenity of the units.

11.3 Streetscape

The modifications include revising the façade, apartment mix, finishes and materials and internal layout to accommodate 6 additional units. These changes retain the approved building footprint including the curvature of the eastern elevation and defensive rear western elevation of the building.

A new front fence is proposed on the boundary and is to be finished in sandstone cladding. To allow the new landscaping within the front setback to relate and fit comfortably within the streetscape, the front fence is recommended to be lowered to no greater than 400mm in height when measured from natural ground level. A condition has been included reflecting this recommendation.

The revised materials are largely to the base of the building. Concerns were raised by Council's Architect that the revised materials and finishes *loses an important aspect that provided the original design's visual interest vigour*. To ensure the building is completed with high quality finishes and materials, the following condition is recommended:

- The ground floor level (base of the building) is to be finished in sandstone cladding.

The changes to the finishes of the building will assist in breaking up the bulk and scale of the building form when viewed from surrounding properties and within the streetscape. This is consistent with the materials and finishes approved under the court approval. This together with new landscaping provided with the development will soften the buildings appearance and allow the development to fit comfortably within the streetscape.

11.4 Residential Amenity

Building design must take into consideration the amenity of units including internal layout, privacy, solar access and overlooking impacts on surrounding properties. The revisions result in internal layout changes and the balconies at the northern end of the building increased in length and depth.

Internal layout

The revised layout of unit G03 results in the private open space of this unit located within close vicinity to the front entrance of the building. The use of this entrance may result in potential privacy and amenity impacts to future residents. Therefore, to alleviate potential impacts, the internal layout has been reconfigured resulting in the private open space area of this unit setback from the entrance of the building.

External Balconies

The balconies at the northern end of the building have been increased in depth and length, extending across the unit up to the north western corner of the building. To alleviate potential overlooking impacts onto adjoining properties from the use of these balconies, a condition is recommended requiring the installation of fixed aluminium privacy screens wrapping around the north western corner of the balconies.

The revisions proposed to the approved development are acceptable and will unlikely result in significant adverse amenity impacts on surrounding properties.

11.5 View Loss

The modified layout results in a very similar building footprint to that of the approved building. However, the modifications to the façade still retain view lines that were preserved with the original approval, in particular, when viewed from the building to the south (Cecil apartments). See below:



The view loss diagram above shows the approved façade layout in red and the amended façade in black.

From the information provided, the changes to the façade are minor and are unlikely to have any significant impacts on view lines retained by the original approval.

12.0 DEVELOPER CONTRIBUTIONS

Section 7.11 / 7.12 contributions were levied on the original DA19/0303. The proposed modification will increase the demand for public facilities and therefore the Section 7.11 / 7.12 contributions have been recalculated as follows:

The contribution has been assessed in accordance with the Sutherland Shire 2016 S94 Contribution Plan on the basis of 38 proposed residential flat units, apartments etc with a concession for 10 existing residential flat units, apartments.

Infrastructure & Facilities

Local open space and public domain works
Regional open space

Contribution Required

\$434,401.10
\$125,598.90

13.0 DECLARATIONS OF AFFILIATION, GIFTS AND POLITICAL DONATIONS

Section 10.4 of the EP&A Act 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.

14.0 CONCLUSION

The subject land is located within Zone *B3 Commercial Core* pursuant to the provisions of SSLEP 2015. The proposed development, being a residential flat building, is a permissible land use within the zone with development consent.

In response to public exhibition, 3 submissions were received. The matters raised in these submissions have been dealt with by design changes or conditions of consent where appropriate.

The proposed modification represents a similar building footprint including curvature of the eastern elevation and retaining the defensive rear western façade approved by the Land and Environment Court. The internal changes and minor modifications to the stepped façade will unlikely result in adverse impacts on surrounding properties and view lines retained with the approved scheme. In this case, the modifications result in a building form that presents very similar to the original scheme and will unlikely result in significant visual impacts, in terms of bulk and scale when viewed from surrounding properties and the streetscape.

This application satisfies the requirement that the development to which the consent as modified relates will remain substantially the same development as that originally granted consent.

The application has been assessed having regard to the matters for consideration under Section 4.15 of the EP&A Act, together with the provisions of SSLEP2015 and all relevant Council DCPs, Codes and Policies. Following detailed assessment it is considered that the modification application No MA19/0303 can be supported.

RESPONSIBLE OFFICER

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