

## ADDENDUM ASSESSMENT REPORT

<b>Panel Reference</b>	<b>PPSSSH-42</b>
<b>DA Number</b>	<b>DA20/0737</b>
<b>LGA</b>	<b>Sutherland Shire Council</b>
<b>Proposed Development</b>	<b>Construction of a new mixed use development consisting of 37 seniors living units and commercial tenancies</b>
<b>Street Address</b>	<b>37 Gerrale Street, Cronulla</b>

### 1.0 REASON FOR THE REPORT

On 25 March 2021, the matter of PPSSSH-42-SUTHERLAND-DA20/0737 at 37 Gerrale Street, Cronulla was heard at a public meeting held by Teleconference.

On 26 March 2021, the panel agreed to defer the determination of the matter to resolve the outstanding design issues outlined below until the required information is provided by the applicant:

- Habitable floor space not to exceed the maximum height limit. Options may include removal of habitable floor space (rooftop pavilion or a level) or a redesign of a partial level to accommodate the enclosed communal facilities to achieve a satisfactory outcome that minimises impacts on the surrounding context.*
- Unenclosed waste area at ground level needs to be enclosed to meet functional requirements and meet amenity standards and demonstrate compliance with the floor space standard across the development.*

*This information is to be provided within 4 weeks to the satisfaction of Council. If the information is not received within this timeframe the Panel will determine the application on the material already provided. Any new information will be subject to a new assessment report by council.*

*When this information has been received, the panel will determine the matter electronically.*

### 2.0 THE SITE AND PROPOSAL

The site is located on a corner with street frontages to Gerrale Street, Surf Road and Surf Lane. The site is relatively flat and has a site area of 1,746.93m<sup>2</sup>. Development that exists on the site includes 2 older style residential flat buildings, which are both 3 storeys in height. The apartment buildings are orientated to Gerrale Street with detached garages situated at the rear with access via Surf Lane.

The proposal is for the construction of a mixed use development comprising the following:

- Two levels of basement car parking comprising 44 residential car spaces and 11 commercial car spaces as well as bicycle parking; services; storage; and residential waste storage. Vehicle access to the development is proposed via the northern end of the site from Surf Lane;

- Ground level – containing 4 commercial tenancies, residents lounge and cinema area, waste management loading and collection area, toilets and other plant/services areas;
- At the upper levels – 37 seniors housing apartments comprising a mix of apartment size and types, namely 24 x 2 bedroom units and 13 x 3 bedroom units as well as a communal outdoor area at Level 1;
- A communal roof top terrace with pavilion, pool and building services; and
- Lane widening in Surf Lane as per the SSDCP2015.

### **3.0 APPLICANT'S RESPONSE TO THE MATTERS**

The Panels Record of Deferral required the applicant provide the required information within 4 weeks (being 23 April 2021) of the Panel's recommendation to the satisfaction of Council. A meeting was held with the Applicant on 12 April 2021 to discuss the revisions required to satisfy the Panels deferral. A series of preliminary sketches and elevations were received on 13 April, 14 April and 15 April 2021 via email. A response to the information was sent to the applicant on 23 April 2021, 4 weeks after the Panels deferral, outlining some of the matters which were required to be addressed to council's satisfaction. The applicant was given until 3 May 2021 to provide the final set of plans to address these matters. The applicant provided the final copy of amended plans on 3 May 2021 after the Panel confirmed that this would be acceptable given parties have already entered into discussions and were trying to resolve the issues of the Panel.

The applicant did not make their intentions clear with the design of the northern wall on the plans submitted between 13 April and 15 April 2021 and the wall was highlighted in red and labelled "*design of north wall pending*". An assessment of this wall was unable to be made at the time and was subsequently assessed after the lodgement of the final revised plans received on 3 May 2021.

The applicant provided the following information on 3 May 2021 to address the matters raised by the panel:

- Amended architectural plans
- Amended Design Statement
- Amended Clause 4.6 variation for building height

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

In relation to the information provided by the applicant (outlined above), adequate information has been provided to Council to enable an assessment and consideration of the amendments made to address the Panels concerns, including a written request to vary the building height development standard under Clause 4.6 of Sutherland Shire Local Environmental Plan 2015.

## 5.0 COMPLIANCE

### 5.1 Sutherland Shire Local Environmental Plan 2015

The amendments have 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	ORIGINAL PROPOSAL	AMENDMENTS	COMPLIANCE/ VARIATION
cl.4.3 Height of Building	30m	33m - Lift over run	33m - Lift over run	No -10%
		31.64m - Pavilion Roof	31.5m - Pavilion Roof	No -5%
		33m - Rooftop screening	31.5m - Rooftop plant	No -5%
		31.06m - Pool fence	31.06m - Pool fence	No -3.5%
cl.4.4 Floor Space Ratio	3:1 (5238m <sup>2</sup> )	3:1 (5238m <sup>2</sup> )	3:1 (5,238m <sup>2</sup> )	Yes

## 6.0 ASSESSMENT OF OUTSTANDING DESIGN ISSUES

A detailed assessment of the application has been carried out having regard to the matters raised by the Panel in the Record of Deferral dated 26 March 2021.

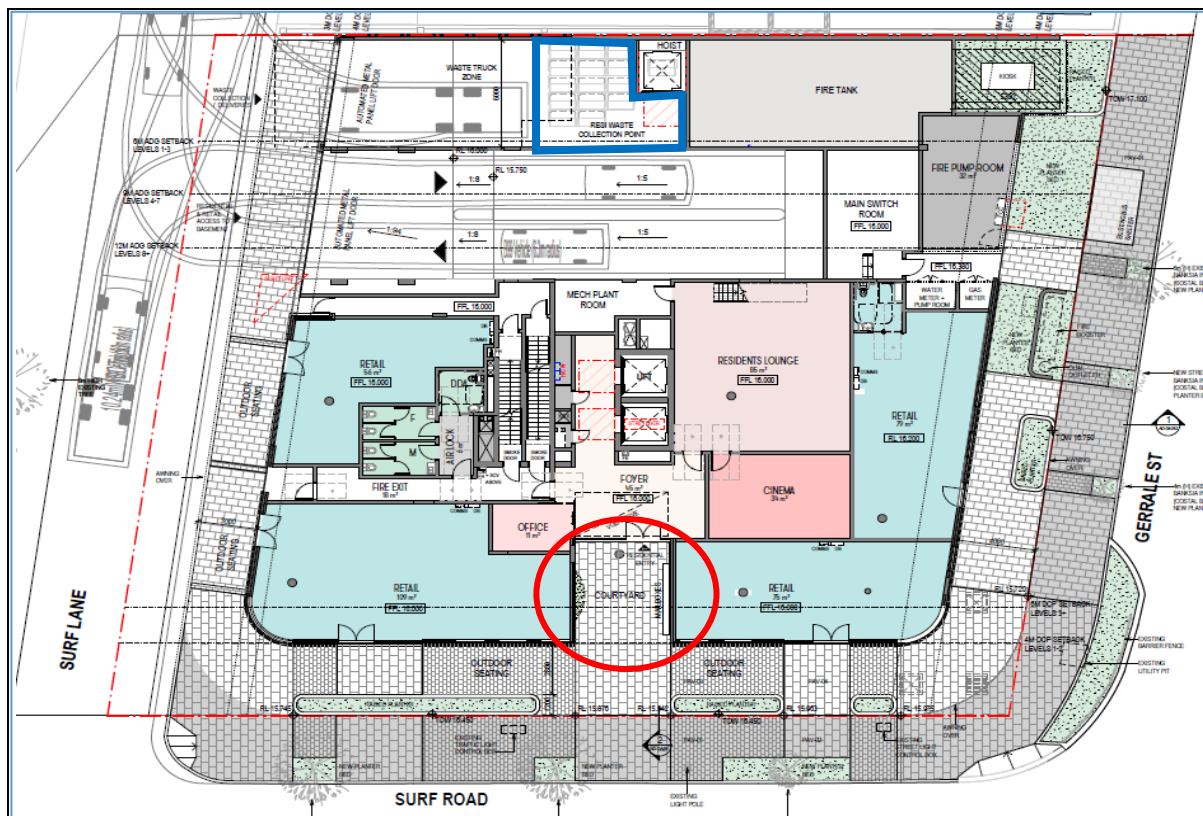
The amended plans were referred to councils Architect for comment and those comments have been incorporated into the assessment of this report.

### 6.1 Point 1 of the Panels deferral

*Habitable floor space not to exceed the maximum height limit. Options may include removal of habitable floor space (rooftop pavilion or a level) or a redesign of a partial level to accommodate the enclosed communal facilities to achieve a satisfactory outcome that minimises impacts on the surrounding context.*

#### 6.1.1 Habitable floor space

The amended plans submitted for consideration incorporate the inclusion of the area on the Ground Floor (shown outlined in blue on the plan below) for the storage of bins for waste pick up as floor space. With the removal of the ground floor entrance wall and gate (area shown circled in red on the plan below) the amended plans submitted show that the building is compliant with the overall allowable floor space albeit the roof top pavilion is still located on the roof top and is included as floor space.



**Figure 1 – changes in floor space on the ground floor**

### 6.1.2 Building Height

Amendments have been made to the roof top area and the size of the pavilion area on Level 9. The plant areas proposed on both Level 9 and the roof have been reduced by relocating and accommodating the plant room area on Level 1. The overall volume of structures above the maximum height limit which count toward habitable floor space have reduced by approximately 53m<sup>2</sup> when adding the reduction of the pavilion and removal of plant.

#### *Pavilion and plant area*

The revised plans show some habitable floor space (the pavilion) retained on the roof, which exceeds the maximum height limit by 1.5m. The pavilion is proposed to provide cover for residents when exiting/entering the lifts (shown in purple in the plan below) and to provide solar and weather protection on this level for use as a covered outdoor space for their passive use. The applicant argues that removing the pavilion:

*'would result in the removal of a necessary weather protection area and was, in our view, not feasible for the safety and wellbeing of the senior residents and that alternative solar protection could possibly be provided by large temporary umbrellas or shade cloths, however would be unpractical due to extreme wind and sea breezes. Furthermore, there is the genuine risk that this option of temporary sun protection devices could cause serious danger to passer-bys if blown away by the strong southerly ocean breezes that are experienced there. Finally, while these options could provide temporary protection from the sun, they do not provide protection from the year round elements of cold, wind and rain.'*

The applicant also considered the option of removing a level or partial level and explains that:

*'the option would remove the viability of building a retirement village in this highly sought after area by the older demographic to the detriment of the community and therefore we propose a design solution that we strongly believe "achieves a satisfactory outcome that minimises impacts on the surrounding context".'*

The revisions include reducing the height of the pavilion by 400mm, from RL48.0 to RL47.6 and its area by 40m<sup>2</sup> (from 91m<sup>2</sup> to 51m<sup>2</sup>), this is a 43% reduction from the original size proposed. This is generally in line with the DRF recommendation of setting back roof elements from the perimeter of the building. The reduction in the size of the pavilion which increases the setbacks from the northern and eastern edges of the building, together with setting back the location of the balustrades (and increasing the size of the plater beds) on Level 9 would achieve a satisfactory visual outcome from a north eastern location along Gerrale Street or the east from the Cecil Apartments or south east from Cronulla Park (Figure 2 below). This is not dissimilar to other buildings within Cronulla.

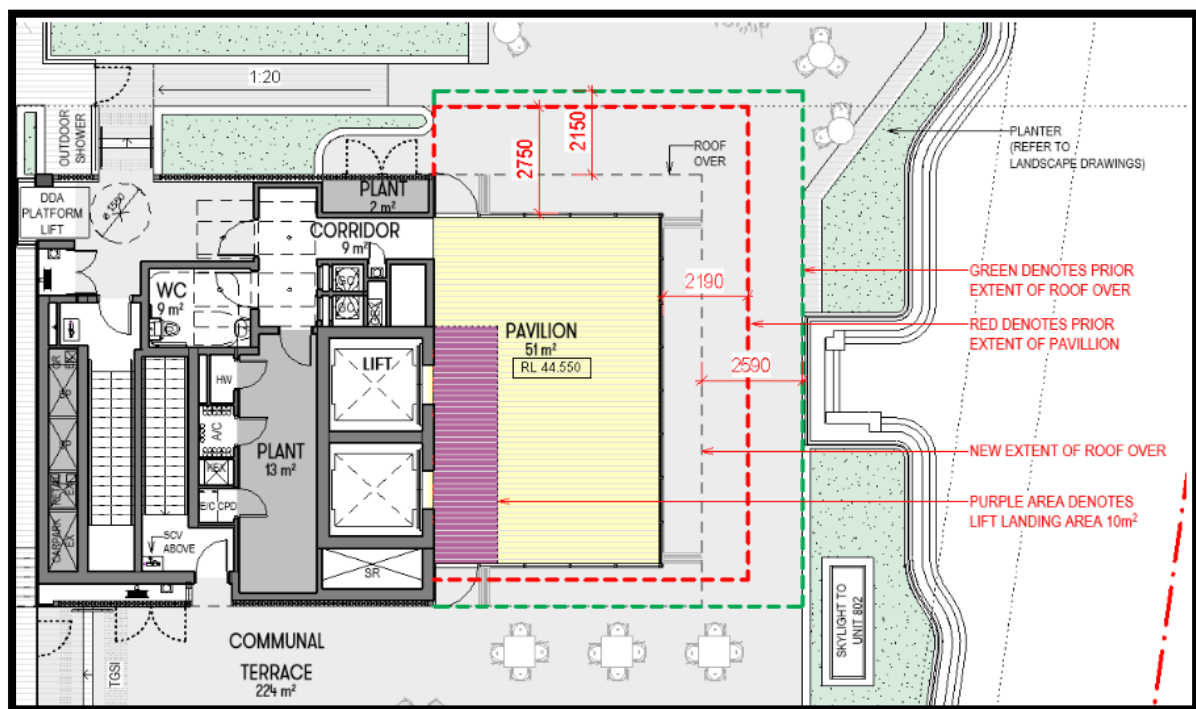
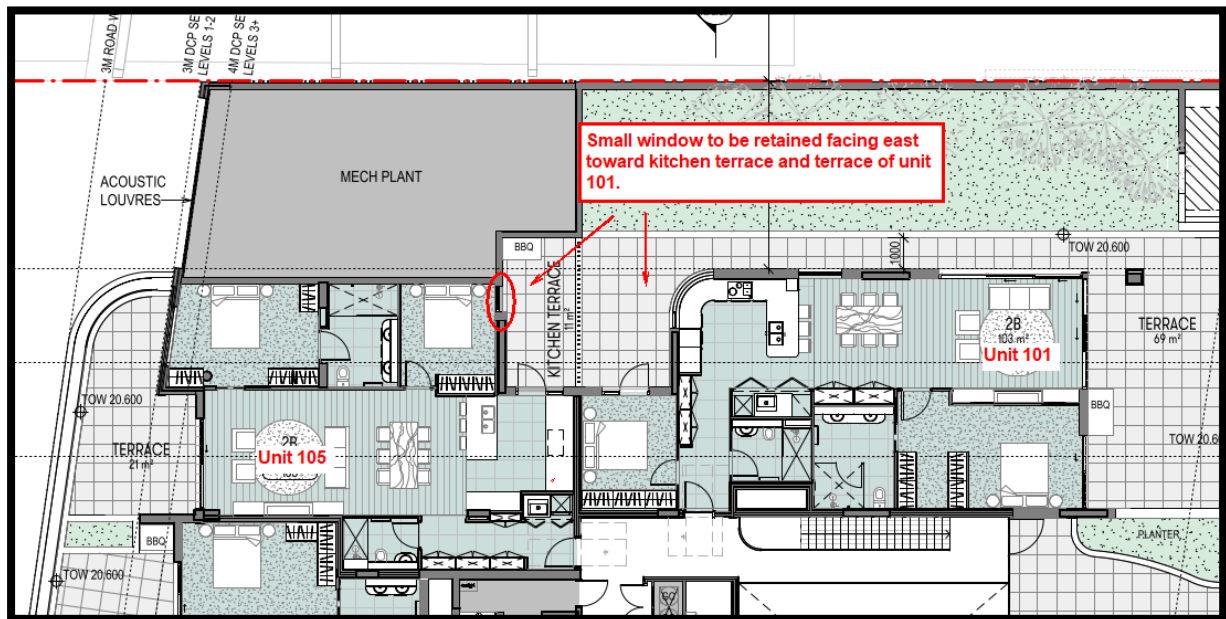


Figure 2 – indicates the reduced size of the pavilion compared to the original size (hatched in red).

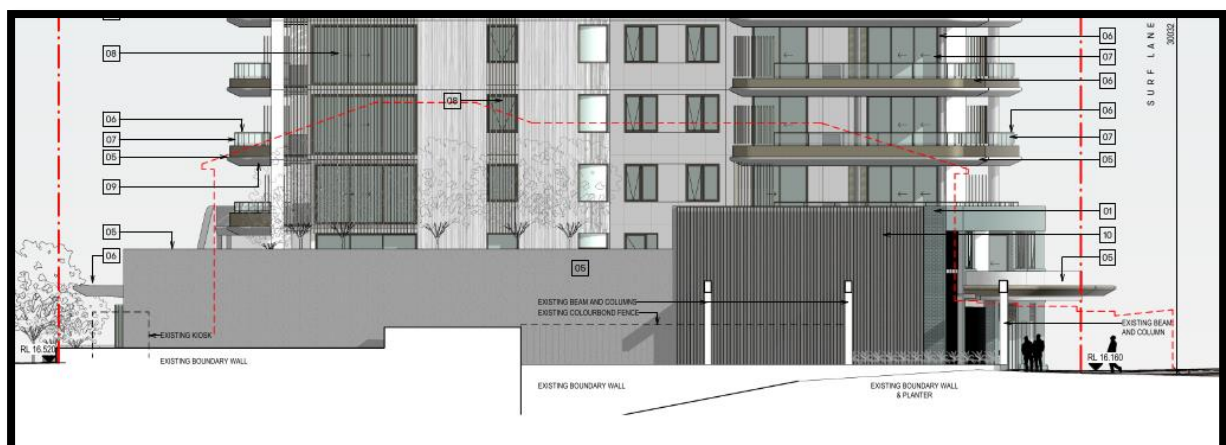
The revised plans show reduced plant areas on Level 9 and the roof (Figure 2 above). Council's original assessment report raised that *there is competition on the roof to accommodate a very large pavilion, vast areas of plant to a point where some elements are also required to be located higher than the pavilion roof which itself breaches the height limit.* The air conditioning units on the roof have been deleted and are to be accommodated in a new mechanical plant room proposed on Level 1. The plant areas on the northern side of the lift/plant/stairs and corridor on Level 9 have been deleted and replaced with an outdoor shower and planter bed.



**Figure 3 - Mechanical plant room proposed on level 1.**

Removing the air conditioning units from the roof is a positive change, as it negates the need for roof service screening which adds to height and bulk. In this design a new large mechanical plant room has been added on Level 1 above the waste truck collection area which can be seen from Surf Lane. This plant room is 2.5m in height and approximately 67m<sup>2</sup> in area. The area is shown with solid walls to the north and east, acoustic louvres on the western elevation face Surf Lane and directly abutting the northern wall of Unit 105.

This plant room results in a continuation of the two storey street wall at the boundary facing Surf Lane and a 7.5m high wall at the northern boundary for a length of approximately 12m. The wall steps down to a height of 5.5m for the remaining length of the boundary (to the east) until it reaches the Gerrale street boundary (Figure 4 below).



**Figure 4 - Northern elevation showing increased wall height along the boundary.**

The 5.5m high northern wall was raised in the assessment report particularly:

*'the visual prominence of the 5.5m high white blank wall that extends most of the northern boundary. This will be visible from Surf Lane and Gerrale Street, albeit somewhat screened by the adjoining properties podium level and podium planting ... The northern boundary wall is not an acceptable interface with the neighbouring property and fails to result in an adequate relationship with the established ground level context of the neighbouring development.* The new mechanical plant room will exacerbate the visual prominence of the development when viewed from the lane, northern adjoining property and Units 101 and 105 within the proposed building.

With regards to impacts on units within the development, the northern bedroom windows of Unit 105 have been deleted to accommodate the plant room, leaving bedroom 2 with a very small window facing east toward a kitchen terrace and the terrace of Unit 101. An acoustic report was not provided with the amendments demonstrating that the impact of the mechanical plant room on Units 101 and 105 and the neighbouring property would be acceptable.

Although the revisions proposed reduced plant areas on the rooftop, the new plant location will result in a poor interface with the neighbouring property and visual impacts on Surf Lane. The additional built form does not provide appropriate setbacks from the side boundary. It is in the order of 7m high on a zero setback and faces adjoining private open space to the north. It is a poorly resolved presentation. Therefore, to offset the structure from the open space on the podium located on the northern adjoining property and to mitigate any visual impacts that the property or streetscape may experience, the plant room should be reduced in size and setback a minimum of 2 metres from the northern side boundary with a solid vegetated wall (green wall) facing north and capped with a green roof rather than a pebble roof for the benefit of units looking down at this space.

Landscaping also exists in the south western corner on the open podium of the adjoining building which will provide screening and therefore with the increased setback and green wall directly adjacent to the open podium, will achieve a reasonable outlook for the neighbouring property. The 2m setback is consistent with the setback provided by the northern neighbour at the podium level and will provide a balanced space and transition in height between the two buildings when viewed from Surf Lane.

The reduction in the plant area above the waste collection room is likely to require that some plant be relocated. The plant should be accommodated within the building confines (without increasing height or reducing setbacks of the building) and not on the rooftop as this will increase the height contrary to the latest design modifications. These matters maybe be dealt with via deferred commencement consent conditions to allow for the applicant to reconcile the capacity of the plant room and the extant requirements of the development and the need for any additional plant areas with the building. It will also allow for proper detailed landscape plans to accommodate a green wall to be assessed. Conditions 2, 3, 4, 24, 27 and 28 have been included in the Draft deferred commencement consent reflecting the required changes.



The necessary changes relate to improvements in the external built form which now provides some relief and a more appropriate outlook from the adjoining property by the introduction of vegetation and transitional setbacks. In accordance with the requirements under Clause 4.1 of Chapter 42 of SSDCP2015 (Administrative Provisions), 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 be given the opportunity to comment. In this particular circumstance, the impacts of height have been reduced and the condition regarding the reduction of the plant room above the loading area serve to mitigate any impacts. As a result of these improvements, neighbour notification was not required.

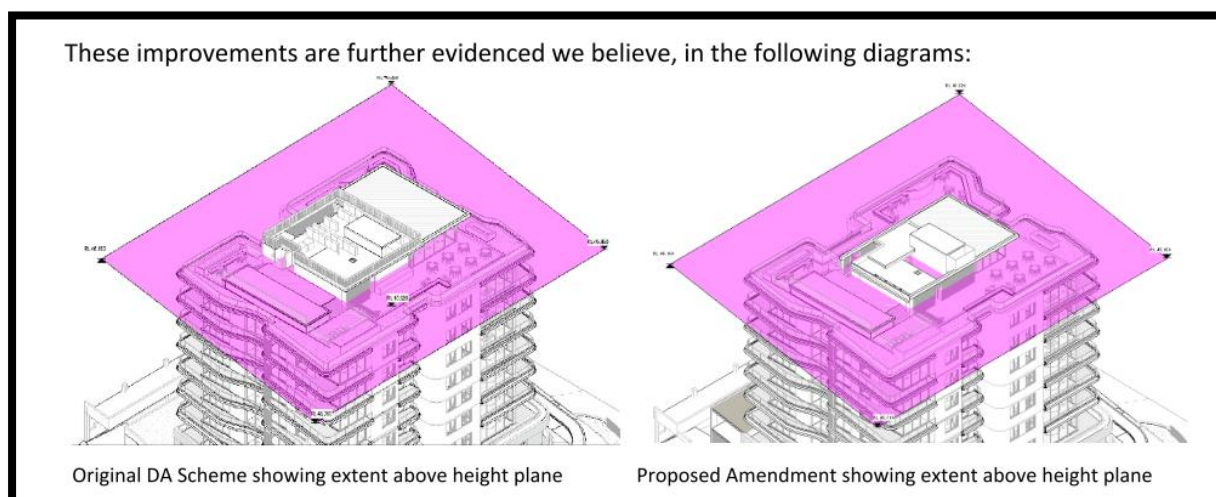
In conclusion, the revised plans show a reduction in structures above the maximum building height. These changes have minimised the impacts on the surrounding context. The roof top pavilion area is now unable to be seen from vantage points within the public domain as it has been set in further from the building edges. The roof top improvements required the relocation of plant area to a new mechanical plant room on Level 1 which has resulted in an increase in height of the northern boundary wall which will further impact on the streetscape of Surf Lane and the neighbouring property and conditions have been recommended to resolve this matter. The applicant argues that the revisions made to the proposal are a significant improvement, and in terms of quantum impacts, council accepts that there is a reduction of structures on Level 9 and the roof.

#### *6.1.3 Clause 4.6 Height*

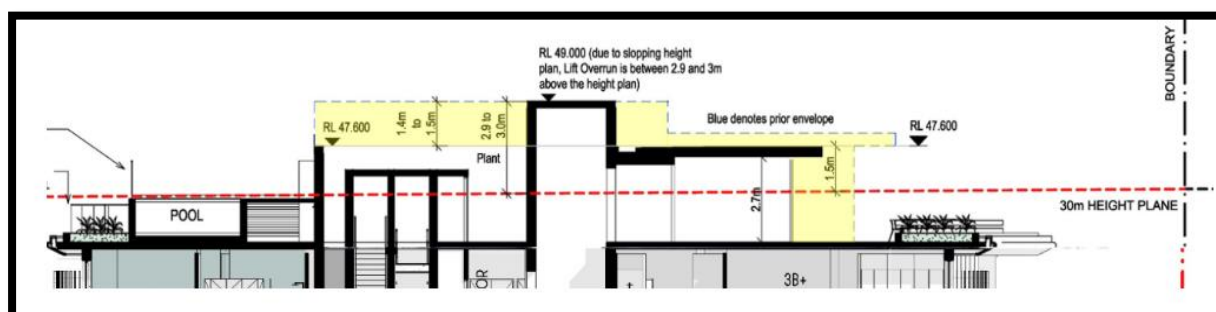
The proposed development fails to comply with the development standard for height. Clause 4.3(2) of SSLEP 2015 stipulates a maximum height of 30m for this site. The proposal seeks a building height of 33m (RL49.00 to lift over run) which exceeds the maximum height by 3m, resulting in a 10% variation. A clause 4.6 has been provided for consideration in support of the non-compliance. The roof elements that exceed the building height standard is the lift over run (RL 49.0) and the roof over the pavilion, stairs and plant at RL 47.6 being 1.5m over the permitted height.

The following diagrams include a height blanket and section showing the areas of the building which protrude above the height plane:





**Figure 5 - Revised height blanket showing structures that exceed the maximum height limit with the original scheme and the revised scheme.**



**Figure 6 - Section showing the structures that exceed the height limit (the area in yellow is showing the reduced height and area of pavilion and roof screening reduced on the roof).**

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

- (a) to ensure that the scale of buildings:
  - (i) is compatible with adjoining development, and
  - (ii) is consistent with the desired scale and character of the street and locality in which the buildings are located or the desired future scale and character, and
  - (iii) complements any natural landscape setting of the buildings,
- (b) to allow reasonable daylight access to all buildings and the public domain,
- (c) to minimise the impacts of new buildings on adjoining or nearby properties from loss of views, loss of privacy, overshadowing or visual intrusion,
- (d) to ensure that the visual impact of buildings is minimised when viewed from adjoining properties, the street, waterways and public reserves,
- (e) to ensure, where possible, that the height of non-residential buildings in residential zones is compatible with the scale of residential buildings in those zones,
- (f) to achieve transitions in building scale from higher intensity employment and retail centres to surrounding residential areas.

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

*Zone B3 Commercial Core*

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

The applicant has lodged a revised written request in accordance with the requirements of Clause 4.6 of SSLEP 2015. A copy of the document is contained in **Appendix “C”** to this report. The most relevant section of the clause 4.6 written request is reproduced below:

*“The Level 9 pavilion has been significantly reduced so as to exhibit an area that is only 55% of the size of the original DA design. The pavilion is now limited to an area of 51m<sup>2</sup>, inclusive of 10m<sup>2</sup> (20%) for the lift lobby/landing area. As such, 20% of the pavilion area would be required in any case in order to provide a DDA-compliant lift landing and covered protection to the lift even if the pavilion was not provided.*

*Together with being reduced in area, the pavilion has been significantly setback from the building edges by 2.2m from the east and 2.75m to the north. This would reduce the visibility of the pavilion from the surrounding area and support improved visual amenity for neighbouring properties.*

*Further, the height of the pavilion has been reduced by 400mm from RL48.0 down to RL47.6. This would further reduce the scale and volume of the pavilion.*

*The perceived scale and bulk of the pavilion is also minimised through the glazed design of the enclosing walls, which consist of glazed stacking doors that enable the pavilion to be opened up as a very transparent element.*

*This remaining area of the pavilion is key to the amenity of the seniors living development, as it provides communal open space in the form of an indoor-outdoor screened terrace which offers a degree of weather-protection. Protection from direct summer sun, and from wind and rain in inclement weather, is particularly important for senior residents. Access for residents to a*

*useable, amenable communal open space is important for the physical and mental health and wellbeing of residents, given the role of the space in facilitating access to fresh air and the outdoors, accommodating social gatherings, and fostering community.*

*Above the Level 9 pavilion, the rooftop design has also been revised to significantly reduce the area of the rooftop plant. This has been achieved through the relocation of the majority of the building plant to a new plant room on level 1.*

*As a cumulative result of these design amendments, the vast majority of the rooftop is no more than 1.5m above the 30m height plane, which represents a minor variation of 5%. The lift overrun is the only higher element, but in any case is limited to a 3m or 10% variation compared to the 30m standard.*

*The justification for the proposed variation to the development standard for Height of building is considered to be well found and this report demonstrates sufficient environmental planning grounds for support as, notwithstanding the proposed departure from the development standard, the feature of the development contravenes the development standard (height of the building):*

- Does not give rise to any measurable or unreasonable visual impacts from the public domain ... the communal roof terrace, where the contravention occurs, is not visible from the public domain and has been setback from the boundary line to ensure it is not a prominent feature from surrounding sites or when viewed from the public domain and street level.*
- View loss ... The building mass which exceeds the maximum building height line, has been centrally located, minimising any impacts of views looking west towards Gunnamatta Park...*
- Solar access ...Adjoining properties and public domain will continue to receive adequate solar access during winter solstice and the southern neighbouring properties would incur similar shadow impacts...*
- Privacy ... the apartment layout and orientation has been configured to ensure an appropriate level of privacy is achieved both within the site and to neighbouring properties...*
- Urban Design...there is no adverse impacts in terms of overshadowing, views and visual and acoustic privacy to adjacent residential sites and public domain ...*
- The building height encroachment will not result in habitable gross floor area being located above the maximum building height line and will provide the opportunity improved amenity for residents through the communal open space and the elements required to ensure. As aforementioned, the building mass over the height limit equates to a minor proportion of the overall building mass. In terms of GFA, the proposed development continues to exhibit a maximum GFA of 5,238m<sup>2</sup>, achieving compliance with 3:1 FSR standard. The GFA above the height limit is limited to a 51m<sup>2</sup> area of communal open space (inclusive of 10m<sup>2</sup> for the lift lobby/landing area). The area of GFA above the height plane therefore equates*

*to 0.97% of the total GFA of the development. It is once again acknowledged the GFA located above the maximum building height is non habitable GFA and is for the primary purpose of the lift overrun, building services and communal open space...”*

The applicant's written submission demonstrates that compliance with the height development standard is unreasonable and unnecessary in the circumstances of the case. It also demonstrates sufficient environmental planning grounds to justify varying this development standard. The proposed breach of the building height development standard is acceptable when assessed against Clause 4.6 for the following reasons:

- The air conditioning units and acoustic screening have been deleted from the roof level reducing and improving the visual impact of plant areas on the roof, in particular when viewed from surrounding buildings.
- The lift over run, stairs and plant areas to be retained on Level 9 have been placed toward the centre of the building, setback from the building edges. The height of these elements will unlikely exacerbate the bulk and scale of the building form when viewed from surrounding properties, the street and public domain.
- The pavilion has been reduced in size, resulting in the structure with setbacks of approximately 14.5m from the northern boundary, 12.8m from the eastern boundary and 14.2m from the southern boundary and located on the eastern side of the lift over run. The structure will not likely be highly viewed from the street and public domain.
- The revised height of the structures proposed on the roof is acceptable in terms of impacts on adjoining or nearby properties from loss of views, privacy, overshadowing and visual impact.
- The pavilion will provide weather protection from inclement weather for residents.

The proposed development is in the public interest, as the proposal complies with the objectives for both height and the *B3 Commercial Zone* and is similar to the envisaged character in terms of scale and built form.

The proposed variation does not raise any matters of State or regional environmental planning significance.

In conclusion the variation to the height development standard satisfies all relevant parts of Clause 4.6. The variation can be supported for the height non-compliance.

## **6.2 Point 2 of the Panels deferral**

*Unenclosed waste area at ground level needs to be enclosed to meet functional requirements and meet amenity standards and demonstrate compliance with the floor space standard across the development.*

### **6.2.1 Ground floor waste area**

The revised plans show the waste collection area on the ground level enclosed by a solid wall to the north with roof over and calculated towards GFA. As discussed in Section 6.1.1 above, the revised calculation plans demonstrate the development complies with GFA.

## **7.0 CONCLUSION**

The development has not been redesigned to remove all habitable floor space (pavilion) above the maximum height limit or with a partial level to accommodate the pavilion. However, the applicant seeks to rely on an alternative design approach. The revisions include:

- a new mechanical plant room on level 1,
- the enclosure of the waste area on the ground level;
- a reduction in the size of habitable floor space on Level 9; and
- plant areas from the roof above the maximum height limit.

The amendments do not remove the habitable floor space (pavilion) to comply with the height limit as outlined by the Panel. The amended plans do however, reduce the extent of the pavilion to a level that is considered a significant improvement to that previously proposed. The impacts of the pavilion, whilst non-compliant, are within acceptable limits given the setbacks to the side of the building, proportion over the area occupied, given the overall footprint and lack of visibility from the public way generally in context of the flat buildings in Cronulla.

### **Recommendation**

That the panel give consideration to the applicants alternative design approach submitted in light of the outcomes from that previously assessed on 28 March 2021.