

PPSSSH-78 – 3-23 Kingsway, Cronulla

DA21/0562

ASSESSMENT REPORT APPENDICES

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CONDITIONS OF CONSENT

1. Approved Plans and Documents

The development must be undertaken substantially in accordance with the details and specifications set out on the Plan / Drawings in the table below:

Plan number	Reference	Prepared by	Date
Architectural Plans			
DA0001 Issue E	Area Schedule & Project Summary	PBD Architects	Prepared 10/08/22
DA0080 Issue D	Site Plan	PBD Architects	Prepared 17/06/22
DA097 Issue B	Basement 4 Plan	PBD Architects	Prepared 15/03/22
DA098 Issue D	Basement 3 Plan	PBD Architects	Prepared 15/03/22
DA099 Issue D	Basement 2 Plan	PBD Architects	Prepared 10/03/22
DA100 Issue C	Basement 1 Plan	PBD Architects	Prepared 10/03/22
DA101 Issue D	Ground Floor Plan	PBD Architects	Prepared 17/06/22
DA102 Issue G	Level 1 Plan	PBD Architects	Prepared 10/08/22
DA103 Issue E	Level 2 Plan	PBD Architects	Prepared 10/08/22
DA104 Issue E	Level 3 Plan	PBD Architects	Prepared 10/08/22
DA105 Issue E	Level 4 & 6 Plan	PBD Architects	Prepared 10/08/22
DA106 Issue E	Level 5 & 7 Plan	PBD Architects	Prepared 10/08/22
DA107 Issue D	Level 8 Plan	PBD Architects	Prepared 17/06/22
DA108 Issue C	Roof Plan	PBD Architects	Prepared 17/06/22
DA200 Issue D	South West Elevation	PBD Architects	Prepared 17/06/22
DA201 Issue D	South East Elevation	PBD Architects	Prepared 17/06/22
DA202 Issue D	North East Elevation	PBD Architects	Prepared 17/06/22
DA203 Issue E	North West Elevation	PBD Architects	Prepared 10/08/22

DA301 Issue D	Section BB	PBD Architects	Prepared 17/06/22
DA302 Issue D	Section CC	PBD Architects	Prepared 17/06/22
DA700 Issue B	Adaptable Layout – Type A	PBD Architects	Prepared 17/06/22
DA701 Issue B	Adaptable Layout – Type B	PBD Architects	Prepared 17/06/22
DA702 Issue C	Adaptable Layout – Type C	PBD Architects	Prepared 10/08/22
BASIX Certificate	1194589M_08	Greenview Consulting Pty Ltd	Received by Council 17 August 2022
NATHERS Certificate		Greenview Consulting Pty Ltd	Received by Council 17 August 2022
Landscape Plans			
L-01 G	Cover Page	Site Design +Studios	Prepared 7/7/22
L-02 G	Ground Floor GA Plan	Site Design +Studios	Prepared 7/7/22
L-03 G	First Floor GA Plan	Site Design +Studios	Prepared 7/7/22
L-04 G	First COS Flood Detail Plan	Site Design +Studios	Prepared 7/7/22
L-06 G	Second Floor GA Plan	Site Design +Studios	Prepared 7/7/22
L-07 G	Second Floor Detail Plan	Site Design +Studios	Prepared 7/7/22
L-09 G	Third Floor GA Plan	Site Design +Studios	Prepared 7/7/22
L-10 G	5-7 Flood GA Plan	Site Design +Studios	Prepared 7/7/22
L-11 G	Section A - A	Site Design +Studios	Prepared 7/7/22
L-12 G	Section B - B	Site Design +Studios	Prepared 7/7/22
L-13 G	Planting Details	Site Design +Studios	Prepared 7/7/22
L-14 G	Council Tree Vault Details	Site Design +Studios	Prepared 7/7/22
L-15 G	Council Tree Vault Details	Site Design +Studios	Prepared 7/7/22
Engineering Plans			

C01 3	Notes and Legends	Greenview Consulting	Prepared 18.05.21
C02 3	Basement 3 Drainage Plans	Greenview Consulting	Prepared 18.05.21
C03 3	Basement 2 Drainage Plans	Greenview Consulting	Prepared 18.05.21
C04 3	Basement 1 Drainage Plans	Greenview Consulting	Prepared 18.05.21
C05 2	Basement Drainage Details Sheet	Greenview Consulting	Prepared 18.05.21
C10 3	Ground Floor Drainage Plans	Greenview Consulting	Prepared 18.05.21
C11 2	Ground Floor Drainage Details Sheet	Greenview Consulting	Prepared 18.05.21
C20 2	External Works Drainage Plan	Greenview Consulting	Prepared 18.05.21

and any details on the application form and on any supporting information received with the application except as amended by the following conditions.

Note: The following must be submitted to Sutherland Shire Council prior to the commencement of any building work.

- i) A Construction Certificate.
- ii) Notification of the appointment of a Principal Certifying Authority and a letter of acceptance from that Principal Certifying Authority.
- iii) Notification of the commencement of building works with a minimum of 2 days' notice of such commencement.

2. Design Changes Required

A. Before Construction

The following design changes must be implemented:

- i) The balustrade across the northern balconies at Level 7 and 8 are to be comprised of a mix of solid balustrading and translucent glazing.
- ii) To maximise the northern setback of Level 8, the northern balconies in both Block A and B must be amended in accordance with approved plan No. DA107 Issue D.

3. Integrated Development Approval - Requirement of Approval Bodies

A. General Terms of Approval from Approval Bodies

The development must be undertaken in accordance with all General Terms of Approval (GTA) of WaterNSW under Section 4.46 of the Environmental Planning and Assessment Act 1979

A copy of each of the GTAs and any further requirements of the approval bodies are attached to this development consent. These requirements must be incorporated in the application for a Construction Certificate and where required by the GTAs relevant approvals must be granted prior to the release of the Construction Certificate.

4. Nature and Content of Signage

A. Ongoing

The subject development consent does not grant approval for any signage. A separate development consent will be required for any signage unless it falls within the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

5. Public Place Environmental, Damage & Performance Security Bond

A. Before Issuing of any Construction Certificate

Prior to the issue of a Construction Certificate or the commencement of any works on site, whichever occurs first, the person acting on this consent must provide security to Sutherland Shire Council against damage that may be caused to any Council property and/or the environment as a consequence of the implementation of this consent. The security may be provided by way of a deposit with Council or a bank guarantee. A non-refundable inspection/administration fee is included in the bond value.

It is the responsibility of the person acting on this consent to notify Sutherland Shire Council of any existing damage to public areas in the vicinity of the development site by the submission of a current dilapidation report supported by photographs. This information must be submitted to Council at least 2 days prior to the commencement of works.

In the event that the dilapidation report is not submitted 2 days prior to commencement and the public area sustains damage the person acting on this consent may be held liable.

Should any public property and/or the environment sustain damage as a result of the works associated with this consent, or if the works put Council's assets or the environment at risk, Council may carry out any works necessary to repair the damage and/or remove the risk. The costs incurred must be deducted from the bond.

The value of the bond is \$200,200.00

Note: Bond amount includes a non-refundable administration fee which must be

paid separately if security is provided by way of a deposit with Council or a bank guarantee.

Use of Bank Guarantee - As bond releases may occur under different timeframes only one bond amount/bond purpose is permitted on a Bank Guarantee. Multiple bonds will require multiple bank guarantees to be lodged.

B. After Occupation

A request for release of the bond may be made to Sutherland Shire Council after all works relating to this consent have been completed. Such a request must be submitted to Council on the 'Bond Release Request Form' signed by the owner or any person entitled to act on the consent and must be accompanied by a current dilapidation report including photographs.

SECTION 7.11 CONTRIBUTIONS

The following dedication of land and/or monetary contributions have been levied in relation to the proposed development pursuant to Section 94 of the Environmental Planning and Assessment Act 1979.

6. Section 7.11 Contribution Plan 2016- Cronulla Centre Precinct

A. Before Construction

Pursuant to Section 7.11 of the Environmental Planning and Assessment Act 1979 and Sutherland Shire Council Section 7.11 Plan 2016, a total monetary contribution of \$ must be paid to Sutherland Shire Council toward the cost of regional and local public domain works contained in the Works Programme of the Contributions Plan.

This contribution has been assessed and calculated in accordance with the Sutherland Shire Section 7.11 Contribution Plan 2016 on the basis of 112 proposed Residential

Infrastructure & Facilities

Local open space and public domain works
Regional open space

Contribution Required

\$597,133.60
\$1,642,866.40

The contribution will be indexed on 1 July in each year in accordance with the Consumer Price Index (All Groups Index) for Sydney.

The formula to index a contribution rate is:

$$\text{New Contribution Rate} = \text{Current Contribution Rate} \times \frac{\text{Current CPI}}{\text{Previous year's CPI}}$$

Payment must be made prior to the issue of the Construction Certificate.

7. Approvals Required under Roads Act 1993 or Local Government Act 1993

A. Before Construction

No occupation or works are to be carried out on public land (including a road or footpath) or access provided over a public reserve adjacent to the development site without approval being obtained from Sutherland Shire Council and the necessary

fee paid under the Roads Act 1993 and/or the Local Government Act 1993. These approvals must be to the satisfaction of Council for the required development works and may include but are not limited to the following:

- Frontage Works including construction of a driveway, footpath, etc.
- Road openings and restoration to provide services to the development.
- Work Zones and Hoardings.
- Skip Bins.
- Shoring / Anchoring.
- Standing of cranes, concrete pumps, etc.

Note: All Plans and Permits are required to be on site, at all times and may be requested by council officers at any time.

Note: Approval under the Roads Act 1993 or Local Government Act 1993 cannot be granted by a Principal Certifying Authority or by a Private Certifier. Failure to obtain approval may result in fines or prosecution.

8. Design and Construction of Works in Road Reserve (Council Design)

A. Design

Council has determined that the proposed development generates a need for the following works to be undertaken by the applicant in the road reserve. To this end a Detailed Frontage Works application under the Roads Act 1993 must be submitted to Sutherland Shire Council, prior to the release of the Construction Certificate. The form is available on Council's website. A fee applies for the relevant inspections, assessment, coordination, creation of design brief and the issue of permits providing consent to undertake frontage works. The design will be quoted separately by Council's Design Services unit.

This design will generally comply with the approved architectural design drawings and the current website version of Council's Public Domain Design Manual (PDDM) and Public Domain Technical Manual (PDTM) except where modified by, and/or addressing the following:

- i) Property alignment/ boundary levels - establish the property alignment/ boundary levels and crossing profiles.
- ii) Grades - regrade footpath verge to final design levels including the provision for new footpath pavement and vehicle crossings.
- iii) Vehicle Crossings - construct three (3) vehicle crossings; servicing the commercial access & loading dock on Croydon Street, and residential access on Abel Place.
- iv) Redundant Laybacks and Crossings - remove redundant laybacks and vehicle crossings and replace with kerb and gutter (including associated road reconstruction works).
- v) Stormwater Connection - construct new stormwater infrastructure as required to facilitate drainage for the proposed development. This includes the extension of Council's piped system from the corner of Elouera Road / Kingsway to the south eastern corner of the site on Abel Place, and all restoration works including but not limited to footpath, kerb & gutter and road pavement.

- vi) Footpath & Kerb Ramps - construct new full width footpath pavement along the full frontages of site. This shall be in accordance with the Cronulla Palette as specified in the PDDM and / or that for the Cronulla Masterplan upgrade. Reconstruction of existing kerb ramps must be carried out in conjunction with the footpath upgrade.
 - vii) Intersection Works – undertake intersection works at Croydon Street & Kingsway. This includes the provision for all traffic & pedestrian movements new kerb returns, islands, pedestrian fencing, road pavement and line marking as required.
 - viii) Raised Threshold - construct a raised threshold across Abel Place adjacent to the kerb returns at the corner of Kingsway.
 - ix) Infrastructure Transitions - ensure there are adequate transitions between newly constructed and existing infrastructure as required.
 - x) Road Pavement - reconstruct damaged road pavement as caused by the construction works.
 - xi) Kerb and Gutter - reconstruct and realign kerb and gutter as required to facilitate new vehicle crossings, parking bays, tree pits and kerb ramps including associated road reconstruction.
 - xii) Street Signage - alter existing and/or install new street signage as required.
 - xiii) Trees - remove and replace street trees as required by Council. New street trees shall be installed in tree cells as specified in Council's PDTM.
 - xiv) Streetscape Fixtures - Provide new seats, bins and planter boxes as required by Council in conjunction with the preparation of the detailed design.
 - xv) Undergrounding - provide replacement of existing local distribution power lines and other overhead utilities with subsurface utilities across the frontages of the site.
 - xvi) Street Lighting - install new street lighting to comply with the appropriate category as specified in AS1158 for the subject development and to match the lighting for the Cronulla Masterplan. This includes lighting for the raised threshold on Abel Place as required.
 - xvii) Utility Services - adjust public services infrastructure as required.
 - xviii) NBN - the Australian Government has issued a new policy on the provision of telecommunication infrastructure in new developments. The policy is effective from 1 March 2015. Developers are responsible for providing telecommunications infrastructure in their developments. To provide this infrastructure, developers need to contract a carrier to install and operate a telecommunications network.

NBN is the IPOLR (infrastructure provider of last resort) in developments of 100 lots or more within its fixed-line footprint and in new development where its fixed-line network is available, or the NBN rollout has been announced (www.nbnco.com.au/learn-about-the-nbn/rollout-map.html).
- If you use NBN, you will need to provide six months' notice before your network needs to be available.
- xix) The proposed loading bay on Abel Place is not supported and must be removed.

Evidence of the lodgement of this application must be provided to the PCA prior to the release of the Construction Certificate

B. Before Construction

Prior to the release of the Construction Certificate property alignment levels and crossing profiles must be obtained from Sutherland Shire Council.

C. Before Occupation

Prior to the occupation of the building or the issue of an Occupation/Subdivision Certificate the following certification must be provided to Sutherland Shire Council:

- i) The supervising engineer must certify that the road frontage works were constructed in accordance with the development consent and associated approval under the Roads Act 1993 including the approved drawings and specification; and
- ii) The supervising arborist, landscape designer or landscape architect must certify the street trees are the correct species and were installed in accordance with the development consent and associated approval under the Roads Act 1993.

9. Site Management Plan

A. Before Commencement of Works including Demolition

An Environmental Site Management Plan must accompany the application for a Construction Certificate. If demolition is to commence prior to the issue of a Construction Certificate the applicant must submit to Sutherland Shire Council a separate Demolition Site Management Plan. These plans must satisfy the objectives and controls of Sutherland Shire Development Control Plan 2015 relating to environmental site management and must incorporate the following throughout demolition and construction:

- i) Safe access to and from the site during construction and demolition.
- ii) Safety and security of the site, road and footpath area including details of proposed fencing, hoarding and lighting.
- iii) Method of loading and unloading excavation machines, building materials.
- iv) How and where, construction materials, excavated and waste materials will be stored.
- v) Methods to prevent material being tracked off the site onto surrounding roadways.
- vi) Erosion and sediment control measures.
- vii) The maximum size vehicle to service / deliveries to the site is limited to a HRV (as defined in AS2890.2).

B. During Works

The site management measures set out in the above plan must remain in place and be maintained throughout the period of works and until the site has been stabilised and landscaped.

10. Pre-commencement Inspection

A. Before Works

A Pre-commencement Inspection/meeting is to be convened by the Applicant on-site a minimum 5 days prior to any demolition and/or construction activity and between the hours of 8.00 am and 4.30 pm Monday to Friday. The meeting must be attended by a representative of Council's Public Domain Assets Branch, the Principal Certifying Authority, the builder/site manager of the building/civil construction company and where necessary the supervising engineer. The attendance of the owner is required when it is intended to use more than one builder/principal contractor throughout the course of construction.

The purpose of the meeting is to:

- i) Ensure safe passage for pedestrians, Work and Hoarded Zones are maintained in accordance with Council requirements;
- ii) Check the installation and adequacy of all traffic management devices;
- iii) Confirm that the supervising engineer has a copy of Council's Specification for Civil Works Associated with Subdivisions and Developments.

Note: An inspection fee must be paid to Council prior to the lodgement of the Notice of Commencement. Please refer to Sutherland Shire Council's Adopted Schedule of Fees and Charges.

11. Supervising Engineer

A. Before Construction

The applicant must engage an Accredited Certifier in civil engineering works or a Chartered Civil Engineer to supervise construction of any:

- i) Road frontage works.
- ii) Construction / installation of stormwater drainage.
- iii) Rainwater harvesting & reuse.

B. During Construction

The engineer must supervise the works as listed above to ensure compliance with:

- i) All relevant conditions of development consent.
- ii) Any Consent issued under the Roads Act for this development.

C. Before Occupation

The supervising engineer must certify the works required in "A" above were undertaken and completed in accordance with the requirements of this Development Consent and to their satisfaction.

12. Internal Driveway, Parking and Manoeuvring

A. Design

The internal driveway profile, parking and manoeuvring areas must be designed in accordance with the approved architectural plans except where modified by the following:

- i) Align with Access and Alignment levels issued by Council's Public Domain Unit.
- ii) The proposed loading and delivery area must be clearly defined with suitable signposting and pavement markings.
- iii) The car park must be line marked to accommodate 358 vehicles.
- iv) Provide adequate sight distance for the safety of pedestrians using the footpath area.
- v) Provide a maximum grade of 5% for the first 3 metres inside the property boundary.
- vi) Comply with AS2890.1(2004) user class 3 for the commercial visitors and 1A for the residential, in relation to the design of vehicular access, parking and general manoeuvring for the B85 vehicle.
- vii) Comply with AS2890.2(2002) in relation to the design of vehicular access, parking and general manoeuvring for the HRV vehicle to the ground floor loading dock and SRV to the Basement Level 1 loading dock.
- viii) The maximum longitudinal grade of the driveway must not exceed 25% for residential access and 15.4% for commercial vehicle access.

B. Construction

Certification from an appropriately qualified engineer to the effect that the design requirements of A. above have been met must accompany the Construction Certificate.

C. Occupation

Prior to the occupation of the development or the issue of any occupation certificate a suitably qualified engineer must certify that the works required in A. above were undertaken and completed to their satisfaction and in accordance with the requirements of this Development Consent. This certification must be provided to the PCA and a copy also provided to Council.

D. On-going

The approved parking must be used exclusively for car parking as approved for the life of the development.

13. Basement Car Park Design & Construction

A. Design

The basement car park must be designed in accordance with the approved architectural drawings, subject to the following modifications:

- i) A minimum headroom of 2.2m measured from the parking floor to the underside of any beam, ventilation duct or service conduit, or to the underside of any door including a security door and fittings when those doors are in an open position in accordance with clause 5.3 of AS2890.1.
- ii) Parking bays must not be enclosed, caged or a door provided.
- iii) All parking bays must provide a minimum clear parking envelop in accordance with figure 5.2 of AS2890.1.
- iv) The security door fitted to the car parking area entrance must be independently mounted on rubber pads to prevent vibration noise transmission through the concrete walls and / or columns.

B. Prior to Construction

Certification from a Chartered Civil Engineer or a Registered Surveyor, to the effect that the car park layout and vehicle access-way design has been prepared in

accordance with A above must accompany the Construction Certificate.

C. Occupation

Prior to the occupation of the development or the issue of any Occupation Certificate a Chartered Civil Engineer or a Registered Surveyor must certify that the works required in "A" above have been completed to their satisfaction and in accordance with the requirements of this Development Consent. This certification must be provided to the Principal Certifier and a copy provided to Council.

D. On-going

The approved parking must be used exclusively for car parking for the life of the development.

14. Drainage Design - Detailed Requirements

A. Design

The stormwater drainage system must be designed in accordance with the approved stormwater drainage design drawing; Australian Standard AS3500.3:2015; the BASIX Certificate issued for this development; Sutherland Shire Environmental Specification - Stormwater Management.

B. Before Construction

Prior to the issue of an Occupation Certificate:

- i) A Works-As-Executed drawing (WAED) of the stormwater drainage system must be prepared by a Registered Surveyor. This drawing must detail the alignment of pipelines, pits, the rainwater tanks and the detention facilities. An original or a colour copy must be submitted to Sutherland Shire Council.
- ii) The supervising engineer must certify the WAED of the stormwater drainage system that the stormwater drainage works, rainwater harvesting facility and rainwater reuse systems were constructed to their satisfaction and in accordance with the Development Consent, and Public Domain Technical Manual. Prior to the occupation or use of the building the Applicant / Owner must submit to Council a copy of the aforementioned letter of certification.

C. Before Occupation

Prior to the issue of an Occupation Certificate:

- i) A Works-As-Executed drawing (WAED) of the stormwater drainage system must be prepared by a Registered Surveyor. This drawing must detail the alignment of pipelines, pits, the rainwater tanks and the detention facilities. An original or a colour copy must be submitted to Sutherland Shire Council.
- ii) The Supervising Engineer must certify the WAED of the stormwater drainage system that the stormwater drainage works, rainwater harvesting facility and rainwater reuse systems were constructed to their satisfaction and in accordance with the Development Consent. Prior to the occupation or use of the building the Applicant / Owner must submit to Council a copy of the aforementioned letter of certification.

D. Ongoing

- i) The operation of all devices or appliances installed within the development

approved by this consent as required by conditions pertinent to rainwater harvesting and rainwater reuse must be maintained in good operating order at all times.

- ii) The stormwater treatment facility must be:
- Kept clean and free from silt, rubbish and debris.
 - Be maintained so that it functions in a safe and efficient manner.
 - Not be altered without prior consent in writing of the Council.

Note: Upon submission of the Certified Works-As-Executed drawing for the stormwater drainage system a notation will be added to the Section 10.7 certificate advising future owners that their property is burdened by a stormwater treatment device that must be maintained, serviced and cleaned.

15. Stormwater Treatment

A. Before Construction

An appropriate stormwater treatment measure, selected from the Environment Protection Authority's document "Managing Urban Stormwater - Treatment Techniques, November 1997", must be provided as part of the permanent site stormwater (water quality) management system. Details must accompany the application for a Construction Certificate.

B. Before Occupation

The above work must be completed in accordance with 'A' above to the satisfaction of the supervising engineer before the issue of any Occupation Certificate.

C. Ongoing

The stormwater treatment measure must be maintained in accordance with the manufacturers' specification.

Note: Upon approval of the stormwater management designs a notation will be added to the Planning certificate in relation to any required detention facility or stormwater treatment device.

16. Design of Structures Adjoining Drainage Easements

A. Design

The proposed development adjoins a drainage easement. To ensure the structural integrity of both the pipeline within the easement and any structure adjoining the easement are maintained it must be designed as follows:

- i) All footings within 2m of the drainage easement must be designed in such a manner that they are supported by foundations set at a minimum of 300mm below pipe invert levels or, alternatively, founded on sound rock.
- ii) The walls of the dwelling / pool or of any structure adjoining the easement must be designed to withstand all necessary forces should excavation be required within the easement down to the existing pipe invert levels.

B. Before Construction

Certification of A. above from an appropriately qualified engineer must accompany

the Construction Certificate.

C. Before Occupation

Prior to the occupation of the development or the issue of any Occupation Certificate, certification from an appropriately qualified engineer detailing that the development has been constructed in accordance with A. above must be submitted to the Principal Certifier.

17. Waste Collection (on-site collection)

A. Design

- i) The waste collection point must be designed in accordance with the following requirements:
- ii) A loading bay to accommodate a HRV sized waste collection vehicle must be provided for the collection of residential waste in the ground floor loading dock within the subject property in accordance with AS2890.2 for waste collection use.
- iii) The driveway and loading bay pavement must be designed to withstand the loads generated by a 30 tonne waste collection vehicle.
- iv) The maximum long and cross section grade of the designated loading area and temporary bin holding area must be $\pm 5\%$.
- v) Clear and direct access must be provided from the bin holding areas to the loading area.
- vi) The permanent communal garbage and/or recycling storage area must have a smooth impervious floor that is graded to a floor waste. A tap and hose must be provided to facilitate regular cleaning of the bins and all waste water must be discharged to the sewer in accordance with the requirements of Sydney Water. Garbage bins must be designed to prevent the escape of any liquid leachate and must be fitted with a lid to prevent the entry of vermin.

B. Before Construction

Prior to the issue of any Construction Certificate a suitable qualified civil engineer must certify that the waste collection point has been design in accordance with part A. above. A copy of this certification must accompany the Construction Certificate.

C. Before Occupation

Prior to the occupation of the site or the issue of any Occupation Certificate a suitable qualified civil engineer must certify that the waste collection point has been constructed to their satisfaction and in accordance with part A. above. A copy of this certification must accompany the Occupation Certificate.

The Waste Management Plan to be updated to incorporate mechanisms to minimise conflict between waste bin movement and vehicular travel at Basement Level 1. A copy of the updated plan to be submitted to Council for information.

D. On-going

- i) All ongoing management, maintenance and cleaning of all residential waste and recycling management facilities, including suitable collection arrangements and how

bins are to be moved from waste storage area/s to collection area/s are to be carried out in accordance with the following approved documents:

- a. Ongoing Waste Management Plan – Residential
 - b. Loading Dock Management Plan
- ii) All waste and recycling bins must be stored wholly within the approved permanent communal garbage and/or recycling storage area. The bins must only be placed in the loading bay area in the evening prior to collection and returned to the permanent communal garbage and/or recycling storage area as soon as possible after pick-up.

18. Damage to Adjoining Properties

A. Before Works

To minimise vibration damage and loss of support to buildings / structures and properties in close proximity to the development site a Geotechnical Engineer's Report must be prepared detailing constraints to be placed on earth moving and building plant and equipment and the method of excavation, shoring, underpinning and support. This report must be provided to the person undertaking the excavation and the Principal Certifying Authority.

B. During Works

The constraints and recommendations of the Geotechnical Engineers Report must be implemented.

19. Public Utilities - Subdivision

This condition is imposed to facilitate the provision of services to the development and reduce conflicts between services and lot boundaries, buildings or associated facilities.

A. Before Construction

Suitable arrangements must be made with all relevant utility service providers to ensure the development is appropriately serviced by electricity, gas, telecommunications (including NBN) and the like, and any necessary underground conduits are provided. The Australian Government has issued a new policy on the provision of telecommunications infrastructure in new development. This policy is effective from 1 March 2015. Developers are responsible for providing telecommunications infrastructure in their developments. To provide this infrastructure, developers need to contract a carrier to install and operate a telecommunications network. NBN is the IPOLR (infrastructure provider of last resort). NBN require 6 months' notice in order to make the network available.

A copy of the agreements/contracts with the utility providers must form part of the supporting construction certificate documentation.

B. Before Occupation

Prior to issue of any Occupation Certificate, certification must be provided from each utility service provider/approved agent to the effect that each lot has been serviced to their satisfaction.

Prior to the issue of any Occupation Certificate, evidence satisfactory to the Certifying Authority that arrangements have been made for:

- i) The installation of fibre-ready facilities (conduits and pits) to all individual lots and/or premises/dwelling to enable fibre to be readily connected to any premises that is being or may be constructed on those lots. Certification from each carrier/provider must be provided to the PCA that they are satisfied that the fibre ready facilities are fit for purpose.
- ii) The provision of fixed-line telecommunications infrastructure (cables) in the fibre-ready facilities to all individual lots and/or premises/dwellings must be installed and certification from the carrier/provider must be provided to the PCA stating that the infrastructure has been provided and to their satisfaction.
- iii) Installation of gas and/or electricity must be constructed/installed by the utility service provider/approved agent to each allotment. Certification must be provided from each provider/agent stating that all allotments have been serviced to their satisfaction.
- iv) WAE drawings must to be prepared by a registered surveyor detailing location and depth of conduits/pits and connection points/ties within allotments. A copy of the WAE drawings must form part of any Occupation/Subdivision certificate documentation.

Note: Should these requirements result in any significant change to the approved design an application must be made to modify the consent under s.96 of the Environmental Planning and Assessment Act.

20. Lot Consolidation

A. Before Construction

Prior to the issue of any construction certificate, the Plan of Subdivision for the consolidation of Lots 13, 14 & 15 DP205207, Lots 1 & 2 DP700935, Lot 1 DP5239, Lot 11004748, Lot 61 DP319303 and Lots A & B DP 314601 into one lot, must be registered with NSW Land Registry Services.

This will also include the expungement of any redundant easements, and/or covenants.

21. Transport for NSW

A. Prior to Construction

Prior to commence of any works the following must be addressed;

1. All buildings and structures, together with any improvements integral to the future use of the site are wholly within the freehold property unlimited in height or depth along the Kingsway
2. The design and construction of the indented parking bays on Kingsway, modified pedestrian refuge on Croydon St at Kingsway and adjustments to the kerb returns at this intersection to accommodate the swept path of a HRV shall be in accordance with TfNSW requirements. Details of these requirements should be obtained by

email to DeveloperWorks.Sydney@transport.nsw.gov.au
<<mailto:DeveloperWorks.Sydney@transport.nsw.gov.au>>

Detailed design plans of the proposed civil works on the Kingsway and at intersection of Croydon St and Kingsway shall be submitted to TfNSW for approval prior to the issue of a Construction Certificate and commencement of any road works. Please send all documentation to

development.sysdney@transport.nsw.gov.au
<<mailto:development.sysdney@transport.nsw.gov.au>>

The developer will be required to enter into a Works Authorisation Deed for the road works on the Kingsway

3. The developer is to submit design drawings and documents relating the excavation of the site and support structures to TfNSW for assessment, in accordance with Technical Direction GTD2020/001

The developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment by TfNSW. Please send all documentation to

development.sysdney@transport.nsw.gov.au
<<mailto:development.sysdney@transport.nsw.gov.au>>

If it is necessary to excavate below the level of the base of the footing of the adjoining roadways, the person acting on the consent shall ensure that the owner/s of the roadway is/are given at least seven (7) days notice of the intention to excavate below the base of the footings. The notice is to include complete details of the works.

4. Detailed design drawing plans and hydraulic calculations of any changes to the stormwater drainage system on the Kingsway are to be submitted to TfNSW for approval, prior to the commencement of any works. Please send all documentation to development.sysdney@transport.nsw.gov.au
<<mailto:development.sysdney@transport.nsw.gov.au>>

A plan checking fee will be payable and performance bond may be required before TfNSW approval is issued.

5. A Road Occupancy Licence (ROL) should be obtained from Transport Management Centre for any works that may impact on traffic flows on Kingsway during construction activities. A ROL can be obtained through <https://myrta.com/oplinc2/pages/security/oplincLogin.jsf>
6. All works shall be at no cost to TfNSW

22. Supervising Environmental Consultant

A. Before Commencement

The applicant must engage an appropriately qualified, experienced, and certified environmental consultant to supervise all aspects of site remediation and related environmental management issues.

The appropriately qualified and experienced environmental consultant must be certified by one of the following certification schemes:

- EIANZ 'Certified Environmental Practitioner - Site Contamination' scheme (CEnvP SC).
- Soil Science Australia 'Certified Professional Soil Scientist – Contaminated Site Assessment & Management' scheme (SSA CPSS CSAM).

B. Before Works and issue of any Construction Certificate

The applicant must provide clear evidence of the appointment of the supervising environmental consultant to the satisfaction of the Principal Certifying Authority (PCA) and a copy submitted to Sutherland Shire Council, Environmental Assessment Officer prior to the commencement of any works or the issue of any construction certificate, whichever occurs first.

C. During Works

The supervising environmental consultant must supervise all aspects of onsite contaminated land and environmental management to ensure compliance with the approved plans including, but not limited to, the Remedial Action Plan (as amended).

23. Site Remediation

A. Before Construction and issue of any Construction Certificate

On completion of demolition of above-ground structures and prior to bulk site excavation or construction works, the site must be remediated in accordance with the Remedial Action Plan: "Remediation Action Plan, 23 Kingsway, Cronulla" by WSP Golder, 19 July 2022 [PS132351-002-R-Rev0], under the supervision of the Supervising Environmental Consultant.

Any additional variations to the Remedial Action Plan, must be notified to the satisfaction of the Principal Certifying Authority (PCA) and a copy submitted to Sutherland Shire Council, Environmental Assessment Officer prior to implementation

24. Site Validation

A. Prior to Construction/ Issue of Construction Certificate

On completion of remedial works, a Validation Report must be prepared by an appropriately qualified, experienced and certified environmental consultant in accordance with relevant NSW EPA guidelines including, but not limited to, the 'Guidelines for Consultants Reporting on Contaminated Sites' 2020.

The certified environmental consultant must be certified by one of the following certification schemes.

- EIANZ 'Certified Environmental Practitioner - Site Contamination' scheme (CEnvP SC).
- Soil Science Australia 'Certified Professional Soil Scientist – Contaminated Site Assessment & Management' scheme (SSA CPSS CSAM).

The Validation Report must verify that the site has been remediated in accordance with the amended Remedial Action Plan and also verify that the site is suitable for the proposed development and land use.

The Validation Report must be submitted to the satisfaction of Principal Certifying

Authority (PCA) and Sutherland Shire Council, Environmental Assessment Officer. Written acceptance of the Validation Report must be provided by Sutherland Shire Council, Environmental Assessment Officer prior to construction and the issue of any construction certificate.

Note: NSW EPA Accredited Site Auditor

Sutherland Shire Council, Environmental Assessment Officer, may also request that a NSW EPA Accredited Site Auditor is engaged to review any site contaminated land information. If this is the case, the applicant must adhere to any requirements imposed by the site auditor.

25. Contaminated Land - Unexpected Finds

A. During Construction

If unexpected soil and/or groundwater contamination is encountered during any works; all activities associated with that work must cease and the situation promptly evaluated by the Supervising Environmental Consultant. The contaminated soil and/or groundwater must then be managed under the supervision of the Supervising Environmental Consultant, in accordance with the Unexpected Finds Protocol and relevant NSW Environment Protection Authority (EPA) guidelines.

B. Prior to Recommencement of Works

If contaminated soil or groundwater is treated and/or managed onsite following 'A' above; the Supervising Environmental Consultant must verify that the situation was appropriately managed in accordance with relevant NSW EPA guidelines.

The verification documentation must be submitted to the satisfaction of the Principal Certifying Authority (PCA) and a copy provided to Sutherland Shire Council, Environmental Assessment Officer prior to the recommencement of works.

Note: An appropriately qualified and experienced environmental consultant must be certified by one of the following certification schemes, or demonstrate an equivalent standard:

- CEnvP "Site Contamination" (SC) Specialist - by Certified Environmental Practitioner.
- 'Certified Professional Soil Scientist' (CPSS CSAM) by Soil Science Australia (SSA)

26. Management of Site Soil / Fill Material

A. During Works

i) Disposal of site soils

Any soils to be excavated and disposed of from the site must be analysed and classified by the Supervising Environmental Consultant, in accordance with the Remedial Action Plan and relevant NSW EPA guidelines including the "Waste Classification Guidelines" 2014, prior to off-site disposal.

Excavated material is to be transported to an appropriately licensed waste facility by an EPA licensed waste contractor in accordance with relevant NSW EPA guidelines.

Note: Fill material classified as special waste (asbestos), must be managed in

accordance with the Asbestos Removal Control Plan and the Remedial Action Plan; and disposed of at a waste facility that is licensed to accept asbestos waste.

ii) Reuse of soils

Any existing soils excavated to be reused on the site must be assessed by the Supervising Environmental Consultant in accordance with the amended Remedial Action Plan and the National Environment Protection (Assessment of Site Contamination) Measure 1999 (amended 2013) and any relevant guidelines approved under *the Contaminated Land Management Act 1997*; to verify that the material is suitable for the intended land use, prior to reuse.

Any soils not suitable for the intended land use must be removed from site and disposed of in accordance with i) above.

iii) Importation of fill material

Any fill material that is imported onto the site must comprise Virgin Excavated Natural Material (VENM), Excavated Natural Material (ENM) or other suitable material in accordance with the relevant Resource Recovery Exemption issued under the *Protection of the Environment Operations (Waste) Regulation 2014*.

Prior to placing any fill material on the site, appropriate waste classification/certification documentation that verifies the material is VENM or complies with the requirements of the relevant Resource Recovery Exemption, including ENM, must be provided to the satisfaction of the Principal Certifying Authority (PCA) and copy provided to Sutherland Shire Council, Environmental Assessment Officer.

27. Management of Groundwater – Construction De-Watering

A. Before Commencement and issue of Construction Certificate

The applicant must apply for and receive a Water Supply Works Approval and a Water Access Licence (WAL), or appropriate exemptions from WaterNSW prior to the commencement of any works and prior to the issue of any construction certificate.

Copies of the Water Supply Works Approval, Water Access Licence or appropriate exemptions must be submitted to the satisfaction of Principal Certifying Authority and copies provided to Sutherland Shire Council, Environmental Assessment Officer prior to the commencement of any works and prior to the issue of any construction certificate.

Note 1: Additional information may be requested by WaterNSW or other regulatory agencies as part of the construction dewatering approval and licencing process.

B. During Works

Construction dewatering must be managed in accordance with the requirements of the following, under the supervision of an appropriately qualified, experienced and certified environmental consultant:

- i) Approvals and/or Licences issued by WaterNSW
- ii) Construction Dewatering Management Plan
- iii) Sutherland Shire Council “Environmental Specification - Environmental Site Management 2007”.

- iv) Sutherland Shire Council “Environmental Specification - Stormwater Management 2009”
- v) Managing Urban Stormwater, Soils and Construction, Volume 1, 4th Edition, 2004, Landcom.
- vi) Discharge to Council’s stormwater drainage system must have a pH of between 6.5 and 8, and must not exceed a suspended sediment concentration of 50mg/L.

Note 2: In all instances, the environmental consultant must be certified by one of the following certification schemes:

- EIANZ ‘Certified Environmental Practitioner’ scheme (CEnvP).
- Soil Science Australia ‘Certified Professional Soil Scientist’ scheme (SSA CPSS).

Note 3: The applicant must adhere to any additional conditions or requirements imposed by WaterNSW throughout the development.

28. Landscaping Works

A. Design

The landscaping works must be designed in accordance with the approved Landscape Plan by **Site Design Studios dated 7/7/22 Rev.G** except where modified by the following:

- i) Street Tree Planting must be undertaken in accordance with Councils Development Control Plan and Public Domain Design Manual specifications.
- ii) Amend the landscape plan in accordance with the approved architectural plans.
- iii) Tree Protection Zones (TPZ) / the location of tree protective fencing must be shown on plan for all existing trees.
- iv) Provide minimum soil depths in planter boxes as follows:
 - 1200mm for large trees.
 - 900mm for small trees and tall shrubs.
 - 600mm low shrubs.
 - 450mm grass and ground covers.
- v) In the Communal Open Space (COS) provide a universal toilet, all-weather cover over the entry door, a shade structure of minimum size 6m x 4m, BBQ, basic kitchen facilities and furniture.
- vi) All landscape retaining walls and planter boxes must be constructed in masonry, stone or gabions. Timber is not acceptable.
- vii) All landscaped areas and all planter boxes on slab must be provided with a water-efficient irrigation system and taps at 25m centres, connected to a pump and the rainwater tank, to enable effective landscape maintenance.

If demolition works are to occur prior to the Construction Certificate being issued, tree protection measures must be installed prior to commencement of demolition.

B. Prior to Occupation/Occupation Certificate

The landscape works must be completed in accordance with the approved Landscape Plan and amendments required by 'A' above by persons with a minimum AQF Level III certification in Horticulture or Landscape Construction.

A Final Landscape Inspection must be carried out and a certificate issued by Council's landscape officer prior to occupation or the issue of an Occupation Certificate. This certificate is required to ensure that all tree protection measures, landscaping works, replacement tree planting and the deep soil percentage requirements have been carried out in accordance with 'A' above and other conditions within this consent, that all new indigenous plants on the site and within the road reserve are the correct species and that all trees planted within the road reserve are in accordance with the detailed road frontage design where it forms part of the Roads Act Consent.

To arrange a Final Landscape Inspection please phone 9710-0333 a minimum of 48 hours prior to the required inspection date. An inspection fee will be charged in accordance with the current schedule of rates listed on Council's website. Any secondary inspections will incur a reinspection fee.

C. Ongoing

All landscaping works required by 'A' above must be maintained for 12 months following the final landscape inspection date. Trees required by this condition must be maintained and protected until they are covered by Council's Controls for Preservation of Trees and Bushland Vegetation (SSCDP 2015 Chapter 39).

Any plants found faulty, damaged, diseased or dead shall be replaced with the same species in the same sized container within one month with all costs borne by the owner.

29. Tree Removal on Private and Council Land (Projects Dual Occupancies and Larger)

The removal of the following trees is approved:

- i) Trees identified on the approved Landscape Plan as "existing tree to be removed"
- ii) Any declared noxious plant. The applicant is to ensure that all noxious plants are properly identified and controlled/removed.
- iii) Any tree species exempted by the Sutherland Shire Local Environmental Plan 2015.

All other vegetation that would require approval to be removed must be protected.

A. Tree Replacement

- i) **12** trees are approved for removal as part of this consent. Where trees are proposed to be removed Sutherland Shire Council requires indigenous

replacement canopy tree planting at a ratio of 4:1 on Council land (Council Resolution EHR003-17 of 18 July 2016).

- ii) **48** replacement trees are required to be planted.
- iii) Replacement planting on the site of **29** indigenous trees must be undertaken in accordance with the landscape plans.

Note: For the remaining **19** replacement trees required by “A ii)” above, Council offers offsite planting under a ‘Deed of Agreement’ as an alternative to on site planting, at a cost specified in Council’s Schedule of Fees and Charges. Offsite planting will be undertaken as part of Council’s Green Street Program. ‘Deed of Agreement’ forms can be downloaded from Council’s website at www.sutherlandshire.nsw.gov.au/Development/Development-Applications/Off-Site-Tree-Replacement-and-Deed-of-Agreement. A completed form and payment must be submitted to Council prior to the release of the Construction Certificate.

B. Tree Removal on Council Land

Council has preferred supplier agreements in place with arborists who are approved to carry out arbor works on Council land. Removal / pruning of the tree/s listed below must only be undertaken using Council’s preferred supplier at the applicant’s expense. The applicant is responsible for contract management and payment of the arborist prior to works being undertaken.

Alternatively, if Council’s Contractor is unavailable, the applicant may engage their own contractor with appropriate qualifications, licences and insurances and forward their name and details to Council prior to the commencement of work. This information will be kept on record in the event of any reportable incidents. The applicant is responsible for contract management and payment of the Arborist. Any contractor used must undertake all work according to the Australian Standard for Amenity Pruning (AS4373).

Select from Council’s list of preferred suppliers listed on Council’s website: <http://www.sutherlandshire.nsw.gov.au/Residents/Trees/Trees-on-Council-or-Public-Land>. Payment of the quoted amount must be made prior to any works commencing on site.

C. Prior to Occupation/Occupation Certificate

The replacement tree planting must be completed in accordance with the approved Landscape Plan/ required street tree planting. Certification will be provided as part of the Final Landscape Inspection by Council’s landscape officer.

D. Ongoing

Trees required by this condition must be maintained and protected until they are covered by Council’s Controls for Preservation of Trees and Bushland Vegetation (SSDCP 2015 Chapter 39). Any replacement trees found damaged, dying or dead must be replaced with the same species in the same container size within one month with all costs to be borne by the owner.

30. Tree Retention and Protection

The following condition applies to all trees on the subject site, trees on the adjoining sites (which are potentially affected by the development works), as well as trees on the adjoining Council land that are not approved for removal.

A. Before Works

Prior to the commencement of any demolition, excavation or construction works on site the applicant must engage a suitably qualified and experienced Supervising Consulting Arborist to oversee the measures for the protection of existing trees as listed below.

Note: A Consulting Arborist is a person with a current membership of the Institute of Australian Consulting Arboriculturalists (IACA) or alternatively a person who has obtained an Australian Qualifications Framework AQF Level 5 in Arboriculture.

All trees not approved for removal must be protected by the following measures:

- i) To preserve the trees numbered **13, 14, 15, 16, 17, 19** the demolition of the 'low brick kerb' and first 600mm of the basement cut on the northern boundary must be done by hand under supervision by the Project Arborist to ensure no roots of a diameter greater than 50mm are severed or injured in the process of any site works during the construction period. The location and details of any footings within the Tree Protection Zone (TPZ) shall be detailed in accordance with i) above and on the Construction Certificate Plans.
- ii) Protective fencing constructed of 1.8m high chain wire mesh supported by robust posts must be installed at a minimum radius of **2.5m** from the trunk of each tree referenced above. Signage must be erected on the fence with the following words clearly displayed "TREE PROTECTION ZONE, DO NOT ENTER".
- iii) The tree protection zone within the protective fencing must be mulched with a maximum depth 75mm of suitable organic mulch (woodchips or composted leaf chip mulch) and kept regularly watered for the duration of the works subject to this consent.
- iv) No development or associated activity is permitted within the fenced tree protection zone for the duration of works subject to this consent. This includes vehicular or pedestrian access, sheds, washout areas, excavations, backfilling, installation of services (including stormwater), removal of top soil, stockpiling of soil or building materials.
- v) Where site access/egress is required over the roots of trees identified for retention and protection, provide hardwood rumble boards over a 200mm thick layer of wood chip.
- vi) Where it is impossible to install protection fencing to the full extent of the specified Tree Protection Zone- install trunk and branch boarding protection as shown in Figure 4 of the Australian Standards AS4970- Protection of Trees on Development Sites (Page 17).

B. During Works

- i) The tree protection measures detailed in 'A' above must be maintained during construction. Any pruning works required for clearance to the trees listed above must be done under supervision of the Project Arborist.
- ii) The supervising Consulting Arborist must be present during any approved hand excavation or under boring works within the Tree Protection Zone (TPZ) of any tree identified for retention and protection and have the authority to direct works to ensure the trees long term preservation.
- iii) The supervising Consulting Arborist must strictly supervise that there is no disturbance or severing of roots greater than 50mm diameter and to cleanly cut those roots between 10-50mm in diameter.
- iv) If the tree/s identified for retention in 'A' above are damaged or destabilised during construction then works must cease and Council's Tree Assessment Officer (ph. 9710 0333) must be contacted to assess the tree/s and recommend action to be taken.
- v) Ensure each hold point outlined below within the Tree Protection Schedule is signed off and dated progressively by the Consulting Arborist throughout the various development stages, including preconstruction, construction and post construction. Photographic evidence must also be provided.

Hold Point	Task	Responsibility	Certification	Timing of Inspection	Sign/ Date
1.	Indicate clearly with spray paint trees approval for removal only	Principal Contractor	Supervising Arborist	Prior to demolition and site establishment	
2.	Establishment of tree protection fencing	Principal Contractor	Supervising Arborist	Prior to demolition and site establishment	
3.	Supervise all excavation works proposed within the TPZ	Principal Contractor	Supervising Arborist	As required prior to the works proceeding adjacent to the tree	
4.	Inspection of trees by Project Arborist	Principal Contractor	Supervising Arborist	Bi-monthly during construction period	
5.	Final inspection of trees by project Arborist	Principal Contractor	Supervising Arborist	Prior to issue of interim/final Occupation Certificate	

C. Before Occupation

Prior to the issue of an Occupation Certificate the Supervising Arborist's signed and dated checkpoint list and photographic evidence must be provided to both the Principal Certifier and Council's Landscape Officer at the time of the final landscape inspection.

31. Garbage and Recycling Area

To ensure the proper storage of waste from the premises:

A. Design

The garbage and recycling storage areas within Basement Level 1 and the Ground Level must have smooth impervious floors that are graded to a floor waste. A tap

and hose must be provided to facilitate regular cleaning of the bins and all waste water must be discharged to the sewer in accordance with the requirements of Sydney Water. Garbage bins must be designed to prevent the escape of any liquid leachate and must be fitted with a lid to prevent the entry of vermin.

B. Before Construction

Details of compliance with 'A' above must form part of the documentation accompanying the applications for a Construction Certificate.

C. Before Occupation

The works must be completed prior to the issue of any Occupation Certificate.

D. Ongoing

All waste and recycling bins must be stored wholly within the approved waste storage area. The bins must only be stored in the Ground Level collection area the evening prior to pick-up and returned to the Basement Level storage area as soon as possible after pick-up.

32. External Lighting - (Amenity)

To ensure that any lighting on the site does not cause a nuisance to neighbours or motorists on nearby roads:

A. Design

All lighting must be designed in accordance with Australian Standard AS4282 - Control of the Obtrusive Effects of Outdoor Lighting.

B. Ongoing

All lighting must be operated and maintained in accordance with the Standard above.

33. Noise Control - Design of Plant and Equipment (Commercial Tenancies)

To minimise the impact of the commercial tenancies on the surrounding residential receivers and residents of sole occupancy units within the development, all sound producing plant, equipment, machinery, mechanical ventilation systems or refrigeration systems from the commercial tenancies:

A. Design

All plant and equipment must be acoustically attenuated so that the noise emitted:

- before 8am or after 10pm on any Saturday, Sunday or public holiday, or
- before 7am or after 10pm on any other day
- i) does not exceed an LAeq sound pressure level of 5dB above the ambient background noise level when measured
 - a) at the most effected point on or within any residential property boundary or
 - b) at the external edge of any sole occupancy unit balcony within the premises itself at any time the units operate.
- ii) cannot be heard within a habitable room in any sole occupancy unit* or other residential premises (regardless of whether any door or window to that room is open).

* As defined in the Building Code of Australia

Note: Noise measurement must be carried out in accordance with Australian Standard 1055.1.

B. Before Construction

Acoustic attenuation required to comply with 'A' above, must be prepared by a qualified acoustic engineer. These details must accompany the application for a Construction Certificate.

C. Before Occupation

Certification must be provided by a qualified acoustic engineer that all work associated with the installation of the acoustic measures has been carried out in accordance with 'A' above.

D. Ongoing

All plant and equipment must be operated and maintained in accordance with 'A' above.

34. Building Ventilation

To ensure adequate ventilation for the building:

A. Design

The building mechanical and / or natural ventilation systems must be designed, in accordance with the provisions of:

- i) The Building Code of Australia;
- ii) AS 1668 Part 1 - 1998;
- iii) AS 1668 Part 2 - 1991;
- iv) The Public Health Act - 2010;
- v) The Public Health Regulation 2012;
- vi) AS 3666.1 - 2002;
- vii) AS 3666.2 - 2002; and
- viii) AS 3666.3 - 2000.

B. Before Construction

Details of compliance with the above must form part of the documentation accompanying the application for a Construction Certificate.

C. Before Occupation

- i) Certification must be provided by a qualified mechanical ventilation engineer that the installation of the ventilation system has been carried out in accordance with 'A' above.
- ii) Occupation of the premises must not occur until a registration application has been submitted to Council's Environment and Health Regulation Department for any cooling tower / warm water system.

D. Ongoing

The ventilation system must be operated and maintained in accordance with 'A' above.

35. Car-Park Ventilation - Alternate System

To ensure adequate ventilation for the car park:

A. Design

The basement car-park must comply with the ventilation requirements of Australian Standards AS1668.2 -1991. The car-park must be either mechanically ventilated by a system complying with AS1668.2 -1991 or alternatively, the natural ventilation system must be certified by a qualified mechanical ventilation engineer to the effect that the system is adequate. The certification shall confirm that the system will protect the health of occupants of the car park at any time it is used and satisfies the atmospheric contaminate exposure rates specified in the Worksafe Australia document: Workplace Exposure Standards for Airborne Contaminants.

B. Before Construction

Details of compliance with 'A' above must form part of the application for a Construction Certificate.

C. Before Occupation

Certification must be provided by a qualified mechanical ventilation engineer that the installation of the ventilation system has been carried out in accordance with 'A' above.

D. Ongoing

The ventilation system must be operated and maintained in accordance with 'A' above.

36. Demolition Work

To ensure that demolition of structures is carried out in an environmentally acceptable and safe manner:

A. Before Commencement

If works involve the removal of more than 10 square metres of asbestos material, a bonded asbestos licence is required. A friable asbestos licence is required to remove, repair or disturb any amount of friable asbestos. For further information contact SafeWork NSW.

B. During Works

- i) The demolition of the existing building must be carried out strictly in accordance with Australian Standard 2601 - The Demolition of Structures.
- ii) The applicant must ensure that the demolition contractor has a current public risk insurance coverage for a minimum of \$5 million. A copy of the Policy must be submitted to the Council prior to demolition.

To ensure that the removal and transportation of any asbestos material, regardless of the quantity, is carried out in an environmentally acceptable and safe manner, all work must comply with the following:

- a) Work Health and Safety Act 2011;

- b) Work Health and Safety Regulation 2011;
- c) Safe Work Australia Code of Practice - How to Manage and Control Asbestos in the Workplace;
- d) Code of Practice for the Safe Removal of Asbestos 2nd Edition [NOHSC:2002(2005)];
- e) SafeWork NSW 'Working with Asbestos - Guide 2008';
- f) Protection of the Environment Operations Act 1997; and
- g) Protection of the Environment Operations (Waste) Regulation 2005.

Asbestos waste in any form must be disposed of at a waste facility licensed by the NSW EPA to accept asbestos waste. Any asbestos waste load over 100kg (including asbestos contaminated soil) or 10m² or more of asbestos sheeting must be registered with the EPA on-line reporting tool WasteLocate. More information can be found at <https://wastelocate.epa.nsw.gov.au>.

37. Noise Control-Compliance with Acoustic Report

A. Design

To minimise the impact on surrounding residential receivers and residents within the development, recommendations made in the submitted acoustic report, prepared by PWNA dated 24 September 2021 are to be complied with.

Attenuation measures must be followed to ensure that the noise emitted:

- before 8am or after 10pm on any Saturday, Sunday or public holiday, or
 - before 7am or after 10pm on any other day
- i) does not exceed an LAeq sound pressure level of 5dB above the ambient background noise level when measured
 - a) at the most effected point on or within any residential property boundary or
 - b) at the external edge of any sole occupancy unit balcony within the premises itself at any time the units operate.
 - ii) cannot be heard within a habitable room in any sole occupancy unit* or other residential premises (regardless of whether any door or window to that room is open).

* As defined in the Building Code of Australia

Note: Noise measurement must be carried out in accordance with Australian Standard 1055.1.

B. Before Construction

Acoustic attenuation required to comply with 'A' above, must be prepared by a qualified acoustic engineer. These details must accompany the application for a Construction Certificate.

C. Before Occupation

Certification must be provided by a qualified acoustic engineer that all work associated with the installation of the acoustic measures has been carried out in accordance with 'A' above.

D. Ongoing

All plant and equipment must be operated and maintained in accordance with 'A' above.

38. Collection/Delivery of Goods

A. Ongoing

To minimise the noise impact of the commercial tenancies of the development on the residential occupants of the same development and residential properties surrounding it, the delivery and collection of goods, including garbage and recycling waste from the premises must not take place between the hours of 8pm and 7am Monday to Saturday or before 9am Sunday and Public Holidays.

39. Dilapidation Report

A. Before Works

To assist in the resolution of any future disputes about damage to properties adjoining the development site, prior to commencement of any work on site the Applicant or principal contractor must provide dilapidation reports on the adjacent buildings at No.s 32 Croydon Street and 23-25 Nerang Road, Cronulla, including any basements and ancillary structures. The reports must be provided to the Principal Certifying Authority and to the owners of the properties that are the subject of the report.

The reports must be prepared by a suitably qualified and experienced person, such as a structural engineer.

40. Design Requirements for Adaptable Housing

A. Design

The development must provide 22 units as adaptable housing. A report prepared by a suitably qualified Adaptable Housing Specialist must be submitted with the Construction Certificate, demonstrating that the development complies with the requirements of AS4299 - Adaptable Housing. The report must contain a completed checklist (Appendix A - AS4299) demonstrating compliance with the requirements of a Class C Adaptable House.

B. Before Occupation

A suitably qualified Adaptable Housing Specialist must certify prior to the issue of any Occupation Certificate that the development has been constructed in accordance with the requirements of AS4299 - Adaptable Housing for a Class C Adaptable House. A copy of this certification must accompany the Occupation Certificate.

41. Design Requirements for Livable Housing

A. Design

The development must provide Dwellings 11 Units as Livable Housing. These units must be designed to the 'Silver Standard' as outlined in the Livable Housing Design Guidelines (prepared by Livable Housing Australia).

Details must be included in documentation submitted with the application for a Construction Certificate.

B. Before Occupation

Prior to the occupation of the development, or this issue of any Occupation Certificate, a suitably qualified Livable Housing Specialist must certify that the development has been constructed in accordance with the requirements of "A" above. A copy of this certification must accompany the Occupation Certificate.

42. Verification of Design for Construction - SEPP 65

A. Design

Design verification must be provided by a registered Architect pursuant to SEPP 65 stating that the design intent approved by the Development Consent has been maintained in the building / architectural plans submitted with the Construction Certificate. This must accompany the application for a Construction Certificate.

B. Before Occupation

Prior to the issue of the final Occupation Certificate design verification must be provided in accordance with SEPP 65.

43. External Walls and Cladding Flammability

A. Design

The external walls of the building, including attachments, must comply with the relevant requirements of the *National Construction Code (NCC)*. This includes the products and systems proposed for use or used in the construction of external walls including finishes and claddings such as synthetic or aluminium composite panels

B. Before Construction

Details of compliance with "A" above must form part of the application for a Construction Certificate.

C. Before Occupation

Certification, including an appropriate level of detail to demonstrate compliance with the NCC as built, must be provided by an appropriately accredited professional that external finishes of the building complies with "A" above.

44. Certification Requirement of Levels

A. During Construction

At the following stages of construction:

- i) Prior to the pouring of each floor or roof slab;
- ii) Upon completion of the roof;

A registered surveyor must provide the Principal Certifying Authority with Certification that the stage of structure complies with the development consent in respect of levels.

B. Before Occupation

The certification referred to above must form part of the application for an Occupation Certificate.

45. Sydney Water

A. Before Any Works

Prior to the commencement of any works on site, including demolition or excavation, the plans approved as part of the Construction Certificate must also be approved by Sydney Water. This allows Sydney Water to determine if sewer, water or stormwater mains or easements will be affected by any part of your development. Customers will receive an approval receipt which must be included in the Construction Certificate documentation.

Please refer to the web site www.sydneywater.com.au.

B. Before Occupation / Subdivision Certificate

Prior to the issue of an Occupation Certificate or a Subdivision Certificate a Compliance Certificate under Section 73 of the Sydney Water Act, 1994, must be submitted to Council by the Principal Certifying Authority. Sydney Water may require the construction of works and/or the payment of developer charges. This assessment will determine the availability of water and sewer services, which may require extension, adjustment or connection to the mains.

Sydney Water Advice on Compliance Certificates:

Sydney Water will assess the development and if required will issue a Notice of Requirements letter detailing all requirements that must be met. Applications can be made either directly to Sydney Water or through a Sydney Water accredited Water Servicing Coordinator. Please make early contact with the Coordinator, since building of water / sewer extensions can be time-consuming and may impact on other services as well as building, driveway or landscaping design.

Go to www.sydneywater.com.au/section73 or call 1300 082 746 to learn more about applying through an authorised WSC or Sydney Water.

46. Dial Before You Dig

A. Before Construction

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial Before You Dig at www.1100.com.au or telephone on 1100 before excavating or erecting structures (this is the law in NSW).

It is the individual's responsibility to anticipate and request the nominal location of

plant or assets on the relevant property via contacting the Dial before you dig service in advance of any construction or planning activities.

47.)Noise Control and Permitted Hours for Building and Demolition Work

A. General

To manage noise impacts to the surrounding properties, demolition, excavation, or construction activities should be managed in accordance with the NSW Department of Environment and Climate Change (now Environment Protection Authority). Interim Construction Noise Guideline (ICNG) 2009 and Australian Standard 2436 - 2010 Guide to Noise Control on Construction, Maintenance and Demolition Sites.

Dilapidation reports

Subject to the receipt of permission of the affected landowner, dilapidation report/s of adjoining buildings are to be prepared by an appropriately qualified practising structural engineer and submitted for the approval of the Principal Certifier -

- a) prior to the commencement of demolition/excavation works; and
- b) on completion of construction demolition/excavation works.

Copies are to be provided to affected land owners of adjoining properties.

Demolition, Excavation and Construction Noise and Vibration Management Plan

A site specific noise management plan must be submitted to the Private Certifier and Council prior to issue of any Construction Certificate relevant to that stage of the development.

The Plan must be prepared by a suitably qualified person who is a member, at Member Level, of -

the Institution of Engineers Australia and the Australian Acoustic Society;
or working for, and under the supervision of, a firm that is a member of the Australasian Association of Acoustic Consultants.

The plan must include but not be limited to the following -

- a) Identification of noise sensitive receivers near to the site.
- b) A prediction as to the level of noise impact likely to affect the nearest noise sensitive receivers from the use and proposed number of high noise intrusive appliances intended to be operated onsite.
- c) A statement should also be submitted outlining whether or not predicted noise levels will comply with the noise criteria stated Tables 3 and 4 of the Interim Construction Noise Guideline (ICNG) 2009 Section 4 Quantitative Assessment method.

Where resultant site noise levels are likely to be in exceedance of this noise criteria then a suitable proposal must be given as to the duration and frequency of respite periods that will be afforded to the occupiers of neighbouring property.
- d) A representative background noise measurement (LA90, 15 minute) should be submitted, assessed in the vicinity of any potentially affected receiver locations

and measured in accordance with AS 1055:1.2.1997.

- e) Confirmation of the level of community consultation that has/is and will be undertaken with Building Managers/ occupiers of the main adjoining noise sensitive properties likely to be most affected by site works and the operation of plant/machinery particularly during the demolition and excavation phases.
- f) Confirmation of noise monitoring methodology that is to be undertaken during the main stages of work at neighbouring noise sensitive properties in order to keep complaints to a minimum and to ensure that noise from site works complies with the noise criteria Tables 3 and 4 of the Interim Construction Noise Guideline (ICNG) 2009.
- g) What course of action will be undertaken following receipt of a complaint concerning offensive noise.
- h) Details of any noise mitigation measures that have been outlined by an acoustic consultant or otherwise that will be deployed on site to reduce noise impacts on the occupiers of neighbouring noise sensitive property to a minimum.
- i) What plant and equipment is to be used on site, the level of sound mitigation measures to be undertaken in each case and the criteria adopted in their selection taking into account the likely noise impacts on the occupiers of neighbouring property and other less intrusive technologies available.

Compliance with Demolition, Excavation and Construction Noise and Vibration Management Plan

All works conducted on site which form part of this development must be carried out in accordance with the submitted Demolition, Excavation, and Construction Noise and Vibration Management Plan.

The contractor must provide regular, appropriate, and sustained periods of respite in consultation with Council's Environmental Health and Building Unit:

- Where all control measures detailed in the Demolition, Excavation and Construction Noise and Vibration Management Plan have been implemented and the resultant noise and/or vibration levels at any sensitive receiver still exceed the applicable criteria and
- The development is giving rise to sustained complaints.

Hours of Operation

All demolition, excavation and building, work must be carried out only between the hours of:

- 7.00am and 6.00pm Monday to Friday inclusive,
- 8.00am and 3.00pm Saturdays.

No work is to be carried out on Sundays and Public Holidays.

On a maximum of 12 occasions extended hours may be carried out on the site:

- from 7.00am to 8.00pm Monday to Friday, excluding Public Holidays on a week day.

The purpose of the extended hours note reference ICNG 2009 for example, pouring

large slab.

In order to activate the extended hours of operation both Council and affected neighbours must be notified a minimum of 48 hours prior to commencement.

Affected neighbours include those in the immediate vicinity, adjacent or adjoining the development site. Notification must be by way of written advice including:

- Date/s the extended hours will be utilised.
- The purpose of the extended hours note reference ICNG 2009 for example, pouring large slab.
- Address of the development works / site.
- Contact name and number of appropriate site officer (supervisor or manager) for enquiries.
- Include a copy of the letter and a map or list identifying those affected neighbours who have been notified.

48. Toilet Facilities

A. During Works

Toilet facilities must be available or provided at the work site at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site before works begin and must be maintained until the works are completed.

Each toilet must:

- i) be a standard flushing toilet connected to a public sewer, or
- ii) have an on-site effluent disposal system approved under the Local Government Act 1993, or
- iii) be a temporary chemical closet approved under the Local Government Act 1993.

49. Provision of Letter Box Facilities (6005)

A. Before Occupation

- i) Street / unit / shop numbers must be clearly displayed.
- ii) Suitable letterbox facilities must be provided in accordance with Australia Post specifications and AS4253.
- iii) The site, shops and dwellings must have the following street address format:
 - The Commercial tenancies must be known as 3 Kingsway, Cronulla
 - The liquor tenancy must be known as Shop 1/3 Kingsway, Cronulla
 - The retail (south-eastern corner) tenancy must be known as Shop 2/3 Kingsway, Cronulla
 - The Café/Retail Tenancy must be known Shop 3/3 Kingsway Cronulla
 - The Supermarket must be known as must be known as Shop 4/3 Kingsway Cronulla

- The Retail Tenancy must be known as Shop 5/3 Kingsway Cronulla
- The Café/Deli Tenancy must be known as Shop 6/3 Kingsway Cronulla
- The 1st floor Commercial tenancies must be number 101, 102 & 103/3 Kingsway, Cronulla
- The Residential Building A must be known as 34 Croydon Street
- The units in Building A must be numbered in a Hotel style format 101, 201, 301/34 Croydon Street, Cronulla
- The Residential Building B must be known as 2 Abel Place, Cronulla
- The units in Building B must be numbered in a Hotel style format 101, 201, 301/2 Abel Place, Cronulla

50. Car parking Areas

A. Ongoing

To ensure that the car parking area satisfies the demands of the development:

- i) All commercial car parking must be made available on an unrestricted basis and free of charge at all times for employees' and visitors' vehicles
- ii) Any residential car parking nominated as visitor parking must be continually available as common property in any future subdivision.

B. Ongoing

The car parking provided must only be used in conjunction with the dwellings and / or tenancies contained within the development and not for any other purpose.

51. Car Parking Allocation

A. Before Subdivision

Car parking must be allocated to individual strata lots as part of their unit entitlement.

Visitor parking facilities and/or car wash bays must be designated as common property on any strata plan.

Parking must be allocated on the following basis:

- Residential dwellings: 152 spaces
- Retail/commercial: 152 spaces
- Loading/servicing: 2 Bays

B. Ongoing

The car-parking provided must only be used in conjunction with the dwellings and/or tenancies contained within the development and not for any other purpose.

52. Loading and Unloading

To preserve the amenity and ensure the safety of the public:

A. Ongoing

All loading and unloading of vehicles must be carried out within the site and not from the public roadway. All service/delivery vehicles must leave the site in a forward direction.

53. Consent for Non-Residential Tenancies

A. Occupation

Consent must be obtained prior to the first use of any of the non-residential tenancies.

54. NSW Police

No development consent is granted to the fit out or use of any of the premises within the development for the sale of alcohol. A separate development application is required to be submitted for any such use.

55. Swimming Pools (including Spas)

To minimise the impact of the swimming pool on the amenity of adjoining properties and to ensure safety:

A. Design

The design of the swimming pool and associated equipment must comply with the following requirements:

- i) The Swimming Pools Act & Regulations.
- ii) Australian Standard 1926 Swimming Pool Safety as prescribed under the Building Code of Australia.
- iii) The pump and associated equipment must be sound insulated and/or isolated so that the noise emitted does not exceed an LAeq (15min) of not more than 5 dB(A) above the background level in any octave band from 31.5Hz to 8KHz centre frequencies inclusive at the boundary of the site.

Note:

- The measurement of sound must be carried out in accordance with Australian Standard 1055.1.
- Landscaping and ancillary structures must not intrude into the child-resistant barrier Non-Climbable Zone.
- Only structures associated with the pool may be located within the pool area. Clothes lines, barbeque, sheds, entertainment structure, outside toilets or any other non pool-related structures are not permitted within the pool area.

B. Before Construction

Details of all child-resistant barriers (existing and proposed) to be utilised to comply with the requirements of the Swimming Pools Act and Regulations applicable at the time must be shown on the Construction Certificate plans.

C. During Works

The swimming pool excavation and/or swimming pool must be provided with a suitable barrier to prevent a risk of falling into the excavation or pool at all times throughout the construction phase.

D. Before Occupation

Before the issue of any Occupation Certificate the child resistant barrier must be

installed in accordance with A above.

E. Ongoing

- i) The pump and associated equipment must be maintained and operated in accordance with the noise levels described above.
- ii) The child resistant barrier must be maintained in accordance with the Australian Standard as described above.



Lauren Franks - 9710 0617
File Ref: PAD18/0102

25 January 2019

Kingsway Developments Cronulla Pty Limited
C/- Architecture Urbaneia P/L
1/53 Hume Street
CROWS NEST NSW 2065

Dear Sir / Madam,

Pre-Application Discussion No. PAD18/0102

Proposal: Demolition of existing structures and construction of a mixed use development

Property: 3-7, 13-17 & 21-23 Kingsway and 32 Croydon Street, Cronulla

Council is committed to achieving quality built outcomes for the benefit of residents and the broader community. The Pre-Application (PAD) process is intended to assist in this goal and I appreciate you taking the time to attend.

The PAD held on 7 December 2018 regarding the above development proposal was attended by Peter Barber (Director), Mark Adamson (Manager), Carine Elias (Team Leader), Lauren Franks and Teille Whiteman (Development Assessment Officers) and Slavco Bujaroski (Architect) who attended the meeting on behalf of Council and Ted Manny and Chris Rose (Developers), Mo Chehelnabi (Project Architect), William Shillington (Architect), Matthew McCarthy (Traffic Engineer), Johnny Derwent (Landscape Architect) and Lyndall Wynne and Laura Featherstone (Planners) on behalf of the applicant.

The purpose of this letter is to provide a summary of the issues discussed at the meeting and provide information that will assist you complete a development application (DA). It is not a full assessment of the proposal. Council cannot provide you with certainty on the determination of the proposal until a DA has been lodged and assessed.

Your DA will need to be supported by a Statement of Environmental Effects addressing all relevant Environmental Planning Instruments, and the detailed planning controls contained in Council's Development Control Plan.

The Site and Proposal:

The site is located on the northern side of Kingsway, extending between Abel Place and Croydon Street. The site has an area of 5,204.8m². The land slopes gently towards the centre of the northern boundary. Limited vegetation exists on the site, with a row of well-established Tuckeroo trees along the northern boundary for a distance of approximately 25m, extending westward from Abel Place.

The proposal is to develop a mixed use residential flat building and commercial development featuring commercial premises on the ground floor extending partially on the first floor and 109 residential units in the form of 28 x 1 bedroom units, 63 x 2 bedroom units and 18 x 3 bedroom

units over 9 levels. 153 residential car spaces and 132 commercial car spaces are proposed over 2 basement levels. These car spaces will be accessible via an entry provided from Abel Place and exiting to Croydon Street. A separate delivery / loading entry will be provided from Croydon Street.

The property extends across two zones: Zone B3 Commercial Core and R4 High Density Residential under the provisions of Sutherland Shire Local Environmental Plan 2015 (SSLEP 2015). The proposed mixed residential flat building and commercial development is a permissible form of development within the B3 zone, however commercial development must not extend into the R4 zone as this is a prohibited use.

SSLEP 2015 indicates that the site is mapped as containing class 5 acid sulphate soils and is potentially contaminated. These specific characteristics of the site will need to be taken into consideration when preparing your DA.

Comments on the Proposal:

The following comments are provided in respect to the concept plans presented for consideration at the meeting.

1. Planning

Site Isolation

The exclusion of No. 11 and No. 19 Kingsway from the development site will have severe adverse impacts on the streetscape and will restrict each lot's redevelopment potential. It is not a rational or desirable site planning outcome. Council has considered the proposal in light of the site isolation planning principles in *Cornerstone Property Group Pty Ltd v Warringah Council [2004] NSWLEC 189*. As a result, Council has determined that the current proposal will "prejudice reasonable development" of both No. 11 and No. 19 Kingsway as each isolated site is land-locked with three boundaries adjoining the subject site and a south orientation with a particularly narrow width presenting to the street. These factors will inhibit these sites from reaching their full redevelopment potential limiting their future use to a commercial use only. Incorporating a residential component would cause significant non-compliance with the Apartment Design Guide (ADG) and Sutherland Shire Development Control Plan 2015 (SSDCP 2015) in relation to building separation, solar access, cross-ventilation and parking.

In certain situations where a site is at risk of isolation, an Applicant is required to demonstrate that all reasonable attempts to acquire an isolated lot has occurred. In the pre-DA meeting it was acknowledged that all correspondence with No. 11 and No. 19 Kingsway has been filed and will be submitted to Council as part of the DA. This is required information and should include details of the negotiations between adjacent properties and evidence of a reasonable offer being made for the site in accordance with independent property valuation reports. However, please note that at this point in time Council's position is that No. 11 and No. 19 Kingsway need to form part of the subject site to ensure continuity in built form, materiality and scale of development between Croydon Street and Abel Place.

The prominent location of the site and its high visibility at the end of Cronulla Mall magnifies the importance of lots between Abel Place and Croydon Street being consolidated and developed as one site. This is reflected in Clause 4.4(2A)b. of SSLEP 2015 which awards a floor space ratio (FSR) bonus up to 0.25:1 when all lots within this area are consolidated. Further, SSDCP 2015 includes specific controls for redevelopment of this area as a whole.

The exclusion of sites within the block between Abel Place and Croydon Street restricts the development's ability to achieve the objectives of the Environmental Planning and Assessment Act 1979 to encourage "the promotion and co-ordination of the orderly and economic use and development of land". The isolation of these sites also contravene the development's ability to fulfil the objectives of the B3 zone as a high standard of urban design

from the streetscape would not be achieved in addition to aims of the SSLEP 2015 seeking to minimise adverse impacts of development.

Permissibility

No. 32 Croydon Street is zoned R4 High Density Residential differing from the remainder of the site which is zoned B3 Commercial Core. This change in zoning has implications for the design of the development as the commercial land uses must remain wholly within the portion of the site zoned B3 Commercial Core. In its current form, the proposal unacceptably seeks to utilise No. 32 Croydon Street as a commercial waste storage, commercial delivery area and loading bay to service commercial development fronting Kingsway.

It was suggested in the pre-DA meeting that by extending the driveway and / or part of the loading bay associated with the commercial uses on the B3 zoned portion of the site onto No. 32 Croydon Street that this could be considered 'neighbourhood shops' which is permissible within the R4 High Density Residential zone. This argument is not supported as the nature of the businesses provided within the development will also include a supermarket and do not fit within the definition of neighbourhood shop.

A planning proposal to change the zoning of No. 32 Croydon Street to B3 Commercial Core is needed should the development seek to extend commercial land uses fronting Kingsway onto this lot. Rezoning this parcel of land may not necessarily be supported given No. 32 Croydon Street shares an eastern boundary with an established residential flat building at No. 23-25 Nerang Road and will rely on the reduced FSR, building height and minimum 30% landscaping requirements that apply to land zoned R4 High Density Residential as opposed to development standards that apply to land zoned B3 Commercial Core. Discussions with Beth Morris, Senior Policy Advisor and Planner (9710 0376 or bmorris@ssc.nsw.gov.au) should be made to discuss this process and timing should you wish to pursue this further.

Distribution of Gross Floor Area, Landscaping and Building Height

Gross floor area must be distributed across the site to ensure that the maximum 2.75:1 FSR is not exceeded on the portion of the site zoned B3 Commercial Core. Similarly, this approach is to be applied to the portion of the site zoned R4 High Density Residential. This will ensure equitable distribution of bulk across the site occurs rather than shifting additional bulk to one area of the site. This approach to FSR applies to any other applicable development standard including building height and landscaping. Further, the proposal has applied a bonus 0.25:1 FSR afforded pursuant to Clause 4.4(2A)b. of SSLEP 2015. This bonus is not available unless No. 11 and No. 19 Kingsway form part of the subject site.

Building Height

A maximum building height of 16m on the portion of the site identified as No. 32 Croydon Street and 30m to all remaining areas of the site applies. Within the portion of the site permitting a 30m building height, the proposal exceeds this maximum building height by approximately 1.8m. Whilst this should be avoided, a variation can be considered if accompanied by a written request in accordance with Clause 4.6 of SSLEP 2015. Where breaches of the maximum building height are accepted, these must apply to vary minor building elements such as lift overruns or mechanical plants and services if there are centrally located and not visible from a standing position on surrounding roads or public spaces.

The floor to ceiling heights provided at the ground level and first floor are driving the building height breach. There is scope for the ground level's floor to ceiling height to be reduced whilst remaining compliant with the ADG.

Shared Zone Thoroughfare along Northern Boundary

The SSDCP 2015 requires provision of a 10m wide shared zone access way along the northern boundary to provide a connection between Croydon Street and Abel Place. Basement access is to feature from this shared zone. This is not achieved with the current

design and is necessary to conceal basement entries from Croydon Street and Abel Place, allow a traffic and pedestrian connection through the site and provide a break in built form elements between the development and the commencement of existing residential flat building development to the north.

Voluntary Planning Agreement (VPA)

Should the isolated sites be acquired and included to form part of the development site, preparation of a VPA is encouraged and should commence as soon as possible and be submitted to Council as early as possible as this process can take some time as it requires a 28 day public exhibition period and authorisation through a Council resolution.

Discontinuing Use of Carpark – No. 9 Kingsway

Discussions with Lani Richardson, Manager – Property Services (9710 0614 or lrichardson@ssc.nsw.gov.au) should occur with regard to procedures relating to the transfer of land from Council ownership to address your concern that the public and surrounding owners are made aware parking on No. 9 Kingsway is restricted.

2. Architectural

Urban Design

The setback from the Kingsway boundary would be acceptable if no site isolation occurred. However, the retention of No. 11 and No. 19 Kingsway with a nil front setback leads to an unacceptable ground level interface as a stepped façade will occur, introducing Crime Prevention Through Environmental Design (CPTED) issues and a poor presentation to the street. Also at the ground level, there is a lost opportunity in not having a pedestrian access into the development from Kingsway to either the residential component or first floor commercial areas.

The first floor façade continues with a monotonous framed glazed wall having no relationship to internal spaces on the first floor. The decision to introduce a large void adjacent to this glazing creates a missed opportunity to provide spaces that have a desirable outlook when standing / sitting near this window through the mall and improve access to daylight and air. It was noted in the pre-DA meeting of your intention to explore potentially introducing roof openings to allow natural light and air intake into the first floor commercial areas. This decision would cause noise to travel upwards to disrupt the amenity of units above and would not achieve the benefits gained by extending the floor area to the glazing. The introduction of skylights in conjunction with extending the floor area to the glazing would be worth considering.

The 'wrap around' building form enclosing No. 11 Kingsway to the east, west and north is unsuccessful. There is an opportunity to move and re-orientate the eastern building further towards Abel Place (whilst complying with SSDCP 2015 setback requirements) to achieve appropriate building separation. The central building is orientated in an east west direction which splits the building into two halves; each half inequitable in achieving an acceptable level of amenity. It is suggested that this central building is turned 90 degrees so that all units share an aspect between north-east and north-west in mid-winter. Please note that this suggestion is a narrow, focussed view on one aspect of the proposal and should be read as a potential strategy for organising buildings of the site once it is fully amalgamated.

Amenity

With the exception of the one bedroom unit fronting Croydon Street on each level, all remaining one bedroom units have been designed without a window in the bedroom. This is an unacceptable outcome.

On many occasions habitable rooms face blank walls and are deeply recessed within the building creating non-compliances with the ADG and poor amenity outcomes. The design also

lacks appropriate building separation across the site heightening the need for improved individual unit design.

A total of 11 livable and 22 adaptable units are to be provided within the development pursuant to SSDCP 2015. These units and their car spaces are to be identified on plans. Post-adaptation plans need to be shown, and should involve minimal changes to walls and plumbing for affordability. With an ageing population, this form of housing is necessary to ensure occupants can remain in their home as they age without the need to modify their home in the future.

Residential storage is required at a rate of 6m³ for 1 bedroom, 8m³ for 2 bedroom and 10m³ for 3 or more bedroom units, in accordance with the ADG and SSDCP 2015. These areas are to be identified (along with their cubic metre volume) on plans submitted with the DA. A maximum of 50% of storage can be provided within the basement with their allocation to each unit demonstrated. Access to storage on basement 1 cannot be achieved.

Sustainability

Council's calculation of units achieving an adequate level of cross-ventilation to meet ADG requirements will not include windows facing the 2m wide slit between units. Building indentation should exceed 2:1 (width to depth) in order for cross-ventilation to adequately source a unit.

The number of units achieving the minimum 70% solar access requirements in accordance with the ADG appears deficient. Of equal importance is to ensure no more than 15% of units receive no solar access. Currently 23 units (21%) do not receive solar access midwinter.

3. Landscaping

Communal Open Space

An area equal to at least 25% of the site area is to be provided as communal open space as required by the ADG. There may be an argument for an area less than 25% to be provided due to the development's proximity to Dunningham Park and nearby beaches. However, this will only be considered if the communal open space is well considered with amenities suitable for individuals and groups including a shade structure of a minimum size 6m x 4m, BBQ, basic kitchen facilities, small canopy trees, understorey planting and furniture.

It is unclear how the large communal balcony areas south and east of Level 2 units will be utilised and how access will be achieved to the eastern portion. These areas are not supported due to the privacy conflicts that arise with adjacent units and lack of connection to other areas of the development.

Deep Soil

It appears the R4 zoned portion of the site has provided the required 30% landscaped area. Locations of deep soil area across the site are supported as they provide a much needed vegetative buffer/interface between higher density developments.

If incorporating 'feature figs' to the proposal will be explored, consideration should be given to providing additional deep soil or at minimum greater soil volume by setting down the basement and providing greater building setback to accommodate the canopy of such trees.

Existing Vegetation

Existing street trees in good health are to be retained and protected in addition to the row of Tuckeroo trees along the northern boundary. Any future DA must clearly show on plans all existing trees to be removed / retained in addition to submission of an Arboricultural Impact Assessment.

Landscape Design

A less rigid approach to landscape that reflects the local biodiversity and indigenous plant form and character of the Sutherland Shire is encouraged. This can be achieved through irregular spacing and intermixing of canopy trees and understorey species.

4. Environmental Science

Acid Sulfate Soils

The site's affectation of Class 5 Acid Sulfate Soils must be addressed with respect to the proposed building design and required site excavation to ensure Clause 6.1 of SSLEP 2015 has been satisfied.

Potential Contaminated Land

The south-western portion of the site (No. 23 Kingsway) is listed in Council's Contaminated Land Register as being potentially contaminated due to previous land uses including historical automotive mechanical repairs and a service station.

In accordance with the requirements of Clause 7 of State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55), Council must consider whether the land is contaminated and be satisfied that the site is suitable, or can be made suitable, for the proposed development.

Therefore, a Preliminary Site Contamination Investigation which includes soil and groundwater sampling must be undertaken for the entire development area in accordance with the following criteria:

- The investigation and reporting is to be undertaken by an appropriately qualified and experienced environmental consultant in accordance with relevant NSW EPA Guidelines including, but not limited to, "Guidelines for Consultants Reporting on Contaminated Sites 2011." The investigation must also meet the requirements of the National Environment Protection Measure – Assessment of Site Contamination 2013 (NEPM 2013).
- The appropriately qualified and experienced environmental consultant must be certified by one of the following certification schemes:
 - EIANZ 'Certified Environmental Practitioner - Site Contamination' scheme (CEnvP SC).
 - Soil Science Australia 'Certified Professional Soil Scientist – Contaminated Site Assessment & Management' scheme (SSA CPSS CSAM).
- The report must include an assessment of the suitability of the site for the proposed development and also indicate any further investigation and/ or remedial measures that may be required.

Dependant on the outcome of the preliminary investigation, a Detailed Site Contamination Investigation and / or a Remedial Action Plan may also be required. Further, Council may also require a NSW EPA Accredited Site Auditor to be engaged to review the submitted contaminated land information. If this is the case, the applicant must adhere to any conditions or recommendations made by the site auditor.

Groundwater

A geotechnical assessment is required to determine if groundwater will be intercepted and if any de-watering is required.

5. Building Code

The proposal does not indicate any means of egress from the basements. This will need to be provided to enable exit points and paths of travel to be assessed. In addition, the following information is required to accompany any future DA:

- A Building Code of Australia compliance report from an accredited certifier who is accredited with the class and size of the building. This report should address sections B, C, D, E and F of the BCA.
- A report from a registered disability consultant addressing the requirements of AS 1428.1 in relation to disabled access and facilities for the premises.
- An acoustic report addressing the requirements for sound transmission throughout the building.
- A BASIX and Part J report for the energy efficiency requirements of the building.
- A hydraulic consultant's report and site plan indicating where the water based fire services will be positioned. Also on the site plan, the location of the hydrant booster valve assembly and sprinkler booster set is to be shown.
- A report from a mechanical engineer for the required mechanical ventilation throughout the building and the position of the discharge of the waste air.

6. Engineering

Traffic Generation

The Preliminary Traffic and Parking Advice submitted has adopted a traffic generation rate for residential and commercial uses. However, it is unclear how the traffic generation rates of 15.5 and 14.7 for PM and weekend periods have been ascertained. This should be explained within the Traffic and Parking Impact Assessment to be prepared with any future DA. The traffic generation rates and any discount as well as future surrounding development traffic generation needs to be approved by Council and Roads and Maritime Service (RMS).

The road network within the Cronulla Town Centre experiences significant delay and congestion during weekday and weekend peak hours particularly during summer. Whilst the site is located on the northern periphery of the Town Centre where traffic generation will have a reduced impact on congestion, the Traffic and Parking Impact Assessment prepared for any future DA is to include traffic modelling results for AM, PM and SAT peak (using VISSIM traffic microsimulation software) for key intersections surrounding the development site, including the Cronulla Town Centre road network.

Traffic Signalling

Proposed traffic signalling at the Croydon Street / Kingsway intersection may not comply with RMS requirements. Consultation with RMS for their initial approval of the traffic signal layout and location should occur before proceeding to traffic modelling or analysis. Concern is raised with the planning traffic signalling location as potential safety issues may be created due to the close proximity of an existing signalised pedestrian crossing approximately 70m east along Kingsway.

Public Domain Works

The proposal seeks to widen the footpath along Kingsway and in doing so remove on-street parking and the opportunity for provision of future road cycle paths and shared paths. This requires consultation and support from RMS and will require a detailed design to demonstrate that the intent of the Cronulla Town Centre – Public Domain Master Plan and Public Domain Design Manual has been achieved. Currently, footpath widening along Kingsway is not recommended in the Cronulla Town Centre - Public Domain Master Plan (PDMP) however the PDMP has yet to be finalised and is at a final concept stage ready for community consultation. Regardless, if a widened footpath is not adopted within the PDMP Council are open to accepting this variation if demonstrated through a detailed design that an alternative has an improved outcome. This can be dealt with by condition and through a Works Authorisation Deed (WAD).

A splay corner is required at ground level in the south-western corner of the site and should be provided and dedicated to Council as road reserve to assist with sight distance and pedestrian movements. It is recognised that the building in this corner of the site is setback from Kingsway and Croydon Street however this alone will not guarantee retention of good

sightlines as built form elements such as planter boxes or fencing may be erected within the setback area at a later date.

Parking & Driveway Locations

Calculation of the required number of car spaces on the site is dependent on the zone in which the land use occurs. In its current form, parking rates specified within SSDCP 2015 applicable for development within the B3 zone applies. This triggers a requirement for a minimum 1 parking space per unit with a maximum 2 spaces to be provided per unit. No visitor parking is required. The commercial component of the development will require 1 car space to be provided per 30m² gross floor area. Parking provided above these rates is counted towards the calculation of gross floor area.

Parking space sizes and manoeuvring are to comply with AS2890.1. Residential spaces are to satisfy User Class 1A and commercial spaces are to satisfy User Class 3. A Traffic Report is to include swept paths for manoeuvring within the basement where car spaces are shown in tight locations. Deliveries / loading dock must achieve forward entry / forward exit for a HRV.

The proposed driveway locations are considered acceptable subject to adequate sightlines provided for vehicles and pedestrians.

Drainage

The development will be required to connect to a piped drainage system. Assessment must consider the appropriate sub-catchment. There are existing stormwater drainage trunk systems (some Council owned) that traverse or are in close proximity to the subject site. However, assessment will need to be completed as to the discharge rates and point/s of connection of the development drainage system to Council's drainage infrastructure. There may be a need to provide OSD and also augment Council's drainage infrastructure along the Kingsway connecting to Peryman Square. A detailed drainage design is to be submitted including calculations prepared by a suitable qualified engineer.

7. Waste

Waste Generation

Residential

The following rate of waste generation is to be used for the development:

- Garbage 120L/week/dwelling
- Recycling 120L/week/dwelling

Commercial

The *Better Practice Guidelines for "Waste Management and Recycling in Commercial and Industrial Facilities 2012, NSW EPA"* must be used to calculate expected waste generation rates for the commercial component of the development.

Bulky Household Waste

Bulky household waste storage is required. This can be achieved through provision of multiple bulk storage areas subject to Council approval. A development of this size would be required to provide approximately 60m² of bulky waste storage.

Council's pre-booked clean up must be collected on-site. It is the responsibility of the Owners Corporation / Strata Manager to transfer stored bulky waste to the approved collection point for Council's pre-booked clean-up service.

Waste Collection

On-site waste collection is required. Collection vehicles will be required to enter the property to undertake waste and recycling collection. Access to a nominated collection point/s must be designed to ensure a Heavy Rigid Vehicle (HRV) can safely access and manoeuvre within the site. The nominated collection point may be a temporary bin holding area or driveway if

gradients and surfaces allow fully laden bins to be collected safely. However, manual manoeuvring of bulk bins or bins containing compacted waste should be avoided wherever possible. If transfer of bulk bins is required, it should be no more than 3m at a maximum surface gradient of 1:30. Please see Council's specification "*Waste Collection For New Multi-Unit Dwellings and Residential Flat Buildings*" for further information.

Council is able to provide weekly collection of garbage or recycling as part of its 'shared service' domestic waste management charge adopted by Council in the 'Schedule of Fees and Charges' for multi-occupancy residential flat buildings. Alternatively, collection by private contractor is permissible.

Waste Management Plan

A detailed Waste Management Plan is to be submitted with a future development application. The following details must be included:

- Waste generation, including type and volume
- Re-use and recycling potential
- Waste systems, such as provision for waste separation and details of any garbage chute or compactors
- Bin quantity, size and type/colour
- Proposed bin storage and collection areas, including how bins are to be moved from waste storage area/s to collection area/s
- Collection frequency
- Collection location
- Scaled waste management drawings
- Waste vehicle access (swept path analysis)
- Detail of the on-going management, maintenance and cleaning of all waste and recycling management facilities

The following publications must be used to inform the design of the development:

- *Waste Collection For New Multi-Unit Dwellings and Residential Flat Buildings* 2017 Sutherland Shire Council Environmental Specification.
- *Better Practice Guide for Waste Management in Multi-Unit Dwellings* 2008, Department of Environment and Climate Change NSW.
- *Better Practice Guidelines for Waste Management and Recycling in Commercial and Industrial Facilities* 2012, NSW EPA.

Utilities and Infrastructure

You are advised to make enquiry early with the various infrastructure and utility providers to ensure relevant considerations for the provision of services have been taken into account early in the building design. Urban infrastructure and utilities are reaching, or have reached maximum capacity in some localities. Electricity substations are required on occasion to ensure sufficient power to buildings and NSW Fire have required substantial water tanks in some instances to meet flow requirements for sprinkler systems.

Infrastructure to support these requirements in the front boundary set back at the expense of landscaping or parking requirements is not likely to be acceptable. So you are encouraged to make enquiries and plan in advance.

Conclusion:

Council supports quality, well considered development and the comments provided are intended to help you work toward this outcome. As presented, the proposal cannot be supported due to the isolation of No. 11 and No. 19 Kingsway, non-compliant distribution of FSR across the site and extension of commercial development onto the portion of the site zoned R4 High Density Residential which is prohibited. Inconsistency with the SSLEP 2015, SSDCP 2015 and ADG in many areas are cause for concern with the design. Comments

provided by Council's Design Review Forum (DRF) will also form part of the assessment of any future DA and need to be taken into consideration when amending the proposal.

It is important to note that the information provided in this letter is based on the planning instruments applicable at the time of writing. You should make yourself aware of any subsequent changes to legislation or local planning controls before lodging your development application.

Council strongly recommends that you distribute this letter to all professionals within your design team including architects, landscape architects and engineers.

For detailed information about how to prepare and lodge a development application, please refer to the "Development" section of Council's website (www.sutherlandshire.nsw.gov.au). A "DA Guide" is available and an online tool called "Development Enquirer", which searches the applicable planning instruments for the planning controls relevant to your site and development.

To make sure lodgement of your application is quick and easy, make an appointment with Council's Development Enquiry Officers on 9710 0520 when you are ready to lodge. Requests for appointments can also be made via Council's website.

Please contact Council if you believe any of the above information to be incorrect or if you need clarification of the advice provided. Your initial point of contact should be Lauren Franks (9710 0617) as this is Council's development assessment officer who will most likely be responsible for the assessment of your DA.

Yours faithfully



Mark Adamson
Manager – Projects and Development Assessment

Round 1 Submissions

22/6 -14/7 2021

Ecomments:

Address	Date of Submission	Issue/s
NEUTRAL 909/1 Abel Place, Cronulla Gaille McPhee	24/06/2021	Inclusion of Sur-Mer complex in NN process
610/1 Abel Place, Cronulla Laurence Wynn	24/06/2021	Traffic – congestion and flow Earthworks
608/1 Abel Place, Cronulla Thomas Grant	30/06/2021	Traffic – congestion and flow Parking Relocation of residential traffic entry/exit
<u>1204/1 Abel Place, Cronulla</u> Christopher Fogarty (CF)	30/06/2021	Safety – pedestrians and blocking of emergency services Traffic: <ul style="list-style-type: none"> • Use of Abel Place during construction • Congestion • Location of loading zone • Parking Antisocial behaviour Light omitted and lack of privacy Noise/acoustic impacts Dust – impacts and mitigation measures Height – lack of solar access and overshadowing Damage – dilapidation report

1204/1 Abel Place, Cronulla Jeanette Fogarty	30/06/2021	Same as CF submission
1004/1 Abel Place, Cronulla Angelina Fazzari	01/07/2021	Same as CF submission
602/1 Abel Place, Cronulla Simone Gow	01/07/2021	Same as CF submission
1106/1 Abel Place, Cronulla Richard Watt	02/07/2021	Same as CF submission
82 Lakehaven Drive, Lake Albert Nerida Babic	04/07/2021	Traffic – congestion Parking – inclusion of disabled spaces Safety - pedestrians
NEUTRAL 23/23-25 Nerang Road, Cronulla Tom Giouroukos	05/07/2021	Dilapidation report
705/1 Kingsway, Cronulla Jan and Reg Mahoney	06/07/2021	Same as CF submission
806/1 Kingsway, Cronulla John O'Dwyer	06/07/2021	Same as CF submission
37 Coral Road, Woollooware Similar to above submission (30/06) however qualifies as a 'unique submission'. Alan Freeman	07/07/2021	Built form – incompatible with local character Safety – pedestrians and blocking of emergency services Traffic: <ul style="list-style-type: none"> • Use of Abel Place during construction • Congestion • Location of loading zone • Parking Antisocial behaviour Light omitted from security measures and lack of privacy Noise/acoustic impacts Dust – impacts and mitigation measures

		Height – lack of solar access and overshadowing Damage – dilapidation report
1201/1 Abel Place, Cronulla Ghassan Allouche	08/07/2021	Same as CF submission
1202/1 Abel Place, Cronulla Joanne Crewes	08/07/2021	Same as CF submission
1113/1 Kingsway, Cronulla Robyn Orr	08/07/2021	Same as CF submission
82 Lakehaven Drive, Lake Albert Michael Babic Similar to above submission (04/07) from same address however qualifies as a 'unique submission'.	10/07/2021	Safety – pedestrians Speed limit Traffic – congestion Parking – inclusion of disabled space
604/1 Abel Place, Cronulla Gregory Pratt	10/07/2021	Same as CF submission
5 Pozieres Street, Cronulla Garry Beattie	12/07/2021	Same as CF submission
65 Durham Street, Hurstville Leslie Gray	12/07/2021	Same as CF submission
1104/1 Abel Place, Cronulla Nagui Salib	12/07/2021	Same as CF submission
30 Castlewood Avenue, Woollooware Kerry Coomes	13/07/2021	Height Building form - sharp balconies and harsh design
2/1 Kingsway, Cronulla Khayrat Girgis	13/07/2021	Safety – pedestrians (elderly/disabled patients visiting medical centre) Parking: <ul style="list-style-type: none"> Removal of spaces and loading zone

		<ul style="list-style-type: none"> Inclusion of disabled parking spaces and drop off/pick up space for the above use
8/30 Croydon Street, Cronulla Jackson Heenan	13/07/2021	Traffic – flow and congestion Parking – insufficient spaces for uses
21 Mitchell Road, Cronulla Marilyn Urch	14/07/2021	Parking – insufficient spaces for retail uses Traffic Study – inaccurate rates
1111/1 Abel Place, Cronulla Kerry Breakspear	14/07/2021	Same as CF submission
4/31-35 Ewos Parade, Cronulla Leanne Farmer	14/07/2021	Parking – insufficient <ul style="list-style-type: none"> Location of loading zone Traffic – flow and congestion Safety – pedestrians Height Building form – harsh design of balconies
Mary Ganis	14/07/2021	Parking: <ul style="list-style-type: none"> Insufficient residential and visitor spaces Insufficient commercial spaces
907/1 Abel Place, Cronulla Margo Humphreys	14/07/2021	Location of loading zone Noise/acoustic impacts from retail uses
140 Georges River Road, Jannali James Maclachlan	14/07/2021	Height Reduced setback Overshadowing
909/1 Abel Place, Cronulla Gaille McPhee	14/07/2021	Lack of consideration of Sur-Mer Apartments Height Parking – insufficient Safety – pedestrians Damage to surrounding buildings: <ul style="list-style-type: none"> Dilapidation report Dust

		Lack of privacy Noise/acoustic impacts on amenity: <ul style="list-style-type: none"> • During construction • Post construction
909/1 Abel Place, Cronulla Tony Murray	14/07/2021	Height
<u>1111/1 Abel Place</u> , Cronulla Anthony Perry	14/07/2021	Same as CF submission
614/1 Abel Place, Cronulla Stephen Trembath	14/07/2021	Overshadowing View loss Lack of solar access Safety – pedestrians Construction: <ul style="list-style-type: none"> • Hours • Dust • Risk of damage Noise/acoustic impacts Retention of historic streetscape – particularly Sharks premiership mural

PDFs:

Address	Date of Submission	Issue/s
804/1 Abel Place, Cronulla James Anc	13/07/2021	Same as CF submission although in PDF form
607/1 Abel Place, Cronulla Barbara Anderson	13/07/2021	Same as CF submission although in PDF form
804/1 Abel Place, Cronulla Merrilyn Kaye Ang	13/07/2021	Same as CF submission although in PDF form
1203/1 Abel Place, Cronulla Carol Anne Baker and Anthony Graeme Franklin	13/07/2021	Same as CF submission although in PDF form
904/1 Abel Place, Cronulla Angela Black	13/07/2021	Same as CF submission although in PDF form
1008/1 Abel Place, Cronulla Janette G. Brown	13/07/2021	Same as CF submission although in PDF form
1008/1 Abel Place, Cronulla Kevin J. Brown	13/07/2021	Same as CF submission although in PDF form
1206/1 Abel Place, Cronulla Brenda Crewes	13/07/2021	Same as CF submission although in PDF form
1206/1 Abel Place, Cronulla John Crewes	13/07/2021	Same as CF submission although in PDF form
611/1 Abel Place, Cronulla Catherine Dezilva	13/07/2021	Same as CF submission although in PDF form
801/1 Abel Place, Cronulla Tiah Jo Dezilva	13/07/2021	Same as CF submission although in PDF form
1003/1 Abel Place, Cronulla Glenn Easterbrook	13/07/2021	Same as CF submission although in PDF form
1003/1 Abel Place, Cronulla	13/07/2021	Same as CF submission although in PDF form

Lynnette Easterbrook		
1003/1 Abel Place, Cronulla Timothy Easterbrook	13/07/2021	Same as CF submission although in PDF form
714/1 Abel Place, Cronulla Glenn T. Elms	13/07/2021	Same as CF submission although in PDF form
1006/1 Abel Place, Cronulla Dennis Fraser	13/07/2021	Same as CF submission although in PDF form
1006/1 Abel Place, Cronulla Helen Fraser	13/07/2021	Same as CF submission although in PDF form
1101/1 Abel Place, Cronulla Lindy George	13/07/2021	Same as CF submission although in PDF form
1101/1 Abel Place, Cronulla Robert George	13/07/2021	Same as CF submission although in PDF form
513/1 Abel Place, Cronulla Sophie Goodwin	13/07/2021	Same as CF submission although in PDF form
608/1 Abel Place, Cronulla Jean Grant	13/07/2021	Same as CF submission although in PDF form
608/1 Abel Place, Cronulla Thomas Frederick Grant	13/07/2021	Same as CF submission although in PDF form
808/1 Abel Place, Cronulla Glenn Keane	13/07/2021	Same as CF submission although in PDF form
808/1 Abel Place, Cronulla Sally Elizabeth Keane	13/07/2021	Same as CF submission although in PDF form
809/1 Abel Place, Cronulla Martin Kohut	13/07/2021	Same as CF submission although in PDF form
1112/1 Abel Place, Cronulla Denis Konstant	13/07/2021	Same as CF submission although in PDF form
713/1 Abel Place, Cronulla Timothy Peter Leighton	13/07/2021	Same as CF submission although in PDF form

513/1 Abel Place, Cronulla Matt Machuca	13/07/2021	Same as CF submission although in PDF form
605/1 Abel Place, Cronulla Bruce Mitchell	13/07/2021	Same as CF submission although in PDF form
1102/1 Kingsway, Cronulla Danny Robinson	13/07/2021	Same as CF submission although in PDF form
1102/1 Kingsway, Cronulla Robyn Ann Robinson	13/07/2021	Same as CF submission although in PDF form
708/1 Abel Place, Cronulla Greg Russell	13/07/2021	Same as CF submission although in PDF form
1002/1 Abel Place, Cronulla Nicholas John Shalhods	13/07/2021	Same as CF submission although in PDF form
1002/1 Abel Place, Cronulla Stacey Shalhoub	13/07/2021	Same as CF submission although in PDF form
1 Abel Place, Cronulla Strata Committee (SP) (SP644448)	13/07/2021	<p>Safety:</p> <ul style="list-style-type: none"> • Pedestrians • Reduced access for of emergency vehicles and carers <p>Traffic:</p> <ul style="list-style-type: none"> • Use of Abel Place during construction • Congestion • Location of loading zone • Parking <p>Security:</p> <ul style="list-style-type: none"> • Antisocial behaviour • Light omitted for CCTV measures • Lack of privacy <p>Height:</p> <ul style="list-style-type: none"> • Lack of solar access • Overshadowing

		<p>Damage:</p> <ul style="list-style-type: none"> • Dilapidation report • Dust (impacts and mitigation measures) <p>Noise/acoustic impacts</p>
603/1 Abel Place, Cronulla Frank Wiik	13/07/2021	Same as CF submission although in PDF form
1205/ 1 Abel Place, Cronulla Lindsay Gordon Wiseman	13/07/2021	<p>Traffic flow</p> <p>Relocation of garages</p>
610/1 Abel Place, Cronulla Christine June Wynn	13/07/2021	Same as CF submission although in PDF form
610/1 Abel Place, Cronulla Laurence Gordon Wynn	13/07/2021	Same as CF submission although in PDF form
1105/1 Abel Place, Cronulla Erich Zornack	13/07/2021	Same as CF submission although in PDF form
1105/1 Abel Place, Cronulla Sylvia Zornack	13/07/2021	Same as CF submission although in PDF form
1001/1 Abel Place, Cronulla Raymond Cowin	13/07/2021	<p>Amenity impacts</p> <p>Traffic:</p> <ul style="list-style-type: none"> • Flow • Carpark access and position of driveway • Removal of existing parking spaces on Abel Place • Congestion • Insufficient visitor parking spaces • Insufficient parking area in basement level 1 for visitors and retail/commercial uses <p>Traffic Study:</p> <ul style="list-style-type: none"> • Inaccuracy of 'peak period' timing • Failure to identify existing users of on street parking i.e. various uses

		Note – Objector has also provided a ‘proposed solution’ in his submission. Find details of this in the PDF attached to the ‘additional ecomments’.
1 Abel Place, Cronulla Michael Roberts on behalf of Strata Committee (SP644448)	13/07/2021	Same as SP submission
807/1 Abel Place, Cronulla Greg Brandtman on behalf of Bill and Edna Hewson	13/07/2021	Traffic – relating to vehicle entry/egress via Abel Place: <ul style="list-style-type: none"> Flow and congestion
911/1 Abel Place, Cronulla Catherine James Simmons	14/07/2021	Same as CF submission although in PDF form
4/117 Elouera Road, Cronulla Michael Smole (MS)	30/08/2021	Inaccurate description of development Traffic – congestion and flow Safety – pedestrian and vehicles Traffic Study – lacks consideration of neighbouring streets/traffic

Round 2 Submissions
23/11 - 15/12 2021

Ecomments:

Address	Date of Submission	Issue/s
1204/1 Abel Place, Cronulla Christopher Fogarty (CF)	08/12/2021	Traffic – congestion Access of emergency vehicles to Abel Place Parking: <ul style="list-style-type: none"> • Location of loading zone • Insufficient parking opportunities Damage <ul style="list-style-type: none"> • Building vibration • Soil movement Height Overshadowing
1204/1 Abel Place, Cronulla Jeanette Fogarty	08/12/2021	Same as CF submission
SUPPORT 13 Wylmar Avenue, Burraneer Luke Barbuto	10/12/2021	Positive contribution to local character
SUPPORT 8/27-33 Gerrale Street, Cronulla Jackson Russell	10/12/2021	Suitable addition to local area Enhance streetscape
SUPPORT 80 Auburn Street, Sutherland	11/12/2021	Supportive of residential apartments and supermarket addition

Cecily Chesworth		
602/1 Abel Place, Cronulla Simone Gow	11/12/2021	Same as CF submission
909/1 Abel Place, Cronulla Gaille McPhee	15/12/2021	<p>Damage</p> <ul style="list-style-type: none"> • Building vibration • Soil movement • Dilapidation report <p>Height</p> <p>Traffic – congestion</p> <p>Access of emergency vehicles to Abel Place</p> <p>Parking:</p> <ul style="list-style-type: none"> • Location of loading zone • Insufficient parking opportunities

PDFs:

Address	Date of Submission	Issue/s
Colleen Cranney Note: For some reason originally included in Submissions folder from first round of NN in Objective – despite it being received within the second round of NN.	30/11/2021	Overdevelopment – bulk and scale Parking – insufficient Traffic – congestion Noise/acoustic impacts Dirt
27 Creek Street, Forest Lodge Tina Miller	08/12/2021	Same as MS submission from first round of NN.

<u>1 Abel Place, Cronulla</u> x52 submissions (51 owners within Sur Mer complex): Anthony & Carol Franklin, Barbara Anderson , Brenda Crewes , Brian John McClymont, Bruce Mitchell, Christine Wynn, David Sealey, Denis Konstant, Dennis Fraser, Dorothy Edith Duckworth, Erich Zornack, Garry Beattie, Ghassan Allouche, Gillian D Farrell, Glenn & Sally Keane, Glenn Elms, Graham Stanley McConnell, Greg Russell, Gregory Thomas Pratt, Heinrich Hora, Helen Fraser, James Ang, Jannette G. Brown, Jean Ethel Grant, Jennifer Smith, Joan Hick, Joanne Crewes, John Stephen O'Dwyer, Kaye Everingham, Kevin John Brown, L G Wynn, Lindy George, Lynne Christine, Mal Patchett, Margo Humphreys, Marie-Claire Drenovac, Martin Kohot, Merrilyn Ang, Nagui Salib, Nicholas Shalboub, Phillip Smith, Robert George, Scott Charles Williams, Stacey Shalhoub, Stephen Trembath, Sylvia Zornack, Thomas Frederick Grant, Timothy Peter Leighton, Valerie Hastings McClymont, Valerie Humphreys , Willaim Bailey *see next table for individual addresses	15/12/2021	Same as CF submission although in PDF form
<u>1 Abel Place, Cronulla</u> Strata Committee (SP644448)	15/12/2021	Same as CF submission although in PDF form

Addresses of [Round 2] 1 Abel Place Petition Submitters

Name	Address
Anthony & Carol Franklin	1203/1 Abel PI
Barbara Anderson	607/1 Abel PI
Brenda Crewes	1206/1 Abel PI
Brian John McClymont	802/1 Abel PI
Bruce Mitchell	605/1 Abel PI
Christine Wynn	610/1 Abel PI
David Sealey	706/1 Abel PI
Denis Konstant	1112/1 Abel PI
Dennis Fraser	1006/1 Abel PI
Dorothy Edith Duckworth	806/1 Abel PI
Erich Zornack	1105/1 Abel PI
Garry Beattie	5 Pozieres St, Cronulla (owns 1009/1 Abel PI)
Ghassan Allouche	1202/1 Abel PI
Gillian D Farrell	805/1 Abel PI
Glenn & Sally Keane	808/1 Abel PI
Glenn Elms	714/1 Abel PI
Graham Stanley McConnell	702/1 Abel PI
Greg Russell	708/1 Abel PI
Gregory Thomas Pratt	604/1 Abel PI
Heinrich Hora	203 Georges River Rd (owns of unit 901)
Helen Fraser	1006/1 Abel PI
James Ang	804/1 Abel PI
Jannette G. Brown	1008/1 Abel PI
Jean Ethel Grant	608/1 Abel PI
Jennifer Smith	1007/1 Abel PI
Joan Hick	609/1 Abel PI

Name	Address
Joanne Crewes	1202/1 Abel PI
John Stephen O'Dwyer	806/1 Abel PI
Kaye Everingham	803/1 Abel PI
Kevin John Brown	1008/1 Abel PI
L G Wynn	610/1 Abel PI
Lindy George	603/1 Abel PI
Lynne Christine	604/1 Abel PI
Mal Patchett	701/1 Abel PI
Margo Humphreys	907/1 Abel PI
Marie-Claire Drenovac	701/1 Abel PI
Martin Kohot	809/1 Abel PI
Merrilyn Ang	804/1 Abel PI
Nagui Salib	1104/1 Abel PI
Nicholas Shalhoub	1002/1 Abel PI
Phillip Smith	1007/1 Abel PI
Robert George	1101/1 Abel PI
Scott Charles Williams	711/1 Abel PI
Stacey Shalhoub	1002/1 Abel PI
Stephen Trembath	614/1 Abel PI
Sylvia Zornack	1105/1 Abel PI
Thomas Frederick Grant	608/1 Abel PI
Timothy Peter Leighton	713/1 Abel PI
Valerie Hastings McClymont	802/1 Abel PI
Valerie Humphreys	907/1 Abel PI
Willaim Bailey	803/1 Abel PI

APPENDIX E

Report and Recommendations of the Design Review Forum Panel Sutherland Shire Council 8 July 2021

Panel Members: Harry Levine, Peter Brooker

Council Staff: Consultant (ROFF)

Applicant Team: Paul Buljevic, Wendy Tong, Juliet Grant, Julian Sammut, Allen Sammut

DA No: DA21/0562

Project Address: 3 - 23 Kingsway, Cronulla

Proposal: Demolition of existing structures and construction of a mixed use development with 3 level basement parking, two storey podium including ground floor retail and first floor commercial

PREAMBLE

The site was viewed by the Panel members prior to the meeting.

The proposal has been considered in relation to the Design Quality Principles of SEPP 65. Detailed matters relating to Principle 5 (Landscape) are not covered by the Panel and will be separately reported.

Issues considered relevant to the proposal are noted below.

COMMENTS

1. DCP parameters need to be adhered to for street edge building form and relationships to adjoining neighbours. refer DCP Clause 5.3 setback relationships at both street level and towers
CI 5.3 Design guidelines for development of this site:
Maintain the street edge building form to Cronulla Mall, with a two storey wall height (10m) so there is consistency along the street (Preferred Built Form Map)
2. At the rear of the site the requirement for a lane becomes unnecessary the relationship between the built form and the neighbours is harsh and overbearing at the podium level. Built form needs to be setback further to allow reasonable landscaped buffer plus (real) trees. Opportunities to lower the top of the podium
3. The faceted setbacks at street level creates awkward relationships. Not suitable for the whole length. Deep residential entries are unsafe and unwelcoming (sense of address).
4. Awning doesn't provide shelter and the resolution of the voids and no shelter at the main tenancy (Harris Farm) needs reconsideration.
5. Geometry of floor plates can create tight balcony spaces the larger space in front of bedroom.
6. Placement of building as 2 towers defeats the DCP intent.
7. Landscape

RECOMMENDATIONS

The issues noted above should be taken into account in a revised proposal to realise an outcome that could be supported by the Panel.

An acceptable site strategy has been proposed. Further detailed design development is recommended to respond to the issues noted above to refine and improve the proposal.

The Panel is broadly supportive of the proposal, however further design development is recommended to respond to the issues noted above.

A fundamentally inappropriate design strategy has been proposed, an alternative proposal must be developed that takes more account of the detailed contextual characteristics of the site.

The Panel does not support the proposal in its current form. Further design development should be undertaken to respond to the issues noted above.

APPENDIX E

An assessment of the proposal having regard to the design quality principles of SEPP 65.

Design Quality Principles	Assessment (DA21/0562)
Principle 1: Context and neighbourhood character	<p>The site is located within the Cronulla town centre and is zoned B3 Commercial Core under SSLEP 2015, and forms part of the Chapter 19 B3 Commercial Core Cronulla within SSDCP 2015. The proposal involves the demolition of existing one storey shops and two storey buildings containing retail, commercial premises with shop top premises and at grade parking with a new mixed-use / multi storey building.</p> <p>The immediate context of the site is diverse, with the site fronting Kingsway and commercial development with a range of amenities to the south, high-rise mixed use development to the east, and an existing neighbourhood of medium to high-rise residential development adjoining to the north. It is noted that the locality is currently undergoing change in response to increased densities enabled by local planning controls in the SSLEP 2015 and SSDCP 2015.</p> <p>The proposal is generally an appropriate response to the site and its transitional built form context to surrounding development, subject to the conditions of consent which is discussed in the 'Assessment' section of this report.</p>
Principle 2: Built Form and Scale	<p>The proposed building form and scale is generally suitable for the site and desired character of the Cronulla Centre. The amalgamation of the site provides the proposal with access to the bonus FSR of 3:1 in accordance with SSLEP 2015 and SSDCP 2015. The positioning of the proposed two towers provides relief from overshadowing on the public domain to the south. Subject to the conditions of consent, the building height, separation distances and transition to the northern properties will result an appropriate built form outcome.</p>
Principle 3: Density	<p>The density of the scheme submitted is consistent with the bonus 3:1 FSR density enabled by SSLEP 2015 pursuant to the amalgamation of the subject lots. The density is consistent with the area's existing/projected population and</p>

	amenity of dwellings are generally appropriate subject to the conditions of consent suggested in the 'Assessment' section of this report.
Principle 4: Sustainability	The proposed development has been designed to respond to the site's orientation and aspect and satisfies the minimum BASIX requirements in respect to sustainability. The proposal incorporates active and passive building systems and space has been reserved on the roof for solar photovoltaic panels. The proposal will facilitate over 70% of apartments with a minimum of 2 hours direct sunlight between 9am and 3pm at mid-winter but does not achieve the design criteria for apartments that do not receive any solar access during this time. This outcome is considered acceptable as detailed in the 'Assessment' section of this report.
Principle 5: Landscape	The proposal includes removal of existing street trees along Abel Place to avoid conflict with the proposed awning. Given the condition of the existing street trees and proposed replacement of trees, this is acceptable. The landscape setback along the northern boundary is minimal at 3 metres at ground level. However, deep soil podium landscaping, planting of mature tree stock and climbers on areas of blank wall are reasonable solutions for the interface to the adjoining properties to the north.
Principle 6: Amenity	<p>The proposal generally satisfies the 'rules of thumb' contained in the Apartment Design Guide in terms of residential amenity, including minimum unit sizes and private open space, communal open space and natural cross ventilation. The proposal does not comply with minimum building separations. The north facing façade encroaches into minimum setbacks. However, the applicant has identified provisions are to address visual privacy including the provision of privacy screening, landscaping and an analysis of the neighbouring properties to the north. Subject to conditions of consent, proposed setbacks addresses the massing and scale of the building to provide a suitable transition to the lower density development to the north as well as an acceptable privacy outcome.</p> <p>The proposal does not achieve the minimum 24 metre building separation between Building A and Building B. As detailed in other sections of this report, the overall built</p>

	<p>form outcome achieves the desired proportionality and amenity, including visual privacy.</p> <p>The proposal achieves the minimum solar access requirements of 2 hours direct sunlight in living rooms and private open spaces between 9 am and 3 pm at mid-winter for at least 70% of apartments. While the proposal result in 21.43% of apartments receiving no solar access during this period, the proposal is considered to result in an acceptable outcome with consideration of amenity.</p>
Principle 7: Safety	<p>The applicant has considered Crime Prevention Through Environmental Design (CPTED) principles in the design of the project, and a CPTED assessment has been undertaken by GYDE.</p> <p>The development will increase the activation and passive surveillance of the public domain with active street fronts to Kingsway, Croydon Street and Abel Place. The CTPED assessment and design incorporates security gates and surveillance measures to manage risk along the north boundary and access control arrangements to restrict access to floors to designated levels.</p>
Principle 8: Housing Diversity and Social Interaction	<p>The proposal provides 26 one-bedroom apartments, 30 two-bedroom apartments, and 56 three-bedroom apartments. This provides a variety of housing choice for different household types within the Cronulla Centre.</p> <p>The development also includes facilities to encourage social interaction between residents on Level 2, including a communal open space area, gym and swimming pool. The area of the communal facilities is in excess of the ADG requirement of 25% of the site area.</p>
Principle 9: Aesthetics	<p>The Design Review Forum and Council's Architect have raised concerns about the built form and visual appearance of the building as detailed in the 'Specialist comments' section of this report. The development has since been revised and will result in a positive aesthetic outcome, subject to the conditions of consent as detailed in the 'Assessment' section of this report.</p>

APPENDIX F

An assessment of the proposal against the ADG design criteria

Apartment Design Guide (ADG) –Building Key Design Criteria			
Objective	Design Criteria	Proposal	Complies
3D-1 Communal Open Space (COS)	<p>COS has a minimum area equal to 25% (1,305.85m²) of the site.</p> <p>A minimum of 50% direct sunlight to the principle usable part of COS for a minimum of 2 hours between 9am and 3pm on 21 June (mid-winter).</p>	<p>27.28%</p> <p>>50%</p>	Yes
3E-1 Deep Soil Zones	<p>Deep soil zones are to meet the following minimum requirements.</p> <p>Where the site area is 650m²-1500m² = min. 3m dimension; and, min. 7% of the site area.</p>	<p>4.17% Ground</p> <p>10.12% Level 1</p> <p>7.75% Level 2</p> <p>Total = 22.04%</p> <p>2m may not be counted as</p>	Yes
3F-1 Visual Privacy	<p>Minimum required separation distances from buildings to the side and rear boundaries:</p> <p>Up to 12m (4 storeys)</p> <ul style="list-style-type: none"> 6m habitable rooms/balconies 3m non-habitable rooms <p>Up to 25m (5-8 storeys)</p> <ul style="list-style-type: none"> 9m habitable rooms/balconies 4.5m non-habitable rooms <p>Over 25m (9+Storeys)</p> <ul style="list-style-type: none"> 12m habitable rooms / balconies 6m non-habitable rooms <p>Note: Separation distances between buildings on the same site should combine required building separations depending on the type of room.</p>	<p>The proposal contains a range of non-compliances.</p> <p>The non-compliances are accepted subject to the conditions of consent as detailed in the 'Assessment' section of this report.</p>	Non-compliance accepted
4A-1	<p>Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum</p>	<p>82 of 112 apartments (72.88%)</p>	Yes

Solar and Daylight Access	<p>of 2 hours direct sunlight between 9am and 3pm at mid-winter.</p> <p>A maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at mid-winter.</p>	24 of 112 apartments (21.43%)	No
4B-3 Natural ventilation	<p>At least 60% of apartments are naturally cross ventilated in the first nine storeys.</p> <p>Overall depth of cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.</p>	79 of 112 apartments (71%)	Yes
4C-1 Ceiling heights	<p>Measured from finished floor to finished ceiling level, minimum heights are;</p> <ul style="list-style-type: none"> Habitable rooms = 2.7m Two storey apartments = <ul style="list-style-type: none"> 2.7m for main living area floor 2.4m for second floor where its area does not exceed 50% of the apartment area <p>Mixed use area = 3.3m for ground and first floor.</p>	All apartments meet or exceed minimum.	Yes
4D-1 Apartment Size & Layout	<p>Minimum internal areas of;</p> <ul style="list-style-type: none"> Studio = 35m² 1 bedroom = 50m² 2 bedroom = 70m² (+5m² with 2 bathrooms) 3 bedroom = 90m² <p>Habitable rooms to have window with area not less than 10% of floor area</p>	All apartments exceed minimum.	Yes
4D-2 Room Depth	<p>Habitable room depths are limited to maximum 2.5 x the ceiling height</p> <p>In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window</p>	Minor non-compliances that are acceptable.	No
4D-3 Room Dimensions	<p>Master bedrooms - min area of 10m²</p> <p>other bedrooms 9m² (excluding wardrobe space)</p> <p>Bedrooms to have min dimension of 3m.</p> <p>Living rooms or combined living/dining rooms have a min width of:</p>	Generally comply	Yes

	<ul style="list-style-type: none"> • 3.6m for 1 bedroom • 4m for 2 and 3 bedroom <p>Width of cross-over or cross through apartments are a least 4m internally to avoid deep narrow layout.</p>		
4E-1 Private Open Spaces / Balconies	<p>All apartments are required to have a primary balcony as follows;</p> <ul style="list-style-type: none"> • 1 bedroom = 8m² (depth of 2m) • 2 bedroom = 10m² (depth of 2m) • 3+ bedroom = 12m² (depth of 2.4m). <p>Ground Level / Podium apartments = 15m² (depth of 3m)</p>	Minimum areas achieved. However some apartments do not achieve minimum depths due to irregular shaped balconies.	No
4F-1 Common Circulation	<p>Maximum apartments of single circulation core = 8</p> <p>For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40</p>	Complies	Yes
4G-1 Storage	<p>In addition to storage in kitchens, bathrooms and bedrooms the following storage is provided</p> <ul style="list-style-type: none"> • 1 bedroom = 6m³ • 2 bedroom = 8m³ • 3 bedroom = 10m³ <p>At least 50% of the required storage is to be located within the apartment.</p>	Complies	Yes

APPENDIX G

Sutherland Shire Local Environmental Plan 2015

Site Area: 5,223.40 m² (by survey)

CLAUSE	REQUIRED	PROPOSAL	COMPLIANCE
Cl.4.3 Height of Building	30m	Building A 33.052m – top of roof plant screen 31.59m – top of roof parapet Building B 32.984m – top of roof plant screen 31.36m – top of roof parapet	No – 10.17% No – 5.3% No – 9.9% No – 4.5% Clause 4.6 submitted
Cl.4.4 Floor Space Ratio	3:1 (subject to bonus FSR in accordance with “Area 9”) (15,670.20m ²) (2.75:1 without bonus FSR)	APPLICANT: 3:1 (15,670.14m ²) CALC: 3:1 (15,670.14m ²)	Yes

Sutherland Shire Development Control Plan 2015 – Chapter 19. (B3 Commercial Core Cronulla)

Clause/ Control	REQUIRED	PROPOSAL	COMPLIANCE
1 Centre Aims	<ol style="list-style-type: none"> 1. Encourage redevelopment of older buildings in Cronulla Centre while maintaining adequate solar access to public places and existing dwellings, protecting heritage items, and retaining the relaxed beachside ambience and amenity of the centre. 2. Balance the need to protect the amenity of existing and future residents with the economic requirement to encourage business and tourism in Cronulla. 3. Enhance the vitality of the streets in the centre by creating additional outdoor café and dining opportunities in appropriate locations. 4. Improve the pedestrian experience and useability of the centre by improving centre permeability and connectivity, especially the east-west connections between Gunnamatta Bay, the railway station and the beach. 5. Improve the useability and appearance of the centre by creating a comfortable and attractive pedestrian environment. 6. Improve the appearance and amenity of the centre with strengthened street tree planting and improvements to landscaping. 7. Provide the needs of older people through more accessible housing, improved civic spaces, and good accessibility to shops, businesses and public transport. 8. Encourage high quality architectural design in development that is appropriate to the scale 	<p>The proposed mixed-use development facilitates the revival of Cronulla Centre through new ground floor retail and café/dining, podium level commercial space and additional housing choice within close proximity to local amenities.</p> <p>The architectural design was unsupported by the Design Review Panel (DRP), primarily due to deviation from the design guidelines within section 5.3 of Chapter 19. Notwithstanding, the appearance and scale of the development is generally in keeping with the desired character of Cronulla Centre.</p> <p>The scale of the development generally provides a transition in height between surrounding developments to the north and east. As addressed in the ‘Assessment’ section of this report, the proposal’s southern setback will provide an acceptable interface and height</p>	Yes

Sutherland Shire Development Control Plan 2015 – Chapter 19. (B3 Commercial Core Cronulla)

Clause/ Control	REQUIRED	PROPOSAL	COMPLIANCE
	<p>and character of the different areas of the centre.</p> <p>9. Facilitate a sensible transition between new developments and heritage items in order to give them prominence in the centre and ensure their long term protection.</p>	transition to the northern boundary.	
4 Streetscape and Built Form			
4.2.1	Comply with the relevant building envelope where shown on the Design Guidelines for Specific Sites	The site has been amalgamated as envisaged by Council's Amalgamation Map. The proposal provides a positive built form outcome with consideration of the setbacks and separation distances non-compliances as identified in section 5.3 of Chapter 19.	Non-compliance accepted
4.2.2	<p>Where a development is proposed with a building envelope which varies from the Design Guidelines for Specific Sites, the applicant must demonstrate that the outcomes from the development are as successful, or better than those that would be achieved under the Design Guideline for the Specific Site in relation to:</p> <ol style="list-style-type: none"> The buildings compliance with SEPP 65 including solar access, building separation and residential amenity. Whether the surrounding land will be able to achieve its full development potential without compromising its 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. 	<p>The solar access modelling and calculations demonstrate that Block A and Block B will achieve in excess of 70% of units achieving the SEPP 65 minimum solar access requirements. The proposed separation distances result in a positive built outcome as demonstrated in Section 11.3 of the assessment report.</p> <p>The proposal is a relatively isolated site with streets on three boundaries, and developed land to the north. As such, the proposal is unlikely to compromise surrounding land achieving its full development potential without compromising its ability to meet SEPP 65.</p> <p>The proposed deviation from the design guidelines has enabled an improved outcome in relation to overshadowing of Cronulla Mall to the south of the site.</p> <p>The proposal is located in the vicinity/ visual catchment of local heritage items, including the 'Cronulla Theatre' I1008. The relationship between the proposed development and heritage items is acceptable and will not detract from the heritage significance of Cronulla Theatre.</p>	Yes
4.2.3	Where the Design Guideline for the Specific Site identifies a pedestrian arcade, public walkway or other public thoroughfare through a development site, the minimum width of the arcade, walkway or thoroughfare is to be 6m.	There is no public arcade or public thoroughfare proposed as part of the proposal for the site. The SSDCP anticipates that a 10m shared access zone would be provided at the rear of the site, providing a connection between Croydon Street and Abel Place	Non-compliance accepted

Sutherland Shire Development Control Plan 2015 – Chapter 19. (B3 Commercial Core Cronulla)

Clause/ Control	REQUIRED	PROPOSAL	COMPLIANCE
		and provide access to basement car parking. This has not been provided as part of the proposal and the Applicant has argued this is a better planning outcome by avoiding environmental impacts of the shared zone and a more efficient use of land. The proposed exclusion of the shared zone in this proposed scheme is considered an acceptable outcome.	
4.2.4	Building design must have minimal impact on the extent of solar access to Cronulla Mall in mid-winter.	The proposed arrangement of the residential towers has been designed to enable solar penetration to Cronulla Mall.	Yes
4.2.5	Development must be designed and sited so that it addresses the street and must have a clearly identifiable entry.	The development is sited with pedestrian access to the retail shops along Kingsway. Dedicated entries to residential lobbies are provided on Croydon Street and Abel Place.	Yes
4.2.7	Development should acknowledge the established rhythm and scale of existing shopfronts/ small lot subdivisions in vertical facade proportions.	The frontage along Kingsway contains small specialist retail spaces. These generally break up the scale of the proposal and provides a rhythm of development in keeping with the streetscape of the locality.	Yes
4.2.8	The building form must be articulated to avoid large expanses of unbroken wall, and to visually reduce bulk.	The proposal is well articulated and provides active frontages at street level. The curved design and two residential flat buildings above podium visually reduce the bulk of the building.	Yes
4.2.9	Where development has two or more road frontages, vehicular access shall be from the lowest order road. Vehicular access is to be from a rear lane where such is provided.	Vehicular access to the site is not provided from the Kingsway. Access to the retail car parking and loading area is provided from Croydon St. Residential and commercial car parking access is from Abel Place.	Yes
4.2.10	Highly reflective materials are not acceptable for roof or wall cladding.	The materials chosen include concrete and aluminium timber look battens, neither of which are highly reflective.	Yes
4.2.11	Where a basement car park extends above the natural ground level, it is to be designed to ensure that podiums and vehicular entries do not dominate the overall design of the building or streetscape. Basements and podiums are to be integrated into the architectural design of the building. Driveway walls adjacent to the entrance of a basement car park are to be treated so that the appearance is consistent with the external finish of the building.	The vehicle entries to both basements, along Croydon Street and Abel Place respectively have been sited to ensure they are at the rear of the site, set behind pedestrian access points. The basement entrances and loading bay are integrated into the design to ensure consistency with the proposal overall.	Yes
4.2.12	Development should contribute to a comfortable pedestrian environment with improvement to signage, lighting, planting, awning cover and seating,	The proposal will extend the width of the pavement along the Kingsway frontage, contributing	Yes

Sutherland Shire Development Control Plan 2015 – Chapter 19. (B3 Commercial Core Cronulla)

Clause/ Control	REQUIRED	PROPOSAL	COMPLIANCE
	where appropriate. Frontage works are to be designed and constructed in accordance with Council's Public Domain Design Manual. Driveway walls adjacent to the entrance of a basement car park are to be treated so that the appearance is consistent with the external finish of the building.	to an enhanced pedestrian environment. The proposed improvements seek to achieve the design principles outlined in the Public Domain Design Manual, especially in terms user amenity, environmental comfort, access and connectivity.	
4.2.15	Residential flat building, shop top housing, commercial premises or industrial development must include the replacement of existing local distribution power lines and other utilities with subsurface utilities and the provision of new street lighting to meet the requirements of the Public Domain Design Manual.	Services along the Kingsway and the site are already undergrounded.	Yes

5. Design Guidelines for Specific Sites

Kingsway bounded by Abel Place and Croydon Street (northern end of the Mall)

5.3.1	Maintain the street edge building form to the Kingsway, with a two storey wall height (10m) so there is consistency along the street (Preferred Built Form Map).	The proposal deviates from the consistent street edge along Kingsway envisaged in the DCP, providing an alternative articulated street frontage. The proposed does provide a two-storey wall height along the Kingsway, although at 8.6 metres height from ground level rather than 10m.	Non-compliance accepted
5.3.2	Maintain solar access to the entrance of Cronulla Mall and the footpath on the southern side of the Kingsway.	The proposal incorporates two towers rather than an envisaged single upper built form. The extent of the shadow cast by the proposed development is comparable to a shadow fall of a complying built form at mid-winter, albeit it distributes the impact of the building mass slightly differently along the footpath of the southern side of the Kingsway and entrance to Cronulla Mall.	Yes
5.3.3	Maintain an active ground floor to the Kingsway frontage (Cronulla Centre Active Street front Map).	The proposal incorporates the main access to supermarket retail at the Kingsway frontage and incorporates smaller specialist retail units at both corners.	Yes
5.3.4	Improve public domain frontage to the Kingsway with active uses, landscaping and pedestrian areas in accordance with the Public Domain Design Manual.	The proposal includes improvements to the public domain frontage to the Kingsway, including street tree planting, new paving.	Yes
5.3.5	Provide a 10m wide shared zone access way along the rear of the site to provide a connection between Croydon Street and Abel Place and access to the basement car parking.	The proposal has not included a 10m wide shared zone access along the rear of the site. Basement parking entrances are proposed from Croydon Street and Abel Place. The proposed scheme has been justified by eliminating potential environmental impacts from an	Non-compliance accepted

Sutherland Shire Development Control Plan 2015 – Chapter 19. (B3 Commercial Core Cronulla)

Clause/ Control	REQUIRED	PROPOSAL	COMPLIANCE
		inactivated shared zone and planting along the northern boundary to mitigate visual impacts to the adjoining properties.	
5.3.6	Provide 2m wide strip of deep soil landscaping to north to improve privacy and outlook between adjoin development to facilitate improved resident amenity. This is to be planted with indigenous trees in accordance with the Native Tree Selector.	The proposal incorporates a variable width deep soil landscaping zone along the northern boundary. The proposal includes retention of existing trees on the boundary to provide visual privacy and soften the interface.	Yes
6. Amalgamation Requirements			
6.2.1	Redevelopment of land identified in the Cronulla Amalgamation Map as being subject to an amalgamation requirement, is to follow the identified amalgamation pattern.	The proposal achieves the envisaged amalgamation requirements.	Yes
10. Landscape			
10.2.1	Existing street trees in good health are to be retained and protected. A minimum street tree planting rate is set at one indigenous canopy tree that will attain a minimum mature height of 6m to be planted at maximum spacing of 5m planted at least 1m from the kerb and/or footpath. Informal clumping of trees is encouraged. Street trees must be selected from the Native Plant Selector available on Council's website. Turf must also be planted. Planting is to be undertaken in accordance with Council's Public Domain Design Manual.	The proposal seeks to removal all trees on the frontage to Abel Place to avoid conflict with the proposed awnings. Due to poor health of the trees, the removal of these trees and replacement with new trees is acceptable.	Yes
10.2.2	Where planting is proposed on podiums, roof tops or within planter boxes, the space to be planted must be designed and constructed to contain a minimum of 600mm of soil depth. Less soil depth will only be accepted when a high quality alternative solution is provided. The basis for species selection for this planting should maximise the likelihood of long term viability in view of the likely future microclimate. Landscaping on podium levels and planter boxes should be accessible for gardener access.	Planting on podiums and roof tops are to comply with the proposed landscape plans to achieve a minimum of 600mm of soil depth.	Yes
10.2.5	Where trees are proposed on roofs or planter boxes an area of 3m x 3m per tree must be provided. Planter boxes in this case must be stepped, mounded or set down in the slab to reduce their apparent height on the surface to 450mm.	Planting on podiums and roof tops are to comply with the proposed landscape plans.	Yes
10.2.6	Appropriate paving must be provided to driveways, walkways, entries, fire egress points garbage bin enclosures, letter boxes, clothes lines and under pergolas.	The proposal includes paving to all driveways, walkways, etc with frontage to Kingsway, Croydon Street and Abel Place.	Yes
11. Active Frontages			
11.2.1	Active frontages at footpath level are to be provided in accordance with the Cronulla Centre Active Street Front Map.	The proposal provides active frontage retail spaces along Kingsway and corners of Abel Place and Croydon Street. Vehicular access to basement levels is provided to the rear of the site in a similar location to existing access points.	Minor non-compliance accepted

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Clause/ Control	REQUIRED	PROPOSAL	COMPLIANCE
11.2.2	Active frontages must be assured by orienting openings to the public domain.	Proposed retail spaces providing active frontage to Kingsway, Abel Place and Croydon Street are oriented to the public domain	Yes
11.2.3	Active frontages must be at footpath level along the full length of the building frontage. This may require the floorplate of development to step up/down with the topography to ensure that the floor level of the active frontage is at footpath level.	Active frontages are provided at footpath level to allow equitable access to the development.	Yes
11.2.5	Vehicle entrances and service areas are not to be located in active street frontages.	Vehicle entrances and service areas are provided at the rear of the site on Croydon Street and Abel Place, in a similar location to existing access points. These streets are secondary streets and the provision of access to basements in these locations are consistent with the objectives of this control.	Minor non-compliance accepted
11.2.6	Continuous awnings must be provided along shop fronts and active street frontages. Awnings are to be designed to maintain street canopy trees that form part of the landscape character of the locality.	Awnings are proposed as an integrated part of the proposal and are incorporated within the ground level building articulation.	Yes
11.2.7	Shop fronts are to be glazed to ensure visual interest, provide borrowed light and surveillance to the street.	The proposal identifies all retail spaces will be glazed.	Yes
11.2.8	Arcades must incorporate retail uses at ground floor.	No arcades are proposed.	N/A
11.2.9	Driveways are not to be located in active street frontages.	Basement access is proposed at the rear of the site from Croydon Street for the retail car parking and Abel Place for the residential and commercial car parking. This is technically within the active frontage requirement. However, is considered an appropriate location for access and will not impact the activation and use of the remaining frontages of the site.	Minor non-compliance accepted
11.2.10	Vehicle access to new developments is not permitted from the Kingsway.	No vehicle access from the Kingsway is proposed.	Yes
12. Building and Site Layout			
12.2.1	New development shall incorporate passive solar building design, including the optimisation of sunlight access the minimisation of heat loss and energy consumption, to avoid the need for additional artificial heating and cooling.	The proposed development achieves the minimum solar access requirements of 2 hours direct sunlight in living rooms and private open spaces as required in SEPP 65.	Yes
12.2.2	All loading, unloading and manoeuvring of vehicles shall take place within the curtilage of the site, and vehicles are to enter and exit the site in a forward direction at all times.	The proposal provides loading, unloading and manoeuvring on site in respect of main retail areas and garbage collection within the basement accessed via Croydon Street. Loading and unloading for the supermarket and liquor store are proposed to be at the ground floor loading dock, located within the site. The proposed turntables at the	Yes

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Clause/ Control	REQUIRED	PROPOSAL	COMPLIANCE
		basement and ground floor loading docks	
12.2.3	Loading areas shall be located so as to avoid on-street loading and be freely available for use at all times.	No loading areas are proposed to be located on-street.	Yes
12.2.4	Non-residential and residential land uses in the same development shall be sited and designed to not adversely affect the residential amenity of building occupants.	The proposal includes the required loading and waste management in support of the retail and commercial land uses wholly on-site. The proposed activities has been designed not to adversely affect the amenity of neighbouring residents.	Yes

15. Visual and Acoustic Privacy

15.2.1	Locate, orientate and design new development to ensure adequate visual privacy between buildings, and between buildings and adjacent private open space.	The northern boundary of the proposal adjoins existing residential development of a lower density. The proposal provides variable setbacks along the northern boundary. The proposed window walls are setback approximately 12m from the boundary with Block A and Block B being generally setback 9m from the north boundary. The applicant has identified that the neighbouring development to the north, 32 Croydon Street does not feature any private open space at their southern boundary. The applicant has also identified that the proposal will retain and provide landscaping at the northern setback. The proposal also generally provides an 18m separation distance between Block A and Block B from levels 2 to 8. Overall, the proposal is considered to provide adequate privacy and the non-compliances are acceptable for approval.	Yes
15.2.2	Use building design to increase privacy without compromising access to light and air.	The proposed development achieves the minimum solar access requirements of 2 hours direct sunlight in living rooms and private open spaces as required in SEPP 65.	Yes
15.2.3	All noise generating equipment such as air conditioning units, swimming pool filters, fixed vacuum systems and driveway entry shutters must be designed to protect the acoustic privacy of residents and neighbours. All such noise generating equipment must be acoustically screened. The noise level generated by any equipment must not exceed an LAeq (15min) of 5dB(A) above background noise at the property boundary.	The proposal identifies that the development can achieve the noise level requirements for all noise generating equipment installed.	Yes
15.2.4	Residential development adjacent to a rail corridor or a busy road as identified on the Road and Rail	The Acoustic Report identifies required acoustic management	Yes

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Clause/ Control	REQUIRED	PROPOSAL	COMPLIANCE
	Noise Buffer Map should be sited and designed to include noise and vibration attenuation measures to minimise noise and vibration impacts. Refer to State Environmental Planning Policy (Infrastructure) 2007 and the NSW Department of Planning's Development near Rail Corridors and Busy Roads – Interim Guidelines.	and constructions of the building's façade, including external windows, to comply with relevant noise and vibration requirements.	
16. Safety and Security			
16.2.1	Any design must demonstrate compliance with Crime Prevention Through Environmental Design (CPTED) guidelines.	The CPTED report identifies a range of acceptable measures to minimise risk of crime.	Yes
17. Parking			
17.2.1	Car parking shall be provided in accordance with the following table: Residential Flat Building / Shop Top Housing Minimum 1 space per unit Maximum 3 spaces per unit No visitor parking Office and Business Premises 1 space per 30m2GFA Retail Premises 1 space per 30m2GFA Equates to minimum of 237 spaces (max 336 resident spaces)	Total of 358 car parking spaces: 206 residential spaces 21 commercial spaces 131 supermarket/retail spaces	Yes
17.2.3	In addition to the car parking requirements, motorcycle parking shall be provided at a rate of 1 motorcycle space per 25 car spaces or part thereof. For example where 26 car parking spaces are required, then 2 motorbike parking spaces are to be provided. Motor cycle parking spaces shall comply with the relevant standards.	Requirement = 15 13 motorcycle spaces. As identified by the traffic report by Varga Planning, there is ample space in the basement for an additional 2 motorcycle parking spaces. Accordingly, a requirement for an additional 2 motorcycle parking during the detailed design process spaces will be conditioned in the development consent.	No
17.2.4	In addition to the car parking requirements, bicycle parking space must be provided at the rate of 1 space per 10 car parking spaces for first 200 car spaces, then 1 space per 20 parking spaces thereafter. In addition, 1 unisex shower is required per 10 employees.	Requirement = 28 71 bicycle spaces	Yes
19 Waste Management Requirements			
19.2 – Controls for multi dwelling housing, residential flat buildings and the residential components of shop top housing and mixed use developments			
19.2.1	For new multi dwelling housing, residential flat buildings and the residential components of shop top housing and mixed use developments provision for waste management, including storage areas, separation of waste from recyclables, collection areas and the like must be in accordance with	The Waste Management Plan identifies separate areas for waste management, including storage areas and collection areas. The proposed development includes goods	Yes

Sutherland Shire Development Control Plan 2015 – Chapter 19. (B3 Commercial Core Cronulla)

Clause/ Control	REQUIRED	PROPOSAL	COMPLIANCE
	Sutherland Shire Council's "Waste Collection Policy for Multi-Unit Dwellings and Residential Flat Buildings".	service lifts to allow for the movement of waste to from retail areas to waste storage areas in Basement Level 1. However, there are concerns that the requirement for moving waste between the goods lifts and the storage area may create conflict with vehicles moving in the basement.	
19.3 - Controls (except for multi dwelling housing, residential flat buildings and the residential components of shop top housing and mixed use developments)			
19.3.1	A waste storage area is to be provided for all developments to store bins for general waste and recyclables. The area must have sufficient space for the storage of garbage, recycling and green waste generated by the development.	The Waste Management Plan identifies separate areas for waste management, including storage areas and collection areas. The proposed development includes goods service lifts to allow for waste to be moved from retail areas to waste storage areas in Basement Level 1.	Yes
19.3.2	The residential waste generation rate per dwelling is 120 litres per week of general waste plus 120 litres per week of recycling (for dwelling houses and each dwelling in a dual occupancy), and up to 120L of green waste per week. Twice weekly collections of 240L bins by Council (by arrangement with Council) can reduce the number of bins required.	The Waste Management Plan identifies the building will comply with the residential waste generation rate per week.	Yes
19.3.3	The location and design of the waste storage area must not detract from the amenity of the development and the character of the streetscape.	The waste storage area is fully contained within the basement of the site and is not visible to the public domain.	Yes
19.3.4	The location of waste and recycling facilities must not impact on car parking or landscaping requirements of the development.	The location of waste and recycling facilities does not restrict compliance with parking or landscaping requirements.	Yes
19.3.5	Waste and recycling facilities must be designed to prevent litter and contamination of the stormwater drainage system.	The waste and recycling facilities are fully contained within the basement of the site and are separate to the stormwater drainage system.	Yes
19.3.6	Developments must be designed so that bins do not need to be wheeled more than 75 metres.	The furthest distance for bins to be wheeled will be less than 40m.	Yes
19.3.8	Where an agreement has been reached with Council to service 240L bins on site, the site and driveway must accommodate Council's waste collection vehicles. To enable handling of bins during collection the maximum driveway gradient is 5%.	Bins will be collected by a private contractor.	N/A
19.3.9	Where a private waste contractor is required to service a development, the site and driveway must be designed to accommodate waste collection vehicles used by the private contractor.	The site has been designed to support waste collection by vehicle via the driveway onto Croydon Street.	Yes
19.3.10	It is preferable for waste trucks to enter the site in a forward direction, but it is permitted for waste trucks to reverse onto a site, where design and site conditions make it safe to do so. It is never acceptable for a truck to reverse out of a site.	The waste collection area includes a turntable sized to facilitate the waste vehicle to enter the site in a forward	Yes

Sutherland Shire Development Control Plan 2015 – Chapter 19. (B3 Commercial Core Cronulla)

Clause/ Control	REQUIRED	PROPOSAL	COMPLIANCE
		motion and exit onto Croydon Street in a forward motion.	
19.3.11	<p>The preferred location for storage areas/rooms at ground level is behind the building setback. The storage area must:</p> <ul style="list-style-type: none"> i. be integrated into the overall building design and constructed of materials compatible with the new development; ii. be located in an area so as not to compromise the amenity of the occupants of the development and of adjacent properties in terms of noise, odour and aesthetic impact, such as on a rear land frontage, near windowless walls, away from pedestrian areas and in the least visually obtrusive position; and iii. be screened from view from the street with built form and landscaping so as to not detract from the streetscape. 	Storage areas for the supermarket are located at the rear of the site and integrated into the overall building envelope.	Yes
19.3.12	<p>One of the following options for waste collection can be nominated:</p> <ul style="list-style-type: none"> i. Waste collection by Council: where the waste is in 240L bins and the required number of 240L bins does not take up more than 50% of the site street frontage when presented in single file to the kerbside for collection, these bins may be collected by Council's Waste Services. Bins must be spaced to allow for ease of collection (approximately 300mm). The bins are to be stored in the basement or in a designated bin enclosure set; or ii. Waste collection by private contractor (or Council by special arrangement): Where 240L bins take up more than 50% of the site street frontage, larger bins can be used for garbage, recycling and green waste provided the bins are stored in a basement or in an enclosure within 10m of the street. Where it is necessary to move the bins for collection, the bins must be moved by an employee of the body corporate from the storage area to a level area which can be serviced from the driveway to allow for ease of collection. It may be acceptable for the waste truck to straddle private and public property during collection, subject to Council's approval of the arrangement. If the development proposes to rely on Council for collection of waste, prior agreement from Council's Waste Operations Controller must be obtained. A Waste Management Plan for the development must be approved by Council's Waste Operations Controller prior to DA lodgement. 	Bins will be collected by a private contractor from Basement Level 1.	

Clause 4.6

Variation Request

Clause 4.3(2) Sutherland Shire Local
Environmental Plan 2015
Mixed Use Development
3 – 23 Kingsway, Cronulla

This report was prepared by:

Director: Tina Christy
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Report Version: Final - Amended post lodgement

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1. EXECUTIVE SUMMARY

This is a formal request that has been prepared in accordance with clause 4.6 of the *Sutherland Shire Local Environmental Plan 2015* to justify a variation to the Height of Buildings development standard proposed in a development application submitted to Sutherland Shire Council for mixed use development at 3-23 Kingsway, Cronulla (site). The proposal involves the demolition of the existing buildings and the construction of a mixed-use development comprising a supermarket, 5 specialty retail shops, commercial floor space and 112 residential units, with associated basement parking, landscaping and public domain works specifically along Kingsway.

This Clause 4.6 Variation is to address a contravention of Clause 4.3(2) (Height of Buildings) of the *Sutherland Shire Local Environmental Plan 2015* (SSLEP), specifically:

"The height of a building on any land is not to exceed the maximum height shown for the land on the height of Buildings Map"

The height of buildings map identifies the maximum permissible building height at the site as being 30m.

The proposed building has a maximum height of 33.052m, as measured from the ground level (existing) to the highest point directly above, in the location of the southern-most lift overrun. This equates to a 3.05m or 10.17% variation of the numerical height standard.

The skilful design of the proposed development is consistent with the objectives of the height standard and the objectives of the zone and it minimises the impact on the neighbouring properties. The proposal:

- Provides 2 x slender residential flat buildings above a two-storey human-scale podium, minimising bulk and scale and ensuring appropriate solar access and view vistas are maintained, especially to the Cronulla Mall to the south,
- Activates and improves the public domain along Kingsway,
- Is not dissimilar in bulk and scale to other buildings in the immediate neighbourhood,
- Provides for increased economic viability into the Cronulla Commercial Town Centre,
- Is situated in close proximity to public transport, and
- Provides for housing diversity and choice in an area that will support the '30-minute city' objective of the Greater Sydney Region Plan.

Further, the building is located on a site which has been identified within the Sutherland Shire Council as a strategic site within the Cronulla CBD context and Local Housing Strategy as contributing to Council's dwelling targets. It has the ability to further shape and support the city centre, economically and physiologically. Thus, the building has specifically been designed to reinforce the corner of Kingsway and Croydon Street, which represents the north-western corner of the gateway to the Cronulla Commercial Centre.

The objectives of Clause 4.6 are to provide an appropriate degree of flexibility in applying certain development standards to particular development, and to achieve better outcomes for, and from, development by allowing flexibility in particular circumstances.

As the following request demonstrates, a better planning outcome would be achieved by exercising the flexibility afforded by Clause 4.6 in the particular circumstances of this application, and accordingly we respectfully submit that Council ought to be satisfied that this variation request addresses of the matters required by clause 4.6(3) and that the proposed development will be in the public interest as is required by clause (4)(a) of the SSLEP. As such, it would be appropriate to exercise the flexibility provided by clause 4.6 in the circumstances of this application.

This request has been prepared having regard to the Department of Planning and Environment's Guidelines to Varying Development Standards (August 2011) and various relevant decisions in the New South Wales Land and Environment Court and New South Wales Court of Appeal (Court).

Clause 4.6 requires that a consent authority be satisfied of three matters before granting consent to a development that contravenes a development standard (see *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130, *Al Maha Pty Ltd v Huajun Investments Pty Ltd* (2018) 233 LGERA 170; [2018] NSWCA 245) at [23] and *Baron Corporation Pty Limited v Council of the City of Sydney* [2019] NSWLEC 61 at [76]-[80] and *SJD DB2 Pty Ltd v Woollahra Municipal Council* [2020] NSWLEC 1112 at [31]:

1. That the applicant has adequately demonstrated in a written request that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case [clause 4.6(3)(a)];
2. That the applicant has adequately demonstrated in a written request that there are sufficient environmental planning grounds to justify contravening the development standard [clause 4.6(3)(b)];
3. That the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out [clause 4.6(4)]

This request also addresses the requirement for the concurrence of the Secretary as required by clause 4.6(4)(b).

This request demonstrates compliance with the building height development standard is unreasonable and unnecessary in the circumstances of the proposed development and that there are sufficient environmental planning grounds to justify the variation. The development satisfies the objectives of the height standard, as well as the objectives of the B3 Commercial Core Zone and is in the public interest because it is consistent with the objectives of the height development standard and the B3 Zone. Strict adherence to the height standard in this instance is therefore unreasonable and unnecessary and would result in a poorer planning outcome, and it would be appropriate to apply the flexibility in clause 4.6. Therefore, it would be appropriate to grant the clause 4.6 variation request.

2. INTRODUCTION

This written request has been prepared in accordance with clause 4.6 of the *Sutherland Shire Local Environmental Plan 2015* to justify a variation to the Height of Buildings development standard development proposed in a development application submitted to Sutherland Shire Council for a nine-storey mixed use development comprising of four levels of basement carparking, ground level retail, commercial and residential units on level one and levels two to eight containing residential units, with associated landscaping works and improvements to the public domain at 3 - 23 Kingsway, Cronulla (site).

The objectives of Clause 4.6 are to provide an appropriate degree of flexibility in applying development standards to achieve better outcomes for, and from, development.

As the following request demonstrates, a better planning outcome would be achieved by exercising the flexibility afforded by Clause 4.6 in the particular circumstances of this application.

This request has been prepared having regard to the Department of Planning and Environment's Guidelines to Varying Development Standards (August 2011) and various relevant decisions in the New South Wales Land and Environment Court and New South Wales Court of Appeal (Court).

Clause 4.6 requires that a consent authority be satisfied of three matters before granting consent to a development that contravenes a development standard (see *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130, *Al Maha Pty Ltd v Huajun Investments Pty Ltd* (2018) 233 LGERA 170; [2018] NSWCA 245) at [23] and *Baron Corporation Pty Limited v Council of the City of Sydney* [2019] NSWLEC 61 at [76]-[80] and *SJD DB2 Pty Ltd v Woollahra Municipal Council* [2020] NSWLEC 1112 at [31]:

1. That the applicant has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case [clause 4.6(3)(a)];
2. That the applicant has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard [clause 4.6(3)(b)];
3. That the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out [clause 4.6(4)]

This request also addresses the requirement for the concurrence of the Secretary as required by clause 4.6(4)(b).

3. STANDARD TO BE VARIED

The standard that is proposed to be varied is the height of building development standard which is set out in clause 4.3(2) of the *Sutherland Shire Local Environmental Plan 2015 (SSLEP 2015)* as follows:

4.3 Height of buildings

(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.

On the "Height of Buildings Map" the site is in an area with a height designated as "U". The numerical value of the "Height of Buildings Map" development standard applicable in this instance is 30 metres. (Refer to Figure 1 below).

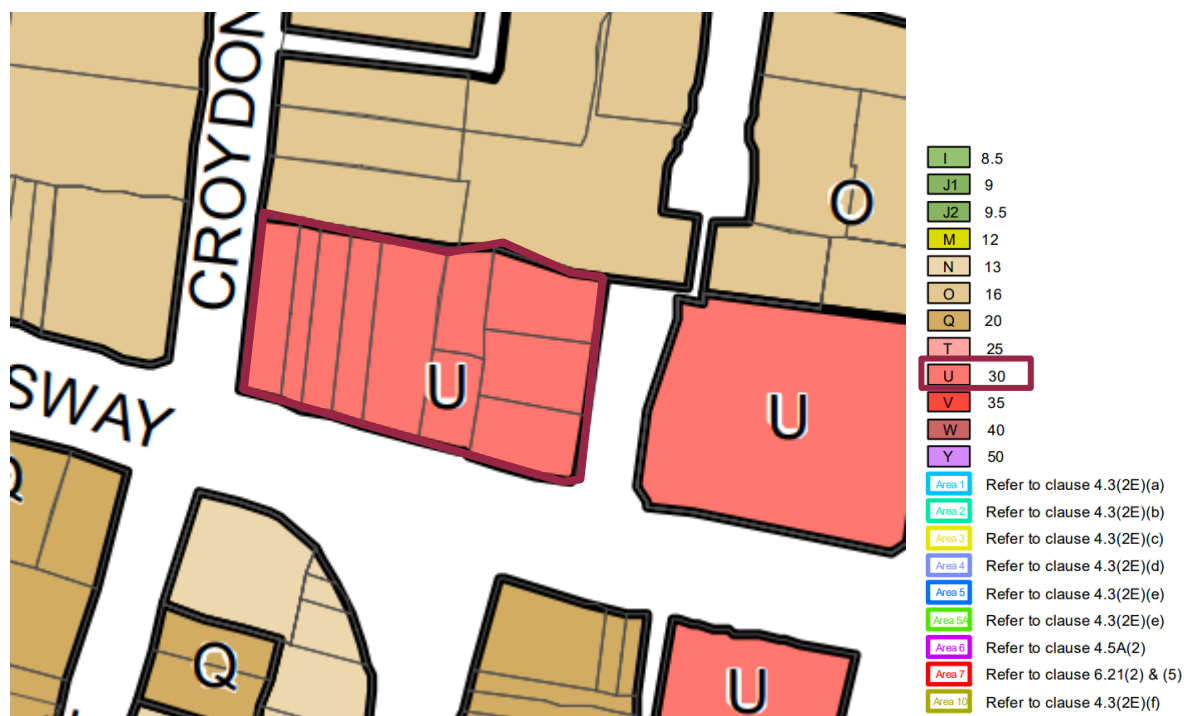


Figure 1: Extract of Height of Building map, site outlined in red (Source: NSW Legislation)

The development standard to be varied is not identified under sub-clause 4.6(8). Therefore, it is not excluded from the operation of clause 4.6 of the LEP.

4. EXTENT OF VARIATION

4.1. Measuring ground level (existing)

The maximum building height is to be measured in accordance with the following SSLEP 2015 definition:

building height (or **height of building**) means:

(a) in relation to the height of a building in metres—the vertical distance from ground level (existing) to the highest point of the building, or

(b) in relation to the RL of a building—the vertical distance from the Australian Height Datum to the highest point of the building,

including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

To determine the height of the building, an existing ground level must therefore be nominated. In most cases, the maximum building height is measured between the highest surveyed part of the proposed development and the lowest surveyed level of the site vertically beneath. On sites where there is an existing building, however, this method cannot always be applied.

In such circumstances, case law provides appropriate guidance on the correct interpretation of 'ground level (existing)'. In *Bettar v Council of the City of Sydney* [2014] NSWLEC 1070 (Bettar) at para 39 it was found that "... the definition of basement in LEP 2012 is the space of a building where the floor level of that space is *predominantly below existing ground level* and where the floor level of the storey immediately above is less than 1 metre above existing ground level [italics added]. From this definition, it does not follow that existing ground level becomes the level of the basement floor or the soil beneath the basement following the construction of a basement. A basement is, by definition, below ground level and so the level of the basement floor cannot be taken to be existing ground level".

In Bettar at para 34 the applicant therefore argued that the existing ground level of the site is the level of the footpath at the site boundary and that the site level should be determined by extrapolating this level across the site. The Court adopted this approach, which has become known as the 'extrapolation approach', on the basis that "*the level of footpath at the boundary bears a relationship to the context and the overall topography that includes the site and remains relevant once the existing building is demolished*" (Bettar at para 41).

For developments where the land is not totally built out or excavated as was the case in Bettar, later case law suggests that the extrapolation approach may still be used but only in some circumstances.

In *Stamford Property Services Pty Ltd v City of Sydney & Anor* [2015] NSWLEC 1189 (Stamford), the Court agreed with the Council's method of determining the 'ground floor (existing)'. This method required that the proposed height be measured from the ground level of the site where it was known and from the footpath level at the site boundaries extrapolated across the site (i.e. the methodology adopted within Bettar) where the ground level was unknown.

In these proceedings, the Court confirmed that the definition of 'ground level (existing)' from which building height should be measured:

- is not to be based on the floor levels of an existing building located on a site.
- is not to be based on artificially modified site levels associated with excavation.
- is not to include the basement floor or the soil beneath the basement following construction of the building or pre-existing excavation works.
- is to be based on the existing surveyed surface of the ground, or where access to the ground surface is restricted by an existing building or pre-existing excavation, natural ground levels should be determined about known boundary levels based on actual and surveyed levels in the public domain (footpaths) and unmodified levels around the perimeter of the property.

Based on this, the 'ground level (existing)' must relate to the levels of the site, and not to the building presently located on the site or the artificially modified levels of the site because of excavation.

In *Strebora Pty Ltd v Randwick City Council (No 2) [2017] NSWLEC 1575* (Strebora), the Developer argued that the extrapolation method should be used and that the ground level should be determined with reference to the street levels. The Court, however, did not accept this approach because the existing dwelling on site did not occupy the entire site, which meant that there were some landscaped areas that could be used to measure ground level. Although in the case of Strebora the Court did not directly apply Bettar in the form of the extrapolation approach, the same general approach was adopted by the Court in that the ground level should bear a relationship to the overall topography and site context. In contrast, there have been cases where the existing development has not occupied the entire site and some landscaped areas were available from which to measure height, yet the Court did apply the extrapolation method (e.g. *Nicola v Waverly Council [2020] NSWLEC 1599*).

These cases show that the 'extrapolation method' is not limited to sites which have been fully built on and that it is possible to also use the 'extrapolation method' to determine the existing ground level (i.e. either in combination with other methods or across the entire site) on sites which have not been fully built on. The key principle, however, is that the height plane must relate to its surrounds.

4.2. Proposed height exceedances

In the case of 3-23 Kingsway, Cronulla, existing buildings occupy a lot of the site. Although the site is not completely built-out and there are some natural landscaped areas located within the rear setbacks, these landscaped areas are adjacent to the exterior walls and around the perimeter of the site.

The extrapolation method has been used to determine the existing ground level in the location of the existing building. Where any new building works are to be situated on undeveloped ground (i.e., a part of the site that is not currently built upon and is just grass or landscaping), then in those locations the height of the proposed building has been measured from the existing surveyed ground RLs.

Based on this combination of extrapolated and surveyed existing ground levels, height plane diagrams have been prepared by PBD Architects, as shown in Figures 2 - 6 below.

Clause 4.3 of the SSLEP 2015 prescribes a maximum building height of 30m for development on the subject site. The application consists of 2 residential flat buildings above a two-storey podium level, with Building A situated in the west of the site and Building B situated to the east of the site.

Clause 4.6

This application seeks consent for a maximum building height of 33.052m (RL 48.85) being a 10.17% variation in height and is located on Building A, situated in the north eastern corner of that building. This relates to the roof plant screening and can be seen in Figure 2 and Figure 3 below.

The overall height variations for Building A range from 3.052m - 0.878m; more specifically:

- 3.052m (10.17% variation) in north eastern corner of the building to the top of the plant screen and 1.59m (5.3% variation) to top of roof parapet,
- 2.727m (9.09% variation) in north western corner to top of plant screen, and 1.174m (3.9% variation) to top of roof parapet,
- 2.813m (9.37% variation) in south western corner to top of plant screen and 1.239m (4.13% variation) to top of roof parapet,
- 2.302m (7.67% variation) in centre of building to top of lift overrun, and
- 2.543m (8.47% variation) in south easter corner to top of plant screen, and 0.878m (2.9% variation) to top of roof parapet.

The overall height variations for Building B range from 2.98m - 0.622m; more specifically:

- 2.984m (9.9% variation) in north western corner of the building to top of plant screen and 1.36m (4.5% variation) to top of roof parapet,
- 2.564m (8.5% variation) in north eastern corner to top of plant screen and 0.977m (3.2% variation) to top of roof parapet,
- 2.342m (7.8% variation) in south western corner to top of plant screen and 0.658m (2.2% variation) to top of roof parapet,
- 2.122m (7.07% variation) in south eastern corner to top of plant screen and 0.622m (2.07% variation) to top of roof parapet, and
- 1.881m (6.27% variation) in centre of building to top of lift overrun.



Figure 2: Height plane of development, with Kingsway to the bottom of the diagram, Block A to the left and Block B to the right. (Source: PBD Architects)



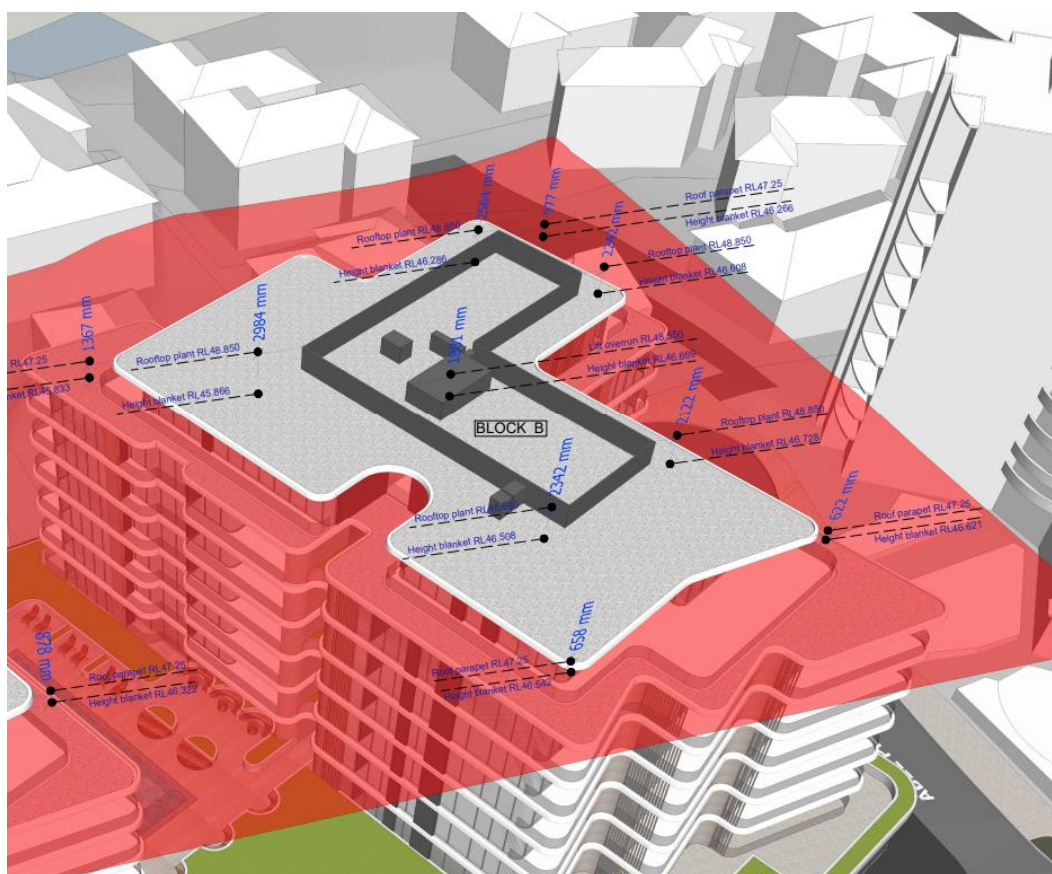


Figure 4: Close up of height plane for Building B. (Source: PBD Architects)

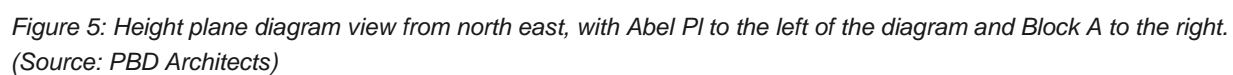




Figure 6: Height plane diagram view from north west, with Croydon St in bottom right and Block B in left of diagram.
(Source: PBD Architects).

5. UNREASONABLE OR UNNECESSARY

In this section it is demonstrated why compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by clause 4.6(3)(a) of the LEP.

The Court has held that there are at least five different ways, and possibly more, through which an applicant might establish that compliance with a development standard is unreasonable or unnecessary (see *Wehbe v Pittwater Council* [2007] NSWLEC 827).

The five ways of establishing that compliance is unreasonable or unnecessary are:

1. The objectives of the development standard are achieved notwithstanding non-compliance with the standard;
2. The underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;
3. The objective would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable;
4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence the standard is unreasonable and unnecessary; and
5. The zoning of the land is unreasonable or inappropriate

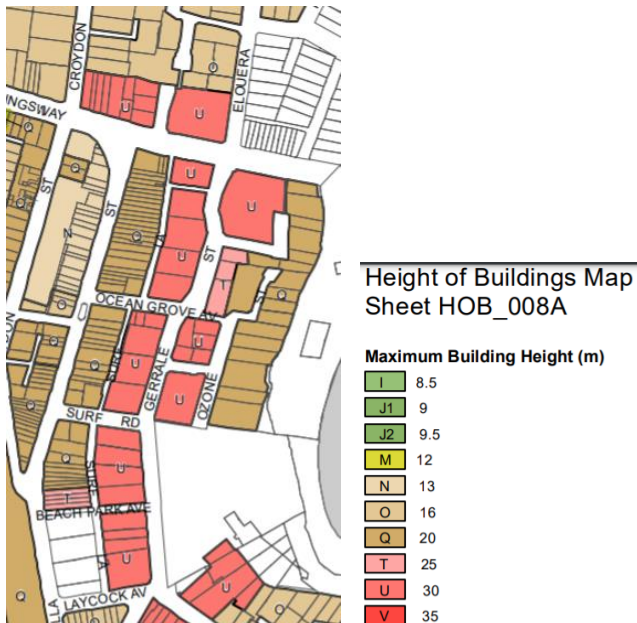
It is sufficient to demonstrate only one of these ways to satisfy clause 4.6(3)(a) (*Wehbe v Pittwater Council* [2007] NSWLEC 827, *Initial Action Pty Limited v Woollahra Municipal Council* [2018] NSWLEC 118 at [22] and *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130 at [28]) and *SJD DB2 Pty Ltd v Woollahra Municipal Council* [2020] NSWLEC 1112 at [31].

We have considered each of the ways as follows.

5.1. The objectives of the development standard are achieved notwithstanding non-compliance with the standard.

The following table considers whether the objectives of the development standard are achieved notwithstanding the proposed variation (Test 1 under *Wehbe*).

Objective	Discussion
(1) The objectives of this clause are as follows— (a) to ensure that the	Consideration of the compatibility of a proposal and its surroundings can be undertaken with regard to the Land Environment Court Planning Principle on 'compatibility with context' in <i>Project Venture Developments v Pittwater Council</i> [2005] NSWLEC 191. To test whether a proposal is compatible with its context, the following two (2) questions can be asked: Are the proposal's physical impacts on surrounding development acceptable? The physical

scale of buildings—	impacts include constraints on the development potential of surrounding sites.																				
(i) is compatible with adjoining development, and	<p>The elements of the building that exceed the height limit are minor and have no detrimental impact in terms of view loss, privacy or overshadowing. (This is explained in more detail below). The proposed height departure would also not prevent any future redevelopment of the adjoining sites. Therefore, the impacts of the height departure on surrounding development is acceptable.</p> <p>Is the proposal's appearance in harmony with the buildings around it and the character of the street?</p> <p>The subject site is situated at the northern end of the Cronulla Commercial Core area and is identified in the Centre Strategy Map (within the Sutherland Shire Development Control Plan 2015 (SSDCP)) as a site for increased potential for development at centre entry point to the Kingsway. The site and immediate area is undergoing a change with current controls allowing a mixture of heights ranging from 20m - 30m near the subject site. (Refer to Figure 7below).</p>																				
	 <p>Height of Buildings Map Sheet HOB_008A</p> <p>Maximum Building Height (m)</p> <table border="1"> <tbody> <tr><td>I</td><td>8.5</td></tr> <tr><td>J1</td><td>9</td></tr> <tr><td>J2</td><td>9.5</td></tr> <tr><td>M</td><td>12</td></tr> <tr><td>N</td><td>13</td></tr> <tr><td>O</td><td>16</td></tr> <tr><td>Q</td><td>20</td></tr> <tr><td>T</td><td>25</td></tr> <tr><td>U</td><td>30</td></tr> <tr><td>V</td><td>35</td></tr> </tbody> </table>	I	8.5	J1	9	J2	9.5	M	12	N	13	O	16	Q	20	T	25	U	30	V	35
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	<p><i>Figure 7: Extract of Height of Buildings Map showing the allowable heights surrounding the site. (Source: NSW legislation)</i></p>																				
	<p>The existing built form in the immediate area is a mixture of smaller scale developments to the north and along the mall, with a scattering of 7-10+ storey buildings. (Refer to Figure 8 below which shows the existing built form). It is expected over time that new development will achieve the currently anticipated heights allowable under the Sutherland Shire LEP.</p>																				

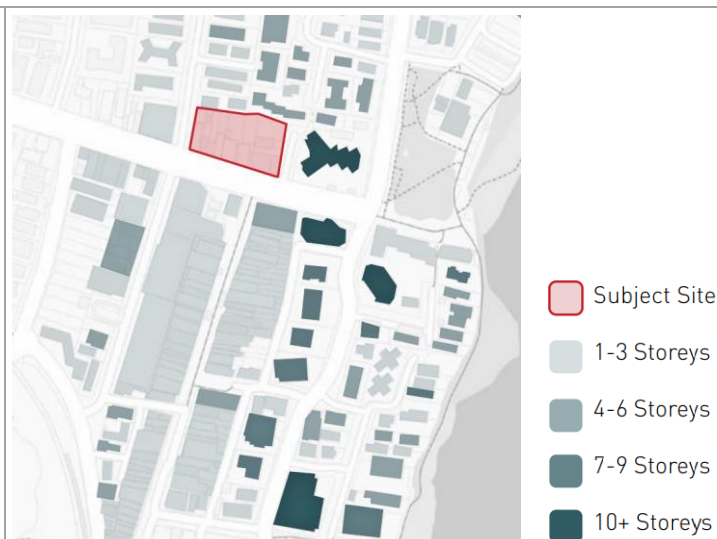


Figure 8: Existing built form (Source: PBD Urban Analysis)

The site immediately adjoining the east is a 16-storey building with a roof RL of 51.76 (known as Northies Cronulla Hotel, Sur Mer and Quest Cronulla Beach Hotel), and the building to the south-east (known as Rydges Hotel) is a 12-storey building with a top of roof RL of 52.02. (Based on survey information provided by John R. Holt Surveyors, dated 31.07.2017). Both buildings have plant and structures above the primary roof levels. (Refer to Figure 9 below)

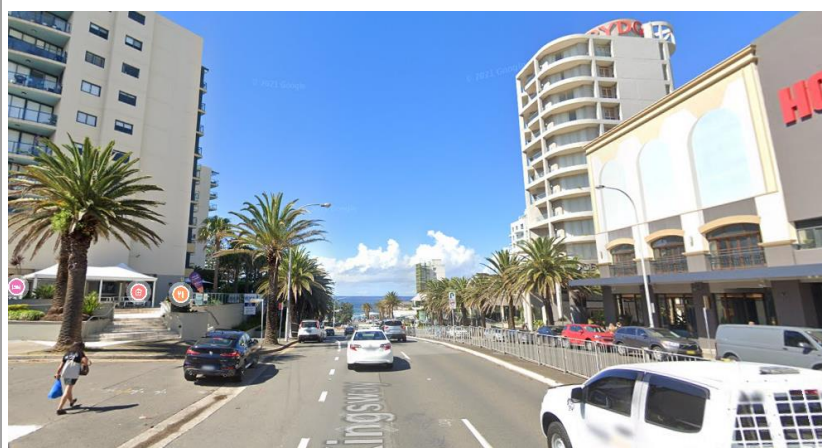


Figure 9: View from Corner of Abel PI and Kingsway (subject site) looking east, showing Sur Mer/Quest/Northies on left and Rydges on right. Other 7-10+ buildings can be seen in the background of this view. (Source: Googlemaps April 2021)

The portion of the proposal which exceeds the height limit consists of roof, mechanical plant and associated screening, lift overrun and a small section of unit windows to the north/north-east. The proposed roof RLs of both residential buildings are RL 47.25 and the maximum RL being 48.85. These are 4.5m and 4.77m lower than the roofs of Sur Mer/Quest/Northies on and Rydges Hotels, respectively so will not appear out of place along this section of Kingsway. There are other examples of 10+ storey buildings in the easterly and south-easterly direction from the site, as shown in the background of Figure 9 above and in Figure 10 below, whereas this proposal is only 9 storeys.



Figure 10: View looking south from the corner of Kingsway in front of Sur Mer/Quest/Northies, down Gerrale St. (Source: Googlemaps).

The portions of the building that contravene the height standard do not result in any incompatibility between developments in the surrounding area and would not be inconsistent with any future redevelopment permitted by Council's planning controls. The objectives of the standard are therefore achieved notwithstanding the non-compliance with the height standard.

Public Interest Test

In relation to the public interest, the overall development is also considered to be consistent with this objective for the reasons stated above and for the following additional reasons:

- It retains a two-storey podium level with recessed residential buildings above,
- The front elevation will positively contribute to Kingsway and the Cronulla Mall with a large emphasis on public domain and improved pedestrian activity,

	<ul style="list-style-type: none"> The proposal being a mixed-use development will provide a variety of uses and mix of unit types, contributing to the economic redevelopment of the immediate area and consistent with surrounding development, and The proposal provides a built form and massing which is compatible with the surrounding development and consistent with the scale and materials and colours of other developments in the area.
(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	<p>The desired future character of the area is envisaged through the relevant planning controls. "Compatibility" as established in <i>Project Venture Developments Pty Ltd v Pittwater council [2005] NSWLEC191</i> at 22-31, does not mean "sameness" but rather "capable of existing together in harmony."</p> <p>Further to this, the Desired Future Character of a neighbourhood or area can be understood not only by the provisions of the LEP, including the development standards themselves, but also other factors including approved development that contravenes the development standard. (<i>Woollahra Municipal Council v SJD DB2 Pty Ltd [2020] NSWLEC 115 p63</i>). In that decision, Preston CJ commented that "the desired future character of the neighbourhood or area exists before and informs the establishment of the maximum height and FSR for buildings, and the height and scale of developments, in the neighbourhood or area. This necessarily means that the desired future character of the neighbourhood or area can be evaluated by reference to matters other than only the provisions of WLEP establishing the zoning, the permitted and prohibited development, and the development standards for permitted development in the zone."</p> <p>As demonstrated in Figure 8 above, the current urban form in the Cronulla Town Centre is a mixture of varying heights; however due to the allowable height provisions it is currently undergoing a change.</p> <p>In the immediate area, recent approval has been granted for the following:</p> <ul style="list-style-type: none"> 18 Gerrale St (2018) - Approximately 9 storeys - a mixed use development, 5-9 Ozone St (2018) - 9 storeys plus roof terrace - residential apartment building, and 49-57 Gerrale St (2018) - Approximately 10 storeys - mixed use development. <p>These combined with the Rydges and Sur Mer/Quest/Northies help define the scale and character that is anticipated for the area. (Refer to Figure 8, Figure 9 and Figure 10 above). All buildings have a human-scale podium with recessed residential uses above. They allow for an active street and public domain areas and use neutral colours and landscaping to enhance the coastal locality. (Refer to Figure 11 below).</p>

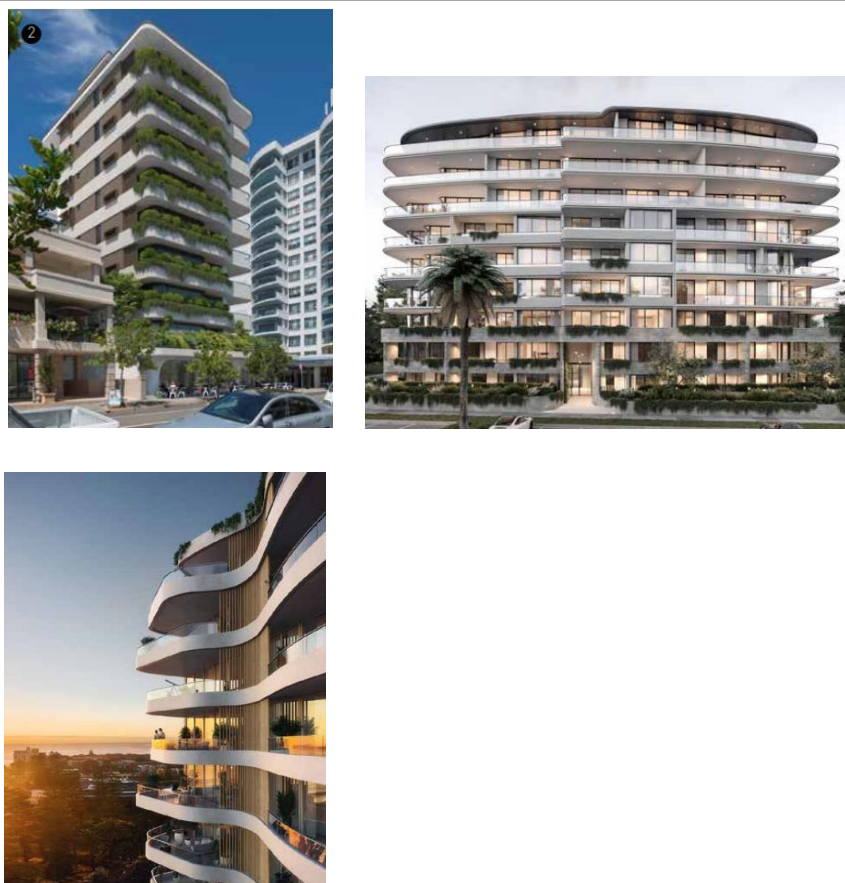


Figure 11: Photomontages of approved buildings, 18 Gerrale in top left, 5-9 Ozone in top right and 49-57 Gerrale St in bottom. (Source: PBd Architects Urban Analysis)

The portion of the proposal which varies the height is minor and relates primarily to the upper-most roof and roof features. These are primarily recessed from the main building below and will generally be undiscernible from the public domain, with one exception being the south-western corner. This section will not be dissimilar to the adjoining Sur Mer/Quest/Northies and Rydges buildings in scale, height and bulk, nor the recently approved buildings shown in Figure 11 above. It will reinforce the corner element of the building and mark the north-western entrance to the Cronulla Town Centre. (Refer to Figure 12 below showing the recessed roof).



Figure 12: Roof plan showing the roof and structures are primarily recessed from the levels below. (Source: PBD Architects DA108)

Public Interest Test

The development as a whole is consistent with the desired future character of the neighbourhood. The proposal includes a site which has been identified within the Sutherland Shire Council as a strategic site within the Cronulla CBD context and Local Housing Strategy as contributing to Council's dwelling targets. It has the ability to further shape and support the city centre, economically and physiologically. Further, the Public Domain Master Plan - Strategic Sites documentation prepared by Studio GL for Sutherland Shire Council has identified opportunities with the subject site which included, but not limited to:

- Key views towards the site,
- Prominent façade and street interface with desired active frontages, and
- Connection to the mall.

Consistently with the Master Plan, the proposal incorporates an open plaza fronting the supermarket, with smaller alfresco's to the retail shops. The design is to appear as an extension of the mall to further enhance the pedestrian experience.

Vehicular access and loading bays are kept to the side streets to reinforce the primary pedestrian access and public domain along Kingsway.



Figure 13: Extract from PBD Urban Analysis demonstrating the proposal achieves the perceived extension of the Cronulla Mall and reinforces the pedestrian focus with the extension of the public domain, 2 opportunities identified in the Master Plan. (Source: PBD Urban Analysis)

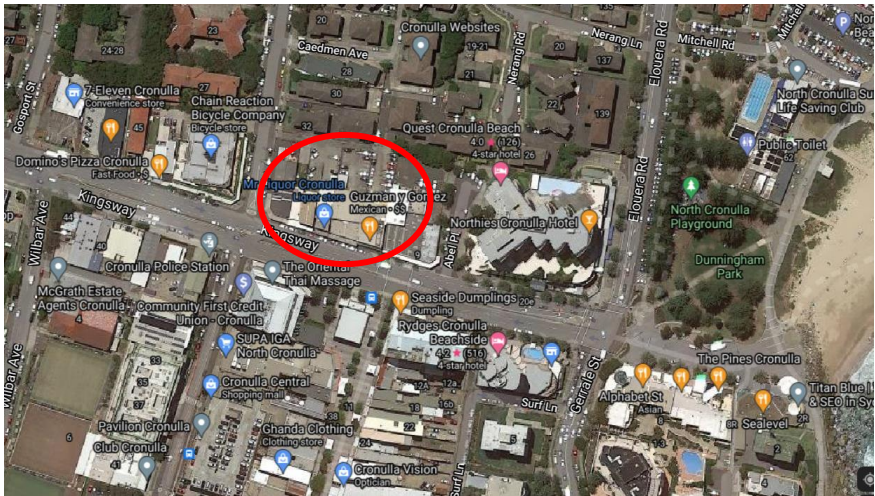
The podium is 2-storey in height to maintain the human scale with the residential component setback from the edge of the podium and separated into two distinct buildings. This articulation and design reduce the bulk and scale of the development and ensures appropriate solar access and view vistas are maintained towards the mall.

The proposal represents strategic consistency with the objectives of the Greater Sydney Region Plan (GSRP) and South District Plan (SDP). The proposed development will provide employment generating floorspace and provide jobs closer to homes, next to major public transport infrastructure.

Cronulla is defined as a 'local centre' under the SDP which has a baseline target of 241,500 jobs by 2036 which represents 10% of the Greater Sydney Region total of 2,439,800 jobs by 2036. The proposal contributes to this by directly generating 202 jobs and indirectly 210 jobs, totalling 412 jobs, many of which will be youth employment opportunities.

The GSRP outlines strategies to support proposals that increase investment and business activity

Clause 4.6

	<p>in centres. Objective 22 of the GSRP emphasises the need to attract investment in centres to facilitate jobs growth and diversify the types of jobs in centres (Strategy 22.1). This Planning Priority reinforces the need for alternative commercial floorspace and to provide a variety of jobs in centres to support the '30-minute city'. Planning Priority S9 of the SDP relates to Objective 22 of the GSRP and seeks to support the growth of business opportunities and jobs in centres.</p> <p>Further, Council's Economic Strategy (2018) has an objective of supporting the Cronulla (and Sutherland Shire) business community with a 15% increase in business output.</p> <p>The proposal will provide a diverse dwelling size mix, with opportunities to easily access jobs and services within the Cronulla Centre Locality in a location close to services and public transport hubs, as well as protecting and enhancing local job opportunities and employment space within the Cronulla town centre.</p> <p>Therefore, the proposal is considered to be consistent with this objective of the height standard, as it is consistent with the recent approvals and existing buildings in the immediate area and relevant Planning and Economic strategies.</p>
(iii) complements any natural landscape setting of the buildings,	<p>The site is situated on an elevated portion of Kingsway (a main arterial road of Cronulla) less than 300m east of the coast. There are various public recreational spaces located nearby with Dunningham Park within 250m to the east and North Cronulla Beach directly east of that. Landscaping in the commercial core is limited however street trees are present on Kingsway from the Mall down to the beach, and some new developments do have landscaping at ground level. (Refer to Figure 14 below, where the subject site is shown with red circle).</p>  <p>Figure 14: Extract from Googlmeps showing Dunningham Park to the east, and landscaping in the</p>

	<p><i>immediate area. (Source: Googlemaps).</i></p> <p>The portions of the building which vary the height are primarily stepped-in from the main building form and will have no impact on the natural landscape setting. The south-western corner of the building is the only variation element that will be visible and this is not dissimilar to other buildings in the immediate area. The materials are neutral colours which are sympathetic to the coastal location.</p> <p><u>Public Interest Test</u></p> <p>The development as a whole is considered to improve and strengthen the natural landscape setting. The proposal will provide additional street trees along Kingsway and Abel Place. The proposed podium landscaping and cascading planting will enhance the appearance of the site and consequently the appearance of the centre as a whole. This is consistent with the specific controls for development within the B3 Commercial zoned areas of Cronulla within Chapter 19 of Sutherland Shire Development Control Plan 2015.</p> <p>The materials and colours proposed to be used are considered to be neutral and "beachy" colours, with robust materials able to withstand the exposed harsher conditions of close coastal environment. (Refer to Figure 34 below for the materials and colours). They are also sympathetic to surrounding developments in the immediate area.</p> <p>The building has been designed with a 2-storey podium and residential flat buildings above. There is a separation of 18m between the two buildings at the lower levels and this increases to 24m at the upper most level. This combined with the setbacks from the various boundaries allows for generous view corridors and solar access between the buildings. This contributes to the natural landscape setting of sea-breezes, sunlight and views. (Refer to Figure 15 below).</p>
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Figure 15: Upper level showing the respective setbacks and the proposed tree planting. (Source: PBD Architects DA107)

Thus, despite the variation in height, this objective is considered to be achieved.

(b) to allow reasonable daylight access to all buildings and the public domain,

As the portion of building which varies the height control is generally recessed from the main building, it contributes very little to the overshadowing of adjoining sites.

A detailed solar analysis has been undertaken by PBD to compare the overshadowing impact of a compliant built form as anticipated by the SSLEP and SSDCP controls against the proposed development at mid-winter. Also, shadow diagrams have been prepared showing the extent of shadow cast from the area that varies the height.

As shown in Figure 16 below, the shadow cast from the variation in height (depicted in red) is very minimal and has negligible impact on the adjoining buildings and public domain, in particular the northern entrance to the Cronulla Mall.

Clause 4.6

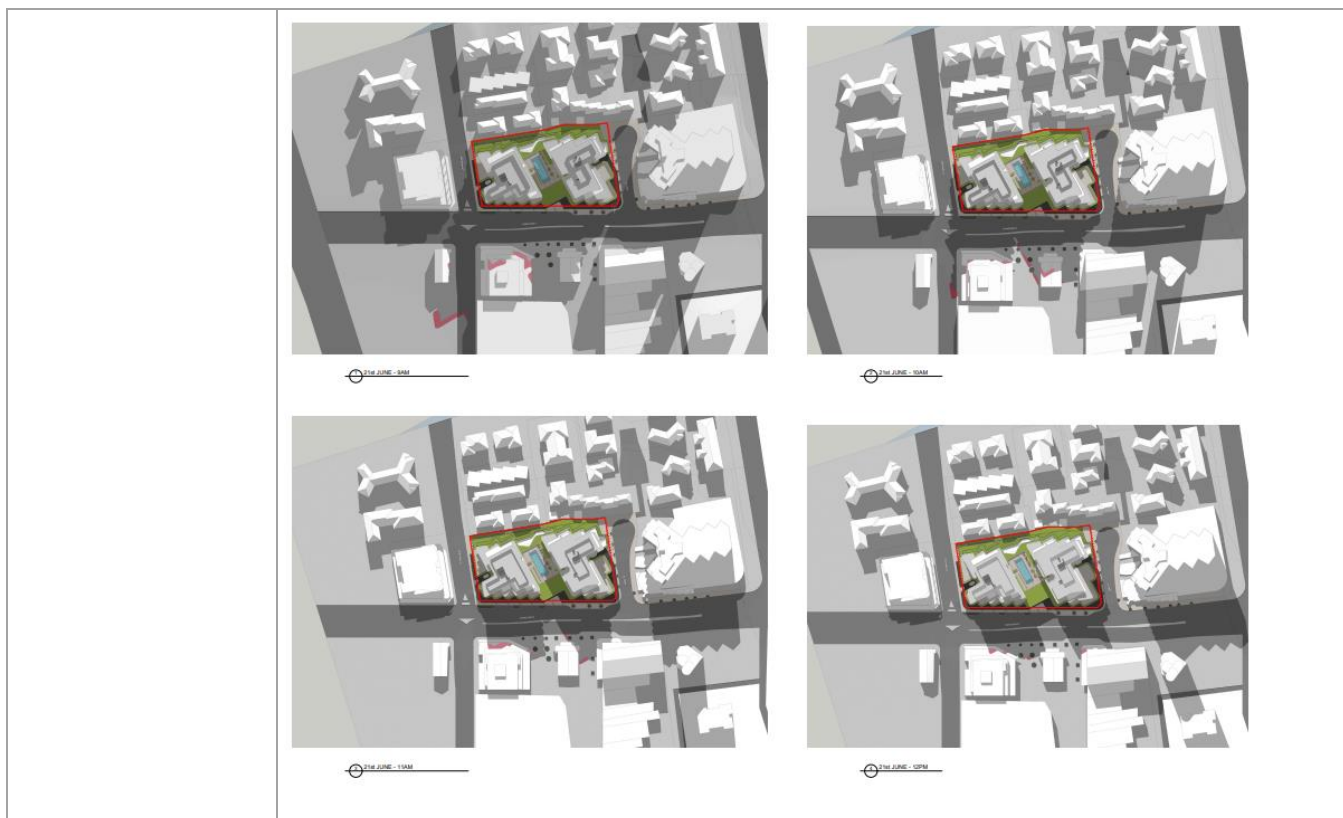




Figure 16: Mid-winter shadow diagrams on the hour from 9am-3pm, with red depicting shadow cast from the areas that vary the height. (Source: PBD Architects)

Public Interest Test

The building as a whole generates little shadow impacts on the adjoining public domain and buildings from 11am onwards in mid-winter. The separation between the two residential towers allows for solar access to penetrate between the buildings, as shown in the red in the above diagrams; thus, improving the solar access. The result of the two residential flat buildings is for shadow to fall in two slender sections, rather than one large mass; thus, this is considered a better design and planning outcome.

Thus, despite the variation in height, the proposal achieves this objective.

(c) to minimise the impacts of new buildings on adjoining or nearby properties

Views

In determining if the view loss for the adjoining or nearby properties is reasonable or unreasonable, we have given consideration to *Tenacity Consulting v Warringah Council* (2004) NSWLEC140 (Tenacity), whereby the Land and Environment Court established a set of Planning Principles on

Clause 4.6



<p>from loss of views, loss of privacy, overshadowing or visual intrusion,</p>	<p>view sharing and what Councils should take into consideration in assessing view loss impacts. Those things that should be considered include an assessment of whether view impacts are negligible, minor, moderate, severe, or devastating.</p> <p>The Planning Principles involve a four-step process for considering the impact of a development on views. This involves:</p> <ol style="list-style-type: none"> 1. An assessment of the value of views to be affected by reference to their nature, extent and completeness. 2. A consideration of how views are obtained and what part of the property the views are obtained from. 3. A qualitative assessment of the extent of the impact in terms of severity particularly as to whether that impact is negligible, minor, moderate, severe or devastating. 4. An assessment of the reasonableness of the proposal causing the impact particularly in terms of compliance with applicable planning controls and whether a different or complying design must produce a better result. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. <p>View analysis advice has been provided by PBD Architects which has considered the impacts from six adjoining locations, including from the public domain. Each of these will be discussed in detail below:</p> <ul style="list-style-type: none"> ▪ View 1 & View 2 - From Cronulla Mall (South of the subject site) <div data-bbox="459 1305 868 1626">  </div> <div data-bbox="948 1305 1382 1574">  </div>
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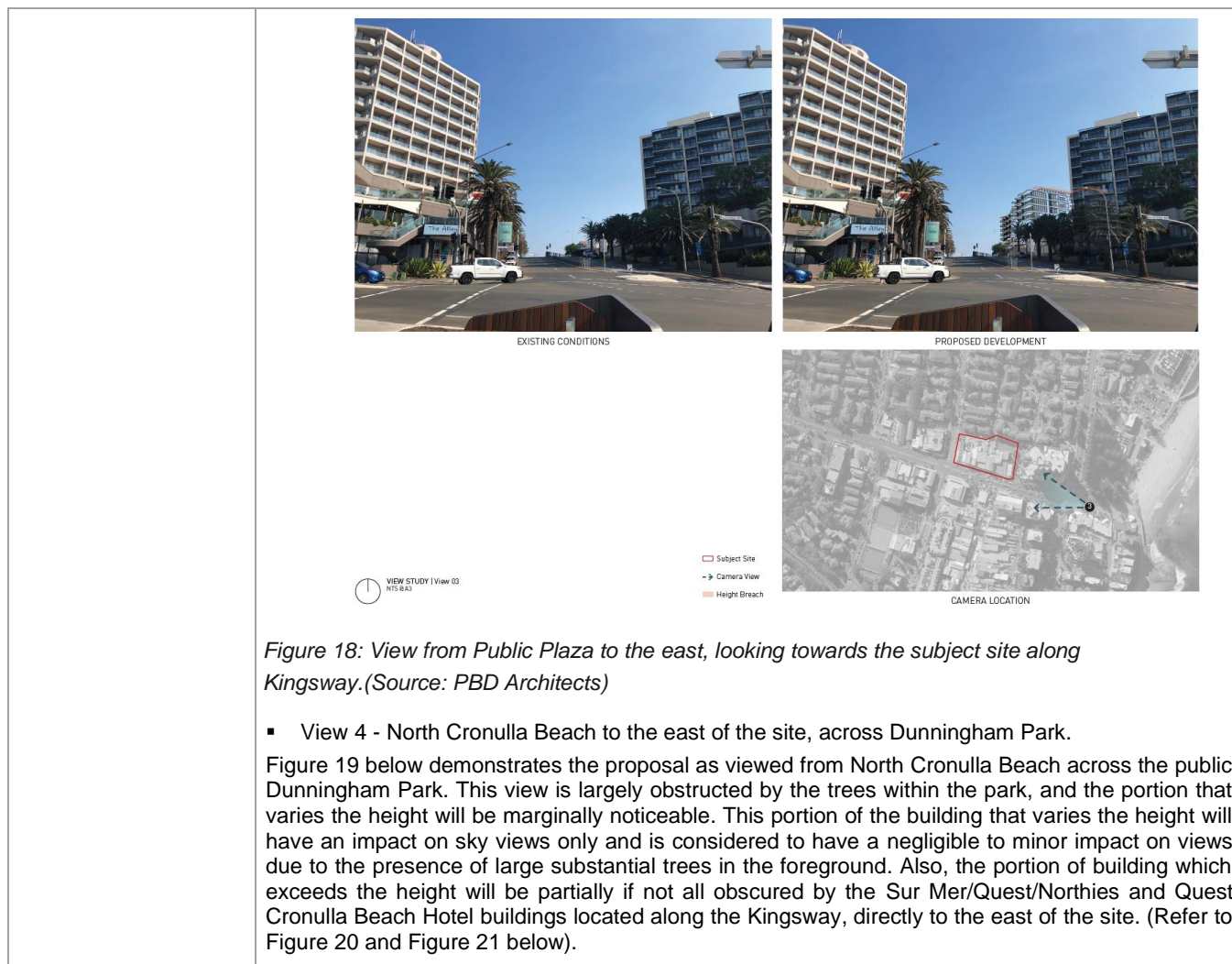
Figure 17: Views from the Cronulla Mall to the South, showing the proposed building with the height variation depicted in salmon (Source: PBD Architects)



As demonstrated in Figure 17 above, the portion of the building which varies the height can be seen in the 'salmon' colour. It is clear from these photos, that the view loss from the variation results in loss of sky views only. This is considered to have a minor impact, as the building is split into two residential buildings above a podium; allowing view vistas through the site. Currently the sky views are partially obstructed with existing tree canopy /tree planting within the public domain. No existing water views, iconic views or district views are observed or impacted by this variation in height. As such, the extent of the view impact is considered minor and reasonable.

- View 3 - Public Plaza east of the development site.

Figure 18 below shows the proposed building in the background of the photo, as one views the site along Kingsway in a westerly direction. The portion of building that varies the height has a negligible impact, as it impacts on sky view only with other existing 10+ storey buildings present in the foreground.



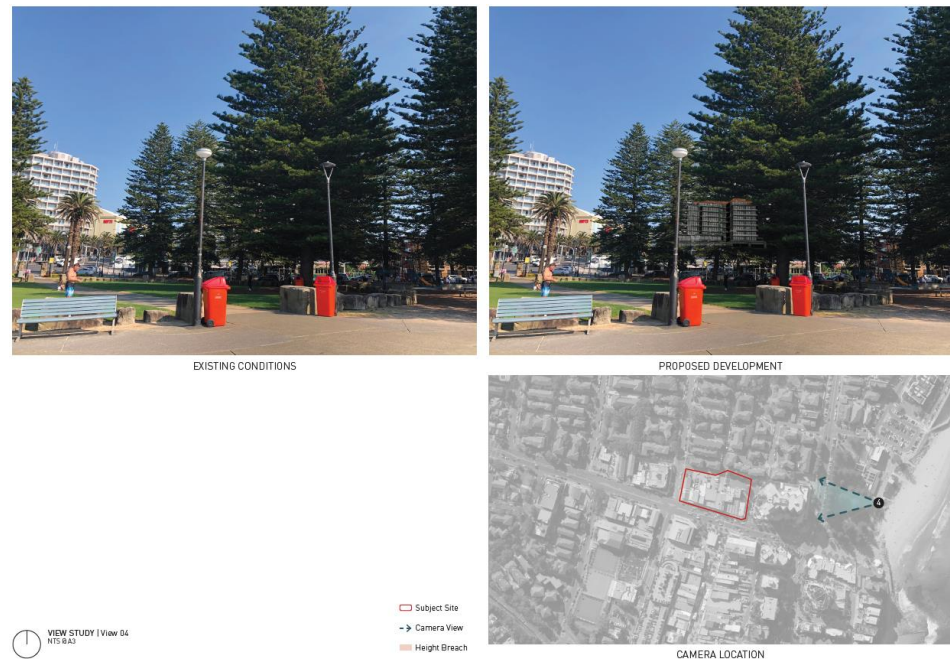


Figure 19: View from North Cronulla Beach, across Dunningham Park, looking west towards the subject site. (Source: PBD Architects).



Figure 20: Subject site circled in red, showing proximity of adjoining eastern Sur Mer/Quest/Northies and Quest Hotel building which is taller than the proposed building. (Source: Googlemaps)



Figure 21: Street view showing building adjoining the subject site to the east. (Source: Googlemaps)

- View 5 - from the adjoining building directly east of the site.



Figure 22: View impact from the eastern adjoining building. (Source: PBD Architects)

Figure 22 is taken from the western-facing breezeway of the Quest Hotel building adjoining to the east. The design of this building is such that the balconies of the Quest development to the east of the property are currently aligned towards Woolaware Bay (north) and across to Port Hacking and Burraneer Bay (south) respectively. The View loss experienced from the variation in height is that of sky views only and is considered minor in the context of the surrounding development as there is no loss of iconic or significant views. Also, the balconies on the adjoining building maintain their primary views to the north and south, with the impact on views from the subject development affecting the views from the breezeway and not private open space areas.

- View 6 - from Croydon Street to the west of the subject site.



Figure 23: View from west of the site, from a standing position in Croydon Street. (Source: PBD Architects)

This view has been taken as if standing across from the northern adjoining premises in Croydon Street. Due to the height of the building, the portion that exceeds the height is not clearly visible. (Refer to Figure 23 above). Regardless of this, the view loss from the variation in height is only sky views, due to Level 8 being recessed from the building below, with no significant or iconic views surrounding. Therefore, this is considered negligible to minor.

Public Interest Test

The building as a whole will have some impact on surrounding skyline, horizon views and commercial/residential buildings, and to a lesser degree some distant tree canopy view. There are

no iconic views that will be lost, and the building will appear as an extension of the existing multi-storey building form that currently exists along Kingsway.

Thus, the impact on views to the adjoining properties and public domain is considered minor and is acceptable in the context of this section of Cronulla that is undergoing a change.

Loss of Privacy

The contravention in height has no impact on the privacy of adjoining neighbours. The portions which exceed the height are primarily roof, plant, plant screening, and lift overrun. The protruding roof top elements have no window openings and are non-trafficable.

The only exception to this is the small section of the western and northern-facing upper units, where a portion of the windows exceed the height limit. The rear facing windows for Building A are setback 12.9m to 18.7m with Building B setback 12.1m to 17.7m; from the rear boundary and are stepped in from the lower proposed levels, thus will not impact on the privacy of the existing rear dwellings due to the angle of the sightlines. (Refer to Figure 24 below). The adjoining properties to the north have a maximum height limit of 16m, thus it is envisaged they will not be impacted in any future developments, again due to the setbacks and sightlines.

Towards the west, the windows are setback minimum 10.3m to the street boundary and combined with the addition of the width of Croydon Road; achieve an acceptable separation distance to preserve the privacy of the units to the west of the site, for both existing and in any future development of that site.

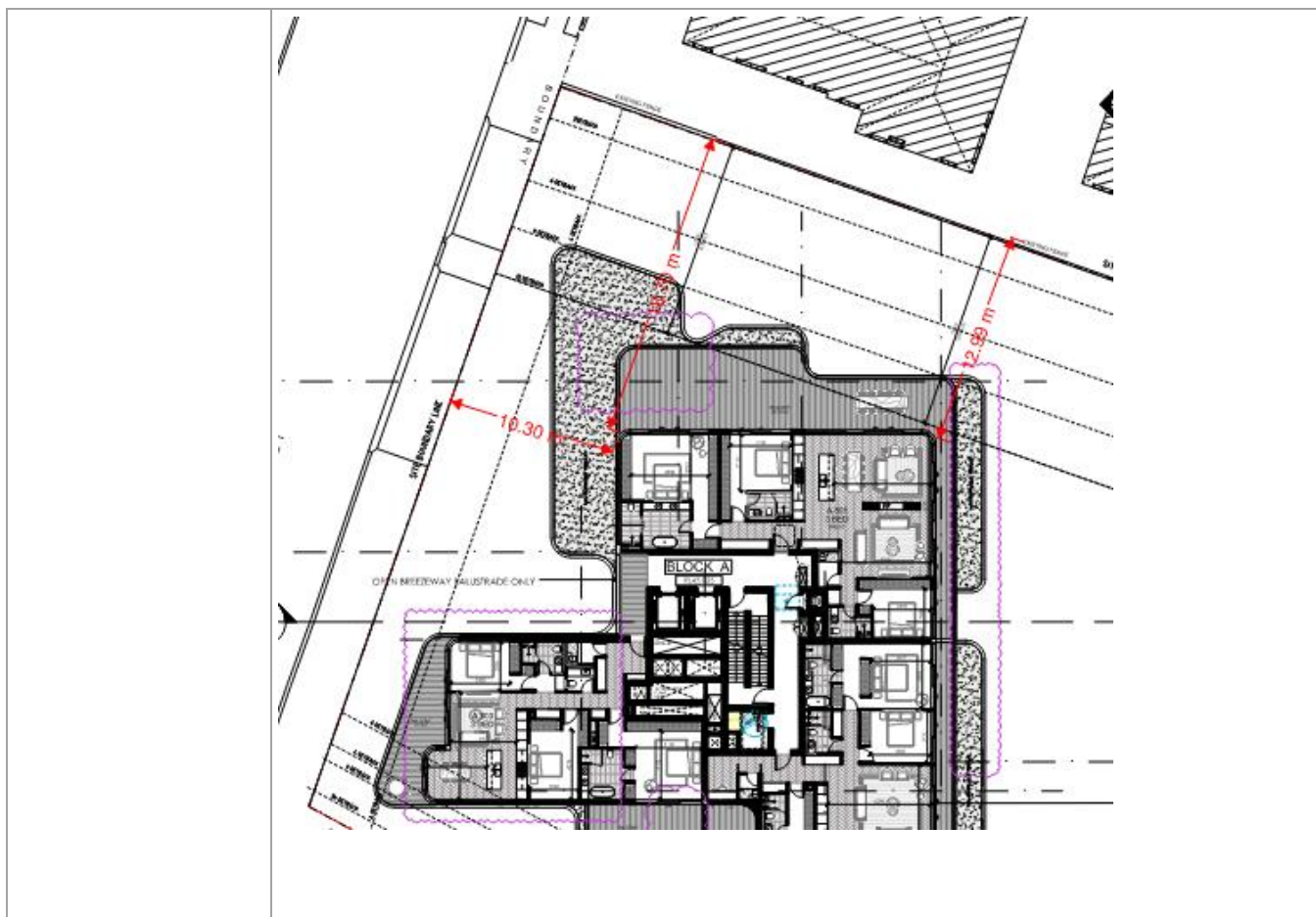




Figure 24: Extract of Level 8 showing the respective setbacks of the windows for Block A (above) and Block B (lower image). (Source: PBD Architects and GYDE Consulting)

Public Interest Test

The building achieves appropriate setbacks and separation to the adjoining properties which largely comply with ADG requirements apart from small elements of articulation. Most units have their main living areas oriented to the sides, away from the rear northern boundary. Also, the rear adjoining buildings are setback from the common boundary thus providing acceptable separation distances between the two buildings. Privacy screens and highlight windows are also used along the northern elevation in circumstances where the separation cannot be achieved. (Refer to Figure 25 below)

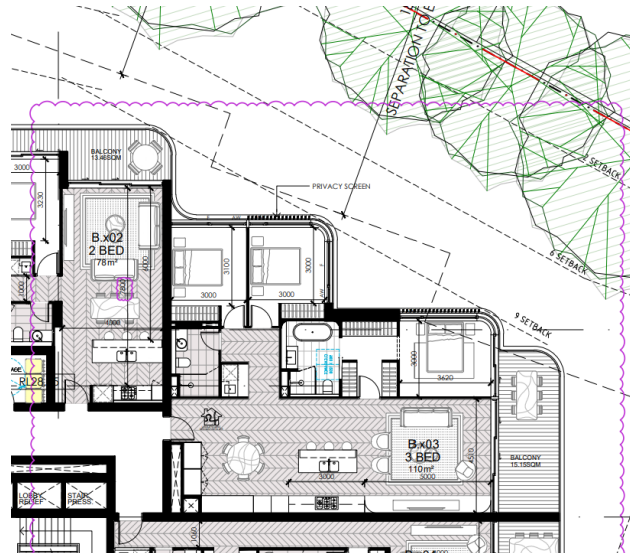


Figure 25: Extract of Level 3 plan showing privacy screens along northern windows and part of balconies (Source: PBD Architects)

Further, the balconies of residences to the north of the development (32 Croydon Street) are located on the southern and western elevation as shown in Figure 26 below. The windows along the proposed northern elevations look onto primarily bathrooms, laundries and bedrooms as shown in Figure 27 below.



Figure 26: Southern elevation of 32 Croydon St, showing balconies facing

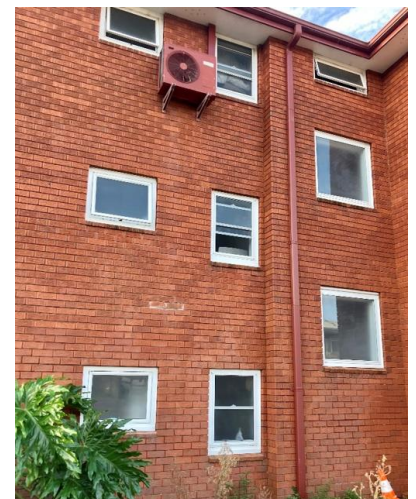


Figure 27: Northern elevation of 32 Croydon St, showing windows facing

south and west. (Source: GYDE Consulting)

north towards the site. (Source: GYDE Consulting)

Along the northern boundary the proposal includes extensive deep soil landscaping between the building and the adjoining residents at ground level and a raised planter bed on the podium level. (Refer to Figure 28 below).

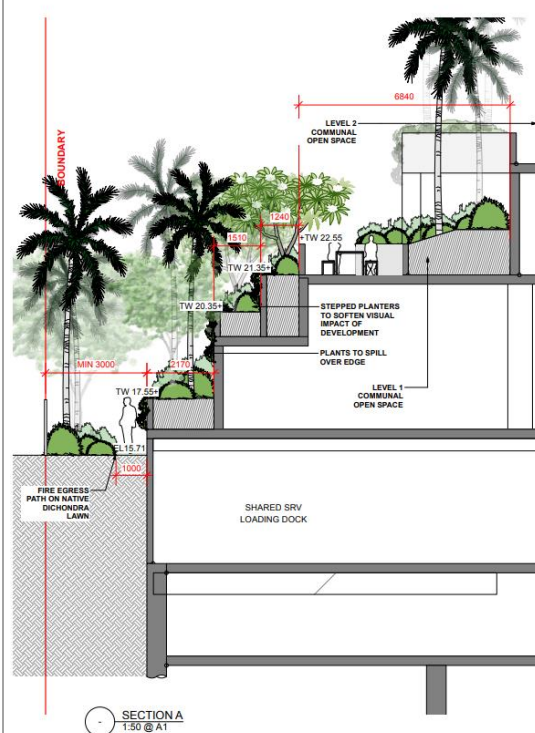


Figure 28: Proposed planting along northern elevation. (Source: SiteDesign +Studios)

There are also residential dwellings to the east, the Quest development and west of the site, Kingsway Apartments. Given the width of Abel Place, together with the proposed and existing landscaping along the frontage of Quest and the alignment of balconies; adequate levels of external and internal visual privacy will be achieved. Medium height planting is to be provided along the Unit A101 balcony which faces Croydon Street to mitigate any privacy impacts to the Kingsway Apartment's private open spaces. Above podium level, the proposed balconies for Building A are articulated to the north-west and south west respectively to obscure any view lines or privacy issues.

Overshadowing

This has been discussed in detail above and results in minimal impact on the adjoining or nearby properties.

Visual Intrusion

The portion of building which varies the height limit will have minimal impact on visual intrusion to adjoining or nearby properties due to it being stepped back from the rest of the main building. The exception to this is the south-western corner (corner of Kingsway and Croydon St) which has the roof form following the line of the building below. This variation in height is not considered to pose a visual intrusion to any adjoining properties. There is adequate separation provided from adjoining properties to the west, east and to the south, due to the width of Croydon St, Abel Pl and Kingsway, respectively. Further, the site is identified as a key site within the Cronulla Commercial Core Precinct, and this corner element emphasises the intersection of the two streets and marks the beginning of the Commercial Core Area which has a higher height and FSR component. (Refer to Figure 24 below)



Figure 29: Photomontage from Cronulla Mall, looking North, showing the south-west corner emphasising the entrance to the Cronulla Commercial Core Precinct. (Source: PBD Architects)

Public Interest Test

The building as a whole is well setback from the side and rear boundaries, providing adequate separation between adjoining buildings. Deep soil is proposed along the northern boundary, with

	<p>extensive landscaping on the podium level. Units are oriented to the sides and front as much as possible with adequate measures of privacy screens and highlight windows to mitigate privacy concerns. The materials and colours are sympathetic to the locality, being neutral "beachy" colours.</p> <p>Overall, the height departure will not have any unreasonable impact on the environmental amenity of the neighbouring properties in terms of loss of views, loss of privacy, overshadowing or visual intrusion. The objective of the standard is therefore achieved, notwithstanding non-compliance with the standard.</p>
(d) to ensure that the visual impact of buildings is minimised when viewed from adjoining properties, the street, waterways and public reserves,	<p>The portion of building which varies the height limit will have minimal visual impact due to it being stepped back from the rest of the main building. The exception to this is the south-western corner which has the roof form following the line of the building below. As discussed above, this is a key feature to emphasise the corner of the building and acknowledge the beginning of the Commercial Core Precinct.</p> <p>The specific issue of view impacts has been discussed above, with particular reference to views from the public domain, streets, waterways, and public reserve. The impact was found to be negligible to minor, for the portion of building which varies the height standard.</p> <p><u>Public Interest Test</u></p> <p>The development will read as providing a two-storey human scale podium with two x narrower residential flat buildings above. The articulation of the building and massing achieves a better design outcome when viewed as part of the streetscape and reflects development of a similar scale in the locality. Further, the improvements and expansion to the public domain along Kingsway reinforces the emphasis on "<i>a pleasant place for pedestrians</i>". (Chapter 19 Sutherland Shire Development Control Plan 2015) (SSDCP).</p> <p>The materials and colours are neutral colours which are sympathetic to the coastal location. The provision of the planter beds on the upper level and the retention/replacement of the street trees along the primary frontage and Abel Place will ensure the building fits in with the Open Space Strategy of the Cronulla Centre (Chapter 19, SSDCP), which is "<i>to create a well-cared for, attractively landscaped streets and public spaces</i>".</p> <p>Thus, despite the variation in height, the proposal will result in minimal visual impact in the immediate area and achieves this objective.</p>
(e) to ensure, where possible, that the height of non-residential buildings in residential zones is compatible	<p>The site is not within a residential zone; hence this objective is not applicable.</p> <p>Irrespective of this, the non-residential portion of the development is limited to two-storeys which does not vary the height provision; and is compatible with the scale of the nearby residential buildings in the adjoining residential R4 High Density Zone consisting of two and three-storeys</p>

with the scale of residential buildings in those zones,	however, permitting a maximum height of 16m.
(f) to achieve transitions in building scale from higher intensity employment and retail centres to surrounding residential areas.	<p>The portion of building which exceeds the height limit do transition towards the rear adjoining R4 High Density Residential Zone. They are stepped back from the main building at least 3m or more, with the closest corners of the roof being located 9m from the rear boundary (for block B situated closest to Abel Pl) and 12m (for block A situated closest to Croydon Rd). (Refer to Figure 12 above.)</p> <p><u>Public Interest Test</u></p> <p>The careful design of the proposal achieves a stepped effect, with the lower levels closer to adjoining boundaries and the upper levels stepping back as the height increases. This, combined with the rear deep soil landscaping and extensive podium landscaping, results in a building that does appear to transition down in scale and bulk as it gets closer to the rear adjoining R4 High Density Residential Zone.</p> <p>Also, the higher intensity retail and commercial portions of the proposal are kept to the ground and first levels only and are oriented to the front of the site. The building elements facing the rear of the site from Level 1 and above, are residential units. This is to preserve the residential nature of the zone behind and ensure there is a transition between the higher intensity retail and commercial uses. There are no openings from the first floor commercial/supermarket which face the rear neighbours, and this rear part of the podium is extensively landscaped. (Refer to Figure 30 below).</p>

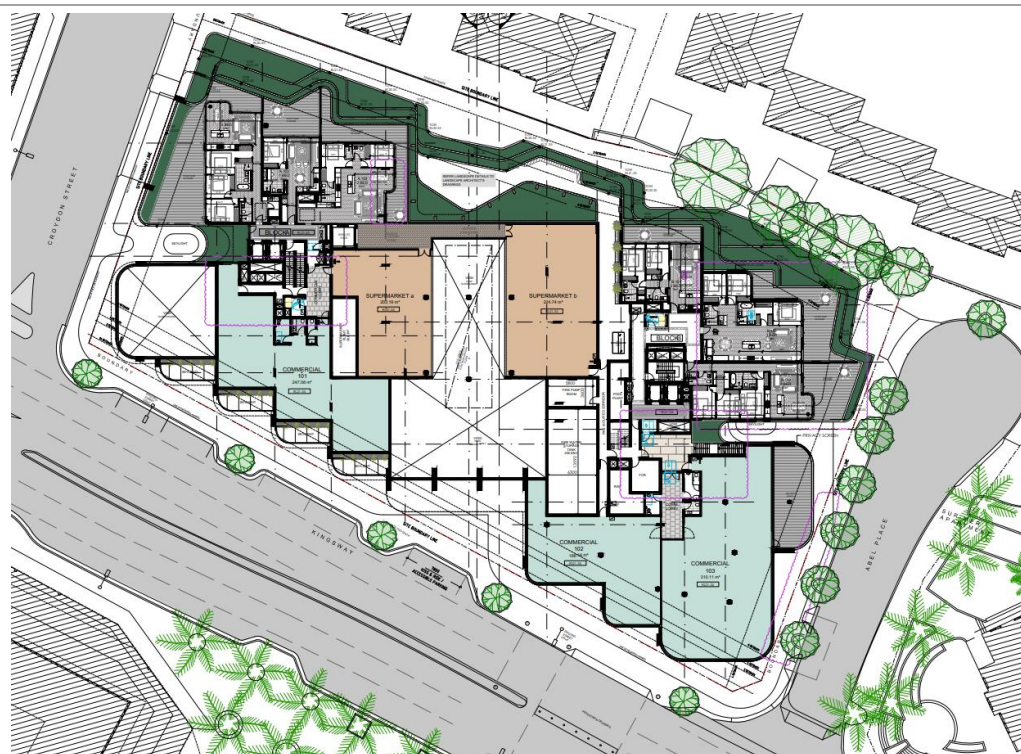


Figure 30: Extract of Level 1 floor plan showing the commercial/retail is kept to the front of the site with residential uses facing the rear adjoining residential zone. (Source: PBD Architects)

Thus, despite the height variation, the proposal has been skilfully designed such that the higher intensity uses will have little to no impact on the rear adjoining residential zone. Thus, this objective is achieved.

As demonstrated in above, the objectives of the Height of Buildings development standard are achieved notwithstanding the proposed variation.

In accordance with the decision in *Wehbe v Pittwater Council* [2007] NSWLEC 827, *Initial Action Pty Limited v Woollahra Municipal Council* [2018] NSWLEC 118, *Al Maha Pty Ltd v Huajun Investments Pty Ltd* (2018) 233 LGERA 170; [2018] NSWCA 245 and *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130 and *SJD DB2 Pty Ltd v Woollahra Municipal Council* [2020] NSWLEC 1112 at [31], therefore, compliance with the Height of Buildings development standard is demonstrated to be unreasonable or unnecessary and the requirements of clause 4.6(3)(a) have been met on this way alone.

6. SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS

In *Initial Action Pty Ltd v Woollahra Council* [2018] NSWLEC 118, Preston CJ observed that in order for there to be 'sufficient' environmental planning grounds to justify a written request under clause 4.6 to contravene a development standard, the focus must be on the aspect or element of the development that contravenes the development standard, not on the development as a whole.

In *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90, Pain J observed that it is within the discretion of the consent authority to consider whether the environmental planning grounds relied on are particular to the circumstances of the proposed development on the particular site.

As discussed in Section 4, the elements of the development which contravene the Height of Buildings development standard are limited to portions of the roof, the lift overrun, the plant screening located on the roof and a small portion of north and western facing windows on the upper level.

The environmental planning grounds to justify the departure of the name standard are as follows:

- The exceedance of the height standard still allows for a development that is consistent with the existing and desired character of this part of Cronulla which is identified within Chapter 19 of the Sutherland Shire DCP - Cronulla Centre. It complies with the specific aims, including:
 - Provides high quality architectural design in development that is appropriate to the scale and character of the centre,
 - Facilitates a sensible transition between new developments and heritage items in order to give them prominence in the centre,
 - Achieves quality architecture in new development through appropriate composition and articulation of building elements, textures, materials and colours that respond to the building's use and locality,
 - Achieves development that is of an appropriate scale and context for the street and locality, which makes a positive contribution to the streetscape and the amenity of the centre,
 - Creates opportunities for incidental open spaces and public domain,
 - Creates entrances which provide a desirable and safe identity for the development and assist in visitor orientation and minimise potential conflicts between pedestrians and vehicles, and
 - Achieves compliance with the design guidelines specific to this site, such as maintaining a two-storey wall height to the Kingsway, maintaining solar access to the entrance of Cronulla Mall, and improving the public domain frontage to the Kingsway.
- The proposed height departure is in harmony with the adjoining developments to the east, across Kingsway to the south, on the corner of Kingsway and Gerralle Street and within Gerralle Street itself. The additional height will therefore not have a detrimental visual impact on the surrounding area.
- Appropriate attenuation/screening measures are required to the roof-top equipment to ensure that any potential noise impacts are mitigated. These contribute to the increase in height, however, are recessed from the edge of the rooftop and will generally not be seen from the public domain.
- As demonstrated in Figure 16, the variation of the height standard will not result in any unreasonable amenity impacts in terms of additional overshadowing.

- The proposed development complies with the solar access and ventilation requirements of the ADG and does not prevent any adjoining site from also receiving adequate solar access and ventilation.
- The built form, being 2 x residential flat buildings above a 2-storey podium results in a better outcome for development and promotes the orderly and economic use and development of land. It allows for sightlines between the buildings, reducing the perceived bulk of development on the site and improving the amenity for adjoining residents. Strict compliance with the development standard would not result in a better outcome for development, as it would permit a shorter but stockier building which would reduce sightlines and increase the bulk of the development.
- The skilful design has ensured the higher intensity retail and commercial uses are oriented to the front of the site above the ground floor, thus ensuring they have minimal impact on the adjoining residences.
- For the reasons contained in this application, there are sufficient environmental planning grounds to justify the variation to the development standard, as required in Clause 4.6(3)(b). We therefore consider contravening the development standard to be justified.

7. PUBLIC INTEREST


In this section it is explained how the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out. This is required by clause 4.6(4)(a)(ii) of the LEP.


In section 5 it was demonstrated that the proposed development overall achieves the objectives of the development standard notwithstanding the variation of the development standard (see comments under "public interest" in).

The table below considers whether the proposal is also consistent with the objectives of the zone.

Table 2: Consistency with Zone Objectives.

Objectives of Commercial Core (B3) Zone	Discussion
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.	<p>The proposal, by virtue of 'mixed use' consists of a range of retail and commercial uses on the ground and first floors. The ground floor is proposed to provide 3,066.11sqm of retail space consisting of a mixture of cafes, shops and a supermarket; whilst the first floor will comprise 884.06sqm of commercial space.</p> <p>The proximity of the site to major destination points such as the main beach (less than 300m), Cronulla Train Station (approximately 750m walk), and directly across the road from the entrance to the main mall; ensures that these varied retail and commercial uses will serve the needs of the local and wider</p>

	<p>community. (Refer to Figure 31 below).</p>  <p><i>Figure 31: Proximity of the subject site to the beach, train station and main mall. The Subject Site is shown in red circle with the beach, train station and northern end of the mall shown in stars.(Source: Googlemaps)</i></p>
To encourage appropriate employment opportunities in accessible locations.	<p>The provision of 3,066.11sqm of retail comprising of 5 x retail outlets and a supermarket, combined with the 884.06sqm of commercial floorspace on the first floor allows for a variety of employment opportunities once built, as well as during the construction phase of the development. As shown in Figure 31 above, these uses will be located in a central accessible position, close to the main pedestrian mall, the Cronulla Train Station and the local beaches.</p>
To maximise public transport patronage and encourage walking and cycling.	<p>The site is situated approximately 750m walk from the Cronulla Train Station, a bus stop is located opposite the site on the Kingsway, (along with other bus stops nearby) which provides access to major centres such as Miranda and Hurstville, and Cronulla wharf is approximately 15minutes from the site. (Refer to Figure 32 below)</p>

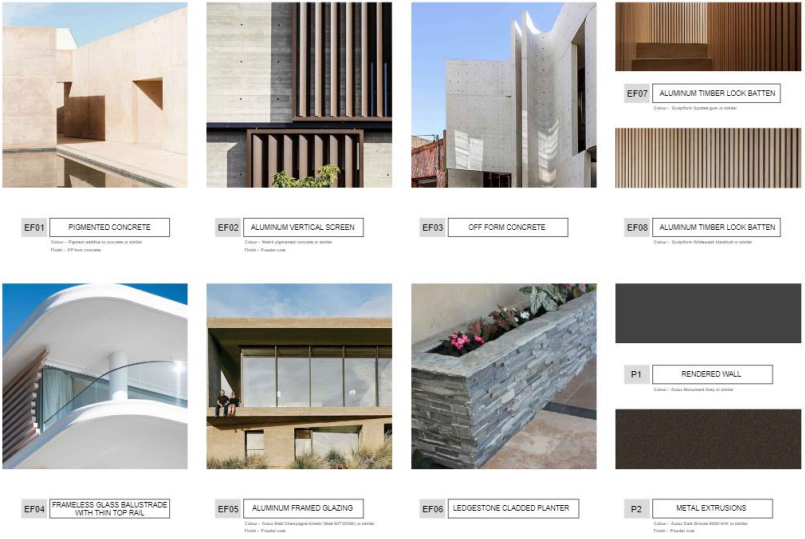
	 <p><i>Figure 32: Proximity of the site to bus stops, train station and Cronulla Wharf. (Source: PBD Architects Urban Analysis)</i></p> <p>Within the development itself, it provides 43 bicycle spaces. Given its location at the northern end of the Cronulla Mall and proximity to the Cronulla Town Centre and beach area, it will serve as an entrance to that mall and will encourage public transport patronage and walking/cycling.</p>
<p>To strengthen the viability of existing commercial centres through increased economic activity, employment and resident population.</p>	<p>The proposal consisting of a mixture of retail, commercial and 112 residential units will definitely strengthen the viability of the existing Cronulla Commercial Town Centre, given the site's central location to the main mall and town centre along Gerralle Street.</p>
<p>To create an attractive, vibrant and safe public domain with a high standard of urban design and public amenity.</p>	<p>The proposal incorporates improvements to the public domain, including recessed areas allowing for the extension of the pavement into the site and appropriate landscaping by way of additional street trees along the Kingsway and Abel Place. The widened frontage to Kingsway makes the footpath feel more open and 'airy' however an awning is being proposed for part of the width to provide shelter from the weather. This increased public area will provide public spaces for alfresco dining and casual interaction. The retail tenancies benefit from designated access points which are clearly visible and overseen by staff members and customers.</p> <p>The building itself, consisting of a 2-storey podium with recessed slender</p>

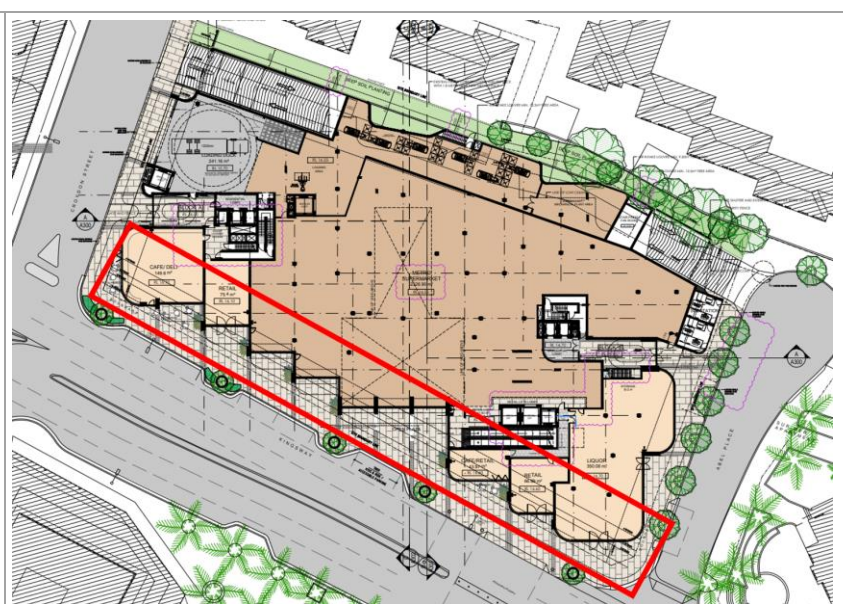
residential flat buildings above, includes curved features, neutral tones and substantial landscaping at level 2 which all contribute to softening the built form and providing an open and inviting street frontage to Kingsway. The materials and colours are reflective of the local beachside community and the typology provides a human scale (2-storey) podium level along the street frontages. The Kingsway frontage acts as a continuum of the mall to the south and with appropriate lighting will ensure the design contributes to an attractive, vibrant and safe public domain. (Refer to Figure 33 and Figure 34 below)



Figure 33: Photomontage looking north from the end of the mall. (Source: PBD Architects)

Clause 4.6

	 <p><i>Figure 34: Materials and finishes in neutral tones, sympathetic to the beachside environment (Source: PBD Architects)</i></p>
<p>To enhance commercial centres by encouraging incidental public domain areas that have a community focus and facilitate interaction, outdoor eating or landscaping.</p>	<p>As discussed in the point above, the pavement along the Kingsway has been extended creating a wider footpath and public domain area. This results in freeing up the public domain footpath and also provides for pockets of alfresco's and open plaza areas along the Kingsway frontage. (Refer to Figure 35 below, with the newly created open plaza areas highlighted in yellow). Also, the trees along Abel Place are retained and additional trees are proposed along Kingsway and Abel Place, adding to the public landscaping in the area and providing connectivity with the existing Kingsway public domain towards the beach.</p>

	 <p><i>Figure 35: Demonstration of the enhanced public domain along Kingsway, directly opposite northern entrance to Cronulla Mall. (Source: PBD Architects Urban Analysis)</i></p>
<p>To provide for pedestrian-friendly and safe shopping designed to cater for the needs of all ages and abilities.</p>	<p>The proposed development will provide adaptable housing, designed to accommodate people of all ages and levels of mobility, in close proximity to the beach, public transport and local amenities. The retail offering on site will also enhance accessibility to retail facilities for both the residents of the development and wider community. The proposed building is designed to have identifiable and safe access.</p>

As demonstrated in Table 2, the proposal is consistent with the objectives of the zone and in Section 5 it was demonstrated that the proposal is consistent with the objectives of the development standard. According to clause 4.6(4)(a)(ii), therefore, the proposal is in the public interest.

8. STATE OR REGIONAL ENVIRONMENTAL PLANNING

This section considers whether contravention of the development standard raises any matter of significance for State or regional environmental planning, the public benefit of maintaining the development standard, and any other matters required to be taken into consideration by the Secretary before granting concurrence required by clause 4.6(5).

There is no identified outcome which would be prejudicial to planning matters of State or regional significance that would result as a consequence of varying the development standard as proposed by this application.

As demonstrated already, the proposal is consistent with the objectives of the zone and the objectives of the development standard and in our opinion, there are no additional matters which would indicate there is any public benefit of maintaining the development standard in the circumstances of this application.

Finally, we are not aware of any other matters required to be taken into consideration by the Secretary before granting concurrence of the Secretary required by Clause 4.6(4)(b).

9. CONCLUSION

This submission requests a variation, under clause 4.6 of the Sutherland Shire *Local Environmental Plan 2015*, to the Height of Buildings development standard and demonstrates that:

- Compliance with the development standard would be unreasonable and unnecessary in the circumstances of this development;
- The development achieves the objectives of the development standard (Test 1 under Wehbe) and is consistent with the objectives of the B3 Commercial Core zone;
- There are sufficient environmental planning grounds to justify the contravention;
- The proposed development, notwithstanding the variation, is in the public interest and there is no public benefit in maintaining the standard; and
- The variation does not raise any matter of State or Regional Significance.

The consent authority can be satisfied to the above and that the development achieves the objectives of the development standard and is consistent with the objectives of Zone B3 Commercial Core notwithstanding non-compliance with the Height of Buildings standard and is therefore in the public interest.

The concurrence of the Secretary can be assumed in accordance with Planning Circular PS 18-003.

On this basis, therefore, it is appropriate to exercise the flexibility provided by clause 4.6 in the circumstances of this application.