

# SUTHERLAND SHIRE COUNCIL ASSESSMENT REPORT

<b>Panel Reference</b>	<b>PPSSSH-87</b>
<b>DA Number</b>	<b>DA21/0326</b>
<b>LGA</b>	<b>Sutherland Shire</b>
<b>Proposed Development:</b>	The application is for demolition of existing structures and construction of a mixed use development comprising food and drink premises and commercial and office floor space, 2 basement levels, 2 signs and stratum subdivision.
<b>Street Address:</b>	<b>138 to 144 Cronulla Street, CRONULLA</b>
<b>Applicant/Owner:</b>	<b>Munro Operations Trust</b>
<b>Date of DA lodgement</b>	<b>12 April 2021</b>
<b>Number of Submissions:</b>	Round 1 : 61 submissions, 1 petition (4,544 signatures) and 2 letters of support Round 2 : 19 submissions
<b>Recommendation:</b>	Approval
<b>Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011</b>	This application is referred to the Sydney South Planning Panel (SSPP), as the development meets the criteria under Schedule 7, 3(d) of State Environmental Planning Policy (State and Regional Development) 2011. The development has a capital investment value (CIV) of more than \$5 million where council is a party to an agreement relating to the development (Voluntary Planning Agreement).
<b>List of all relevant s4.15(1)(a) matters</b>	<ul style="list-style-type: none"> <li>• Sutherland Shire Local Environmental Plan 2015 (SSLEP 2015).</li> <li>• Sutherland Shire Development Control Plan 2015 (SSDCP 2015).</li> <li>• State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55).</li> <li>• State Environmental Planning Policy (State and Regional Development) 2011.</li> <li>• State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP).</li> <li>• State Environmental Planning Policy No. 19 - Bushland in Urban Areas.</li> <li>• Apartment Design Guide (ADG).</li> <li>• Section 7.11 Development Contribution Plan 2016.</li> </ul>
<b>List all documents submitted with this report for the Panel's consideration</b>	Appendices: A – Draft Consent Conditions B – Apartment Design Guide (ADG) C - SSDCP 2015 Compliance Table D - Architectural Drawings E – Submissions F – Clause 4.6

<b>Report prepared by:</b>	Bagnall M, Sutherland Shire Council
<b>Report date</b>	15 November 2021

### Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?

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### Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?  
*e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP*

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### Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **Yes**

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### Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)? **N/A**  
*Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions*

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### Conditions

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

## **REASON FOR THE REPORT**

This application is referred to the Sydney South Planning Panel (SSPP), as the development meets the criteria under Schedule 7, 3(d) of State Environmental Planning Policy (State and Regional Development) 2011. The development has a capital investment value (CIV) of more than \$5 million where council is a party to an agreement relating to the development (Voluntary Planning Agreement).

## **PROPOSAL**

The application is for demolition of existing structures and construction of a mixed use development comprising food and drink premises and commercial and office floor space, 2 basement levels, 2 signs and stratum subdivision.

## **THE SITE**

The site is located on the eastern side of Cronulla Street with a southern frontage to Beach Park Avenue (public pedestrian footpath) and eastern frontage to Surf Lane. Monro Park is located immediately to the south of the site.

## **ASSESSMENT OFFICER'S RECOMMENDATION**

### **1.0 THAT:**

- 1.1** Pursuant to the provisions of Clause 4.6 of Sutherland Shire Local Environmental Plan 2015, the written submission in relation to the variation to building height satisfies the relevant provisions of Clause 4.6 and is therefore supported. It is recommended that the provisions of Clause 4.6 be invoked and that the 25m development standard be varied to 26.2m (4.8%) in respect to this application.
- 1.2** That Development Application No. DA21/0326 for Demolition of existing structures and construction of a mixed use development comprising commercial and office spaces, 2 basement levels, 2 signs and stratum subdivision at Lot 1 DP 18461, Lot 2 DP 18461, Lot 3 DP 18461, Lot 4 DP 18461 138 Cronulla Street, Cronulla is determined by the granting development consent subject to the conditions contained in Appendix "A".

## **ASSESSMENT OFFICER'S COMMENTARY**

### **2.0 DESCRIPTION OF PROPOSAL**

The application is for the demolition of existing structures and construction of a 7 storey commercial building consisting of basement parking, food and drink premises on the ground and first floor levels, commercial tenancies on level 2, and co-work office spaces on levels 3 to 6.

The proposed use of the ground and first floor levels is a food and drink premises, with a capacity for 900 patrons (including staff), operating between 7am to 10pm on Monday to Sunday. The information provided does not confirm the type of food and drink premises and indicates a separate development application will be lodged for the 'fitout' of the food and drink premises.

Six commercial tenancies are proposed on Level 2, however the use of these tenancies is also unknown. Levels 3 to 6 are to accommodate co-work office space and office spaces including shared facilities such as kitchens, reception, meeting rooms and toilet facilities. Hours of operation of the offices are 8.00am to 6.00pm daily.

Vehicular access is from the rear of the site along the Surf Lane frontage. Two basement levels are proposed to accommodate car parking, bicycle and motorcycle spaces including facilities for the uses of the building. Loading to and from the site is via a goods lift from the loading zone at the rear of the site off Surf Lane which will service all of the uses.

#### Site Plan

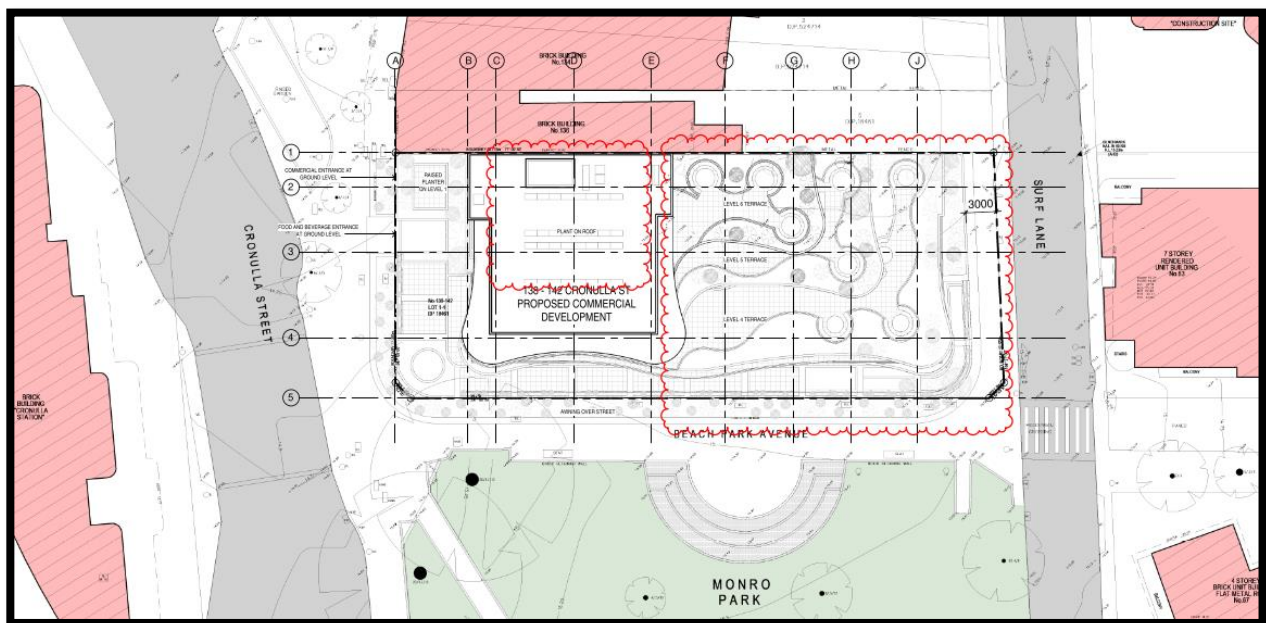


Figure 1: Site Plan

### 3.0 SITE DESCRIPTION AND LOCALITY

The site is located on the eastern side of Cronulla Street and has three street frontages, one of which is only accessible by pedestrians. The site comprises 4 lots, is regular in shape with splayed corners to the south east and west with a total area 1,424.1m<sup>2</sup>. The primary frontage of the amalgamated site is 20.395m (including the splay) to Cronulla Street, a southern frontage of 56.745m to Beach Park Avenue and a eastern frontage of 24.67m (including the splay) to Surf Lane. The site's northern boundary adjoins 136 Cronulla Street at a length of 58.715m. The site has a slight fall of approximately 1m from the rear (Surf Lane) to the front (Cronulla Street).

The site is occupied by single storey buildings occupied by commercial uses with at grade car parking at the rear of 138 Cronulla Street. Nos 138 to 142 Cronulla Street all have shop fronts to Cronulla Street and 144 Cronulla Street, being the corner allotment, has shop fronts to both Cronulla Street and Beach Park Avenue. Mixed use development exists north east of the site and residential development exists south east of the site.

The site is located at the southern end of the Cronulla Centre. The southern boundary adjoins Beach Park Avenue and Munro Park is immediately to the south, across Beach Park Avenue. Beach Park Avenue is a public footpath providing a pedestrian link from Cronulla Station and bus stops which are to the sites west leading to Cronulla Beach to the sites east. The site is highly visible from Munro Park, the railway station and bus interchange area

A locality plan and an aerial photo are provided below.



Figure 2: Site Location and zoning



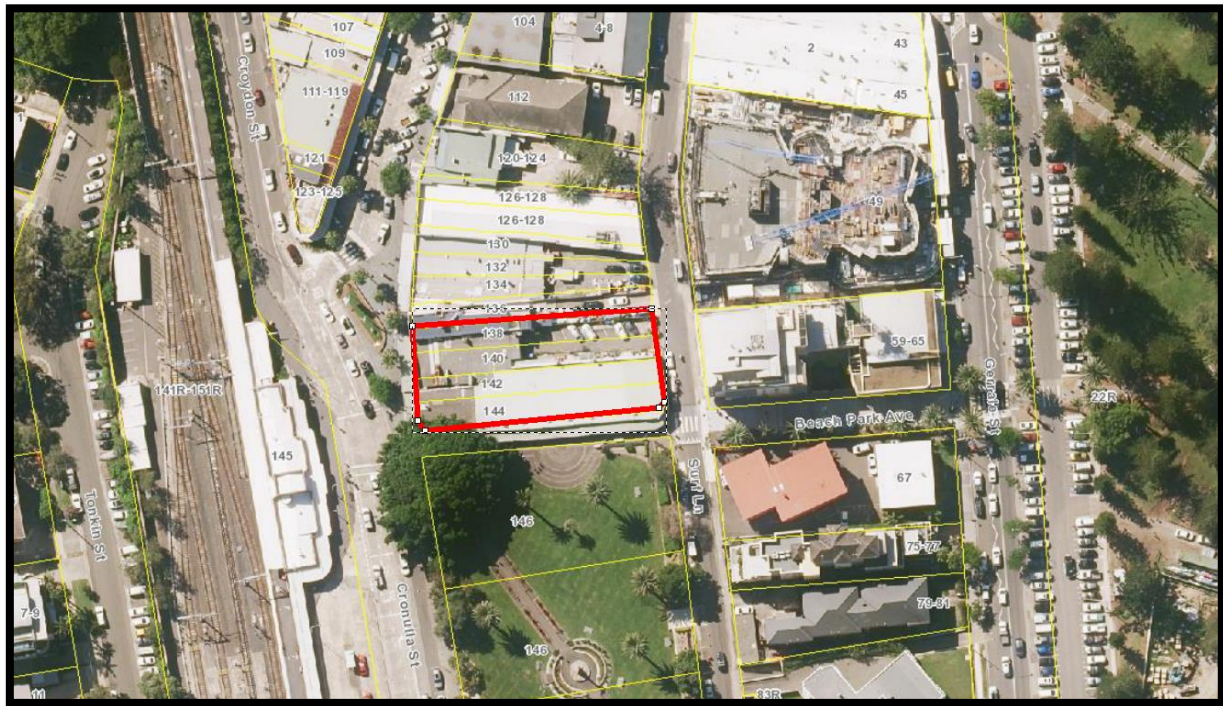


Figure 3: Aerial Site Photo

#### 4.0 BACKGROUND

A history of the development proposal is as follows:

- PLN015-20 - The site was subject of a planning proposal seeking to increase the maximum height from 25m to 50m and to increase the maximum floor space from 2:1 to 3.75: 1. That proposal sought a 14 storey commercial development, comprising a hotel, two floors of hospitality, commercial/co-work floor space, and associated car parking. Council considered the merits of the proposal and on 24 February, 2020 (PLN015-20) resolved not to support submission of the planning proposal for Gateway Determination.
- PLN002 – 21 – The site was subject of another planning proposal to increase the floor space ratio applying to the site from 2:1 to 2.9:1. The additional floor space is achieved by a 'bonus' provision for a 100% commercial building demonstrating compliant building height of 25m. Council considered the merits of the proposal on 22 February 2021 resolved to formally request parliamentary Counsel to prepare and make a legal instrument to implement the planning proposal as exhibited and on receipt of the opinion the plan be executed under the common seal.
- The amendment to Clause 4.4 of SSLEP2015 was made on 26 March 2021.
- DA21/0326 was lodged on 12 April 2021.
- A letter was sent to the applicant on 7 July 2021 requesting additional matters be addressed.
- Revised plans and additional information was submitted 4 August 2021 which were re-notified.
- The application was accepted by SSPP on 1 September 2021.
- A combined “kick off briefing” and briefing was held with SSPP, Council staff and the applicant on 16 September 2021.
- Additional information was received on both 17 September and 20 October 2021.

## 5.0 ADEQUACY OF APPLICANT'S SUBMISSION

In relation to the Statement of Environmental Effects, plans and other documentation submitted with the application or after a request from Council, the applicant has provided adequate information to Council to enable an assessment of this application, including a written request to vary the building height development standard under Clause 4.6 of Sutherland Shire Local Environmental Plan 2015.

## 6.0 PUBLIC PARTICIPATION

The application was advertised in accordance with the provisions of Chapter 42 of Sutherland Shire Development Control Plan 2015 (SSDCP 2015). Council notified 79 adjoining or affected owners of the proposal and 61 submissions, 1 petition (with 4,544 signatures) and 2 letters of support were received.

As the application was not originally notified as a regionally significant application, following the amendments received on 4 August 2021, the application has been renotified accordingly. The second notification period expired on 29 September 2021. Council notified 247 adjoining or affected owners of the proposal and 19 submissions were received.

A full list of the locations of those who made submissions, the date/s of their letter/s and the issue/s raised is contained within Appendix "E" of this report.

## 7.0 MAJOR ISSUES ARISING FROM SUBMISSIONS

The main issues identified in the submissions are as follows:

- *Food and drink premises use (ground and first floors) – the type of use is not identified, lack of information, potential pub use, gambling, sports bar, hours of operation, noise (patrons and live music), no acoustic report submitted, social impact statement does not address the use, plan of management does not address the use, anti social behaviour, security required, increase work load on police, wrong location in Cronulla, overlooking from terraces on Monro Park and public space, impact on Monro Park, impact on pedestrian link from Cronulla Street east to beach, not suitable or the site, impact on Cronulla Railway Station, light spill \**
- *Traffic impacts – increase congestion within Surf Lane and local area\**
- *Car parking \**
- *Servicing the building – no loading dock, loading and unloading of deliveries on Surf Lane, waste collection in Surf Lane, traffic congestion within Surf Lane, loss of car parking in Surf Lane, pedestrian safety \**
- *Overshadowing of Monro Park \**
- *Character of Monro Park – will impact on community space, ambience and uniqueness of park \**
- *Heritage Impacts \**
- *Impact on Fig Trees \**
- *Building Height – non compliant, visual impact, number of storeys \**
- *View loss \**
- *Built Form / Northern Elevation/ Setbacks from Surf Lane \**
- *Public Toilets (design) – location and should include separate male, female toilets and include baby changing facilities \**
- *Large terraces – overlooking of public space, privacy, amenity and noise impacts on residential properties \**

- *Emergency Vehicles will not be able to access the site \**

\* These matters have been specifically addressed in the assessment section of the report.

- *FSR / Overdevelopment of the site/ Bulk*
- *Office Space - Is there a demand for the office space? / Upper levels may be converted to residential development in the future / positive covenant should be applied to stop upper levels being converted*
- *Impact on pedestrian link to Cronulla Beach*
- *Construction Management – noise, vibration*
- *Dilapidation report*
- *FSR Increase*
- *Inappropriate for the site/ Out of Character with the area/ More suitable for aged care home or childcare centre*
- *Impact on Infrastructure*
- *Footpath from Laycock Avenue not adequate*
- *Impact on sewer line tunnel*
- *Hotel*
- *Neighbour notification process*
- *Light spill*
- *Plan of Management for Monro Park*
- *Landscaping on the roof building (will include waterproofing)*
- *Design of the building*
- *Spa on top floor*
- *Roof top terrace (requires a privacy screen)*
- *BCA Report*

### **Issue 1: FSR increase / Overdevelopment of the site / Bulk**

*Comment:* A maximum floorspace ratio of 2:1 is permitted on the site. The site is also identified as 'Area 13' on the floor space ratio map. Clause 4.4 (2A) (f) of Sutherland Shire Local Environmental Plan 2015 (SSLEP2015) allows a building to exceed the floor space ratio permitted on the site by 0.9:1 if the development is for commercial purposes only. The development is for a commercial building and complies with the floor space ratio permitted under SSLEP2015.

### **Issue 2: Office Space (*Is there a demand for the office space? / Upper levels may be converted to residential development in the future/ positive covenant should be applied to stop upper levels being converted*)**

*Comment:* A development application would be required to change the office premises to residential units in the event that conversion was proposed.

### **Issue 3: Impact on pedestrian link to Cronulla Beach**

*Comment:* The development is proposed within the boundaries of the site retaining the pedestrian link from Cronulla Railway Station, bus stop, Monro Park and Cronulla Street extending east to Cronulla Beach.



**Issue 4: Construction Management**

*Comment:* Appropriate conditions are recommended addressing construction management with the development.

**Issue 5: Dilapidation Report**

*Comment:* A condition is recommended requiring a dilapidation report prior to the issue of a construction certificate.

**Issue 6: *Inappropriate for the site/ Out of Character with the area/ More suitable for aged care home or childcare centre***

*Comment:* The site is located within zone B3 Commercial Core under SSLEP2015 and the proposed development is permissible within the zone.

**Issue 7: Impact on Infrastructure**

*Comment:* Car parking and traffic impacts have been addressed in the 'Assessment Section' of the report.

**Issue 8: Footpath from Laycock Avenue**

*Comment:* The reconstruction of the footpath from Laycock Avenue to the site does not form part of the proposed works.

**Issue 9: Impact on Sewer Line**

*Comment:* The proposal was referred to Sydney Water for review and raised no objection to determining the application, subject to conditions of consent.

**Issue 10: Hotel Accommodation**

*Comment:* The proposal is not for the use of hotel accommodation.

**Issue 11: Neighbour notification process (not correctly notified including the type of food and drink premises)**

*Comment:* The application was re neighbour notified including the definition of a food and drink premises. The use of a food and drink premises has been addressed in the 'Assessment Section' of the report.

**Issue 12: Light Spill**

*Comment:* A condition is recommended addressing light provided with the building.

**Issue 13: Plan of Management for Monro Park**

*Comment:* Sutherland Shire Council does not have a Plan of Management for Monro Park.

**Issue 14: Landscaping on the roof of the building (will this include waterproofing)**

*Comment:* Landscaping provided on the building is to be carried out in accordance with the approved landscape plans.

**Issue 15: Design of the building**

*Comment:* The design of the building was considered by the Design Review Forum (DRF) and Council's Building Design Officer. The design has been addressed in the 'Specialist Comment's' section of the report.

**Issue 16: Spa on top floor**

*Comment:* Revised plans were provided deleting the spa from the top floor.

**Issue 17: Roof top terrace (requires a privacy screen)**

*Comment ;* A terrace is not proposed on the roof of the building.

**Issue 18: BCA Report**

*Comment:* A BCA report was provided with the application and considered by Council's Building Surveyor. No significant concerns were raised with the proposed development.

**Revised Plans**

The applicant lodged revised plans on 4 August 2021. In accordance with the requirements of SSDCP2015 these plans were publicly exhibited in the same way as the original application.

**8.0 STATUTORY CONSIDERATIONS**

The subject land is located within Zone *B3 Commercial Core* pursuant to the provisions of Sutherland Shire Local Environmental Plan 2015. The proposed development, being a commercial building, is a permissible land use within the zone with development consent from Council. The objectives of the zone are as follows:

**B3 Commercial Core**

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

The following Environmental Planning Instruments (EPIs), Development Control Plans (DCPs), Codes or Policies are relevant to this application:

- Sutherland Shire Local Environmental Plan 2015 (SSLEP 2015).
- Sutherland Shire Development Control Plan 2015 (SSDCP 2015).
- State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55).

- State Environmental Planning Policy (State and Regional Development) 2011.
- State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP).
- State Environmental Planning Policy No. 19 - Bushland in Urban Areas.
- Apartment Design Guide (ADG)

## **Section 7.11 / 7.12 Development Contribution Plan 2016**

- Section 7.11 Development Contribution Plan 2016 – Cronulla Centre Precinct.

## **9.0 COMPLIANCE**

### **9.1. State Environmental Planning Policy No. 55 (Remediation of Land) (SEPP 55)**

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

A site inspection identified that the site is currently occupied by a commercial building comprising commercial uses. A review of Council's GIS and historical aerial photos has shown that the above building been in place since approximately the 1970's.

A search of Council's records, including historical files, has revealed that the site has had previous historical land uses including a nursery and photographic services. However, the information in the register indicates that no photographic processing was undertaken and the nursery use was temporary for a period of one year in 1959. These previous site uses have been considered to be low risk activities with respect to contaminated land due to their historical nature.

A search of Council's contaminated land register specifies the land is not contaminated. The site was previously listed as 'potentially contaminated' due to previous historical land uses including a nursery and photographic services.

Council would not have required a Preliminary Site Investigation based on the information in Council records. The applicant supplied a PSI but it does not provide any information that needs to be addressed during the assessment process. The recommendations made will be addressed via Council's standard environmental conditions of consent. In conclusion, the site is suitable for the proposed commercial building in accordance with requirements of SEPP 55.

### **9.2. State Environmental Planning Policy (State and Regional Development) 2011**

State Environmental Planning Policy (State and Regional Development) 2011 identifies State and Regionally Significant development in NSW. Schedule 7, 3(d) of the SEPP identifies this application as regionally significant development as the development has an investment value of more than \$5 million and Council is a party to an agreement relating to the development (Voluntary Planning Agreement). As such, the application is referred to the South Sydney Planning Panel for determination.

### **9.3. State Environmental Planning Policy No. 19 – Bushland in Urban Areas (SEPP 19)**

State Environmental Planning Policy No. 19 – Bushland in Urban Areas aims to protect and preserve bushland within urban areas, recognising these areas have natural heritage value, aesthetic value and are a recreational, educational and scientific resource to the community.

This SEPP applies to development on land containing or adjoining bushland that is zoned or reserved for public open space purposes. The SEPP defines bushland as ‘land on which there is vegetation which is either a remainder of the natural vegetation of the land or, if altered, is still representative of the structure and floristic of the natural vegetation.

The land adjoining is zoned RE1 public recreation and as such is subject to the provisions of SEPP 19. Clause 6 requires the consent of Council prior to disturbance of bushland zoned or reserved for public open space purposes and lists matters which Council must be satisfied prior to development consent being granted. Whilst the overall land parcel contains bushland remnants, the site subject of the application has previously been cleared for a public park (heritage listed) and does not contain any bushland remnant vegetation. Consistent with clause 4(3) above no bushland vegetation will be disturbed by the proposal and as such the matters at clause 6 require no further consideration.

### **9.4. Apartment Design Guide (ADG)**

The ADG does not apply to the proposed development, however residential development exists to the east on the opposite side of Surf Lane. An assessment against Clauses 2F of the ADG has been carried out. A table with a compliance checklist of the proposal against the ADG design criteria is contained **Appendix “B”** to this report.

### **9.5. State Environmental Planning Policy (Infrastructure) 2007**

*Development likely to affect an electricity transmission or distribution network (clause 45)*

Division 5, Subdivision 2 of the Infrastructure SEPP relates to development that has the potential to impact on electricity supply. This application involves

- development involving or requiring the placement of power lines underground, unless an agreement with respect to the placement underground of power lines is in force between the electricity supply authority and the council for the land concerned.

Council has notified Ausgrid and invited comment regarding potential safety risks. In this case, Ausgrid have advised *the applicant/developer should note the comments provided with regards to underground cables and any proposal within the proximity of existing electrical network assets.*

### 9.6. Sutherland Shire Local Environmental Plan 2015

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

Standard/Control	Required	Proposed	Complies? (% Variation)
<b>Sutherland Shire Local Environmental Plan 2015</b>			
Building Height (Clause 4.3)	25m	26.2m to the top of the air conditioning units	No – 4.8% Clause 4.6 submitted
Floor Space Ratio (Clause 4.4)	2.0:1 (2,848m <sup>2</sup> )		Yes
Area 13: identified on the map may exceed FSR up to 0.9:1 if development is for the purposes of commercial premises.	0.9:1 (1,281.6m <sup>2</sup> )		
Total Required	2.9:1 (4,129.6m <sup>2</sup> )	2.88:1 (4,104.5m <sup>2</sup> )	

### 9.7. Sutherland Shire Development Control Plan 2015

The proposal has been assessed for compliance with SSDCP 2015. A compliance table with a summary of the applicable development controls is contained in [Appendix 'C'](#).

### 9.8. Draft Environmental Planning Instruments

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

The draft Environment SEPP seeks to simplify the NSW planning system and reduce complexity without reducing the rigour of considering matters of State and Regional significance. The draft SEPP was exhibited between October 2017 and January 2018. The SEPP effectively consolidates several SEPPs including SEPP19, SEPP (Sydney Drinking Water Catchment), and GMREP2 and remove duplicate considerations across EPIs. Relevant considerations have been taken into account against the in-force EPIs in this report.

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

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

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

The site and proposal has been assessed against the provisions of SEPP55 and likelihood of contamination is **low**. The proposal is satisfactory with regard for the provisions of draft *Remediation of Land SEPP*. The

applicant has lodged sufficient information and appropriate conditions have been included to ensure that the proposal will satisfactorily address the provisions of draft *Remediation of Land SEPP*.

## **10.0 SPECIALIST COMMENTS AND EXTERNAL REFERRALS**

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

### **NSW Police Force**

In accordance with the *Crime Risk Assessment – Police & SSC Protocol 2010* the application was referred to the NSW Police Force. The response advised that, in the opinion of the Police Force, the proposed development will result in a significant increase in activity, both in and around the location. Such activity subsequently increases the potential risk of crime. Of particular concern will be the increase in vehicular and pedestrian traffic in and around the development. Treatment options are to be considered including Crime Prevention through Environmental Design (CPTED) factors.

### **Sydney Trains**

The proposal was considered by Sydney Trains. No concerns were raised and concurrence was granted subject to operational conditions.

### **Sydney Water**

An unlined rock sewer exists on the site and therefore the proposal was referred to Sydney Water for Comment. Sydney Water reviewed the application and advised they have no objection to the determination of the application, subject to conditions required for Sydney Water compliance prior to any works on site.

This sewer tunnel sits below basement Level 2 and restricts excavation in the north eastern corner of the site.

### **Ausgrid**

The application was referred to Ausgrid and no objections were raised to the proposed development. Additional comments were provided for the applicant/developer to consider with regards to underground cables.

### **Heritage NSW**

The proposed development was referred to the Heritage Office due to the proximity to Cronulla Station (State Heritage Item) and have not raised any concerns with the proposal.

### **Councils Senior Heritage Architect**

The proposed development was considered by Council's Senior Heritage Architect who raised the following concerns:

*'The Fig trees are highly significant regarding heritage, landscape and streetscape, framing the entrance to the Park, WWI – II Monument, pillars and bus shelter.*



*The overshadowing by the proposed development and the constant pruning of the trees to accommodate the proposed building are the two main factors that impinge unreasonable and unsympathetic impacts onto the health, longevity and aesthetics of the highly significant heritage Fig trees at the Historic entrance of the Park, pillars and bus shelter.*

*The required pruning to accommodate the proposed development has been identified in the arborist report as detrimental to the health of Fig tree 1 and will reduce the life span of the Fig trees at the entrance of the park (part of the WWI monument) from 40 + years to 15, causing also a highly diminished crown aesthetics.*

*As per the reasons above and arborists conclusion, the negative impacts will cause a serious reduction of the vigour and health of the Fig trees and an accelerated demise. Other trees/grass at the Park will also be impacted by the overshadowing as well as the amenity of the Park, views and appreciation of the Monument and the streetscape of Cronulla village.*

*Therefore, I found the proposed works unsympathetic to the heritage significance of the item and not supported in the current design.'*

Heritage is addressed in the 'Assessment Section' of the report.

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

The application was considered by the Design Review Forum and the following comments were received:

1. *The panel would like drawings submitted that illustrate the correspondence between the building form and the relevant DCP envelope controls.*
2. *The Architect noted that the intention of the proposal was for an iconic building with an organic quality. The Panel is not convinced by this aim and its realisation. The strength and clarity of the podium, although needing refinement, is lost in the building above. A perimeter of arbitrarily curved balconies and terraces with changing alignments results in a somewhat indeterminate form and character for the upper part of the building. The Panel feels that a building with a restrained, urbane quality, responding to the heritage setting and acting as a defining built edge to the park, would be more appropriate in context.*
3. *Elliot Tuthill House [cnr Cronulla and Croydon] and the railway station building are both facebrick buildings with a floating formal street awning. Consider relating the proposal's 2 level base in more sympathetic way to the brickwork of the surrounding heritage buildings - so as to establish a visual relationship of 'knitting in' - by also using facebrick.*
4. *The curved form on Cronulla Street should be repeated to also face the Beach Park Avenue axis and beach approach, and thereby creating, being facebrick, a continuous line-of-sight relationship with the railway station entry brick building, and thereby framing Monro Park with a stronger historical gesture. The ground level public toilets should be moved to be accessed off Surf Lane. The arch forms facing the Monro park are a clever formal device to mirror the tree canopies and should be explored in brick as noted above.*

5. *Further to this, if the brickwork was to be carried into the interiors of the base building as well, this could 'blur' the boundaries at street level and achieve a 'recessive' and passive building gesture, allowing the park to be visually prioritised and drawn into the building.*
6. *The upper part could then exhibit a more modern and efficient form in steel and glass [railway aesthetic] to juxtapose and be more visually quiet, and to distinguish the base.*
7. *It was suggested that a green-tinted smartglass be used to reference and better relate to the green canopies and general character of Monro Park.*
8. *Existing and proposed buildings on adjacent sites should be shown on all elevations and plans*
9. *Blank north wall needs reconsidered as to not to draw attention to its bulk and scale. Reckli form liners were suggested as an alternative to be also considered. <https://www.reckli.com.au/>*
10. *Low creeping plants, along both the awning and also the 2<sup>nd</sup> level parapet might serve as a better response linking to the Park.*

## **RECOMMENDATIONS**

*The proposal appears to be broadly in line with the permissible envelope, as shown in Council's site specific DCP, but actual graphic clarification of this correspondence is required. Furthermore, detailed design development responding to the issues noted above, is recommended to refine and improve the proposal.*

### **Councils Building Design Officer**

Council's Building Design Officer considered the revised plans and written response to the DRF comments received from the applicant and concluded the following:

*As far as the north elevation goes, the repeated patterned profile quietens the visual expression, which, with the continuation of the main building body colour has the effect of seeing the building as one piece rather than the 'truncated' book end appearance of the original design.*

*The pattern within the wall panels also has some relevance in that it subtly echoes the Art Deco architectural character that is a part of Cronulla's past. The extent of this pattern stopping above the design's Podium line, better strengthens the base of the building albeit being a bit blurred with the use of the monotone colour palette. In summary the proposed revisions as shown on the Ground Floor plan and montages can be supported.*

*In respect to the Architect's responses to DRF comments, the general argument is one that defends the original design philosophy for the chosen aesthetic. Such discussions are subjective and dependent upon a particular point of view anyone could be correct. In that the particular architectural style of the architect of this proposal is well known both by the community and the DRF panel, the DRF commentary was provided as a challenge to ensure the local environment clues that can formulate a design outcome weren't not overlooked.*

*The architect's response has recognised the merits of the DRF's views and addressed them with well-considered responses that have undertaken some of the suggested reconsiderations such as curved wall addressing Surf Lane but maintained the concept of an individual building presentation rather than attaching*

*the suggested brick and steelwork elements reflecting the heritage elements of nearby buildings. In this sense the resultant design may be a more appropriate outcome, in that, if such 'heritage' tags were adopted, the bulk and mass of this new development may have dominated over the true heritage buildings to their detriment.*

*Whilst this development proposal will be seen as significant relative to the shopping mall streetscape character its location 'on the edge' of town addressing the open park area there is an element of a building height 'flow' towards this area from the existing apartment buildings across Surf Lane and in some respect from the other side of the railway. Therefore, it could be said that, the height of the proposal won't appear too different within the existing built environment with the exception of the view from the Mall. But, more importantly, the proposed aesthetic which has now adopted the DRF suggestion of soft landscape features to the facades expresses a quality fitting to these surrounds. In conclusion, the responses to DRF comments have been satisfactorily addressed."*

*'the revised loading dock reconfiguration with the additional side area space is more functional and with the secure room in front of the lift, the presentation to the street of these usually messy and unsavoury environments will be better addressed.*

## **Waste Management**

The revised WMP and architectural plans were considered in conjunction by Council's Policy and Strategy Waste Officer. No significant concerns were raised, subject to conditions of consent.

## **Traffic**

The proposed development was considered by Council's Senior Traffic Engineer and the following significant concerns were raised with regards to proposed parking provision:

### Commercial (office) Car Parking

*With regard to the commercial (office) element, it is agreed that the DCP requirement of 1 parking space 30m<sup>2</sup> is inconsistent with TfNSW guidelines and similar type CBD areas in other LGA's. A reduced rate of approx 1 space per 40m<sup>2</sup> GFA is considered appropriate. In this regard the current proposal satisfies parking requirements for commercial (office) element. However, it is noted that the design includes the substantial use of tandem spaces which is undesirable and may be problematic.*

### Food and beverage Car Parking

*Council's DCP requires the provision of 55 parking spaces for the Food and Beverage premises based on 1 parking space 30m<sup>2</sup>. Notwithstanding, face to face surveys undertaken by the applicant regarding mode of transport at Highfields Caringbah indicate that the proposed food and beverage premises at 138 Cronulla Street will generate a parking demand for 160 vehicles (staff and patrons) during the Friday evening peak period.*

*The applicant suggests that the parking demand can be satisfactorily accommodated offsite by using existing Council public parking assets. (Croydon Street car park and onstreet parking in Nicholson Parade*

and Tonkin Street). However, the additional parking data provided by the applicant is not representative of potential issues associated with parking demand and is compromised for the following reasons:

- Occupancy data for the Friday evening and weekend demand in both Croydon Street car park and Tonkin Street/Nicholson Parade was undertaken in May and is not representative of peak demands during the summer swim season.
- Occupancy data for weekdays in Tonkin Street and Nicholson Parade is compromised by current reduced demand for public transport due to COVID-19 impacts.
- The applicant's analysis only assesses peak demand for the proposed premises of a Friday evening and does not assess the impact of parking demand for the premises during peak parking demand for the town centre. The concern is with the lunch time peak of a Friday, Saturday and Sunday during peak swim season. In this regard, additional information was requested from the applicant to assess the likely impact during these periods. The applicant has elected not to provide the additional information requested.

Council's own data and site observations indicate that parking occupancy is at or near capacity in the middle of the day of a weekend during swim season and at other times. In this regard traffic and parking is already a challenge under existing conditions in Cronulla. Traffic delays are also regularly experienced in the road network during the weekday and weekend peak periods and, as indicated, parking is at a premium with high on and off street occupancy rates.

For a purpose built development of this size it would be reasonable to expect that parking for patrons of the food and beverage component are reasonably catered for on site. Based on observations of their existing establishments a significant aspect of the proposed tenant's business model is geared toward family dining which is less conducive to mode shift. The reality is that the attractiveness of this venue and location will draw patrons based locally and from further afield using car based transport. The argument that providing additional parking on site will induce additional traffic and traffic congestion therein is in all likelihood offset by the fact that if sufficient parking is not provided on site then existing public parking supply will be further compromised, most likely adding to congestion due to more traffic circulating to look for a parking space.

The applicant is asking Council and the community to heavily subsidise the parking requirements for the 1650 square meter food and beverage component of the application. The concerns with this are as follows:

- Precedent
- Council does not have any means to recoup the cost of allowing the use of its facilities in this regard.
- It is potentially detrimental to existing smaller businesses (and their customers) located within the Cronulla centre that are supported by these public parking facilities.

For these reasons and given that traffic and parking is already a challenge under existing conditions in Cronulla, it is difficult to support the application from a transport perspective in its current form. I also note that these same concerns were raised and documented during the assessment of the planning proposal for the site.'

## Development Engineer

The proposed development was considered by Council's Engineer who is not supportive of the application for the following reasons:

- i) *The development has failed to provide sufficient parking for the employees, and visitors to satisfy the objectives and controls detailed in SSDCP2015 Chapter 19 Clause 17.*
- ii) *The development has failed to provide efficient vehicle circulation and safe and orderly movement of traffic in accordance with the objective's set out in clause 3.1.2 & 3.1.3 of SSDCP2015 Chapter 36, due to the one-way internal ramps between basement levels.*

Comment: The applicant proposes to provide a traffic signal system which implements red-green traffic signal activated by sensors. The locations of waiting bays will be provided further to swept path analysis, which will occur during detailed design staged.

Council's engineer is not supportive of this approach given the number of car spaces proposed on each level and one way aisles are not user friendly.

- iii) *The development has failed to provide a loading bay for the purposed of waste collection and deliveries in accordance with the objective's set out in clause 19.1 of Chapter 19 SSDCP2015 as the proposed location raises safety concerns to pedestrians, is inefficient by design with no access to the good lift which will disrupt the community.*
- iv) *The development has failed to provide a suitable loading bay in accordance with Australian Standard AS2890.2 as the bay doesn't satisfy the minimum head height requirement of 4.5m for a Medium or Heavy Ridged Vehicle.*
- v) *The development has failed to provide a suitable emergency vehicle hardstand in accordance with Clause 8 of Fire & Rescue NSW Fire Safety Guideline – Access for Fire Brigade Vehicles and Firefighters.*

Servicing of the building, car parking and requirement for an emergency vehicle hardstand area have been addressed in the 'Assessment Section' of the report.

## Landscape Technician

Council's landscape technician considered the arborists reports and impact from the proposed development on the Fig Trees that exist within Monro Park. Additional information was provided including a revised tree management plan addressing pruning of the fig trees, The Tree Management Plan provided details how pruning and protection of the tree will be carried out whilst demolition and construction of the proposed building. Council's landscape architect considered the information provided and advised the trees are able

to be retained with the development, subject to compliance with the Tree Management Plan and conditions of consent.

### Building Surveyor

The proposed development was considered by Council's Building Surveyor and the concern raised with regards to the location of emergency hardstand vehicle remain unresolved. Additional information was requested requiring details of the vehicle hardstand performance solution and how the requirements of the BCA, AS2419.1 and the Fire Safety Guideline – Access for fire brigade vehicles and firefighters will be satisfied without the removal of on-street parking spaces. This matter is unresolved and has been addressed in the 'Assessment Section' of the report.

## 11.0 ASSESSMENT

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

### 11.1. Northern Elevation / Setbacks

Clause 5.3, within Chapter 19 of SSDCP2015 provides design guidelines for a commercial development proposed on the site including a building envelope plan (BEP) with recommended setbacks from the boundaries of the site. The commercial built form plan within Chapter 19 of SSDCP2015 has been extracted below:



Figure 4: Commercial Built Form Plan as shown in Chapter 19 of SSDCP2015

The building has been designed stepping the building form similar to the required Building Envelope Plan with some areas sitting outside of the plan, being predominantly the terraces with planter beds. It is generally consistent with the building envelope identified in the BEP and active street frontages to both Cronulla Street and Beach Park Road. The following diagrams produced by the applicant, show the proposal (green) compared with the required BEP (red):



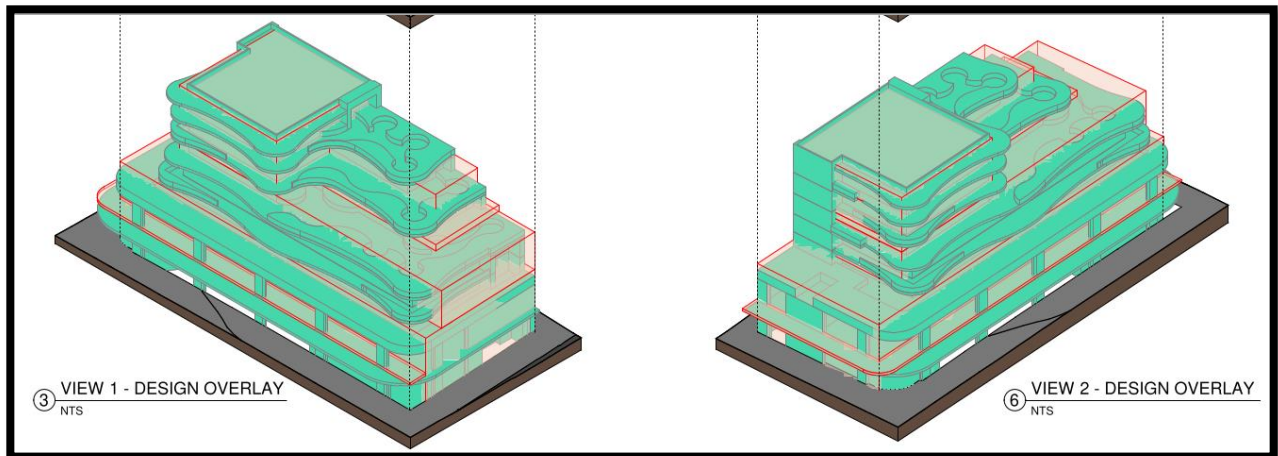


Figure 5: The proposed development is shown in green (see drawing 27/2, DCP Model Comparison)

The building has been designed with the highest section of the building at the western end, away from the residential development to the east with large open form terraces on each floor above Level 1, extending and stepping down to the east which is generally consistent with the anticipated development form for the site. The north western elevation on levels 2 to 6 slightly protrudes outside of the BEP and fronts Cronulla Street. The terraces have been designed with large planter beds around the edges with landscaping to soften the building form when seen from the street, Monro Park and surrounding properties.

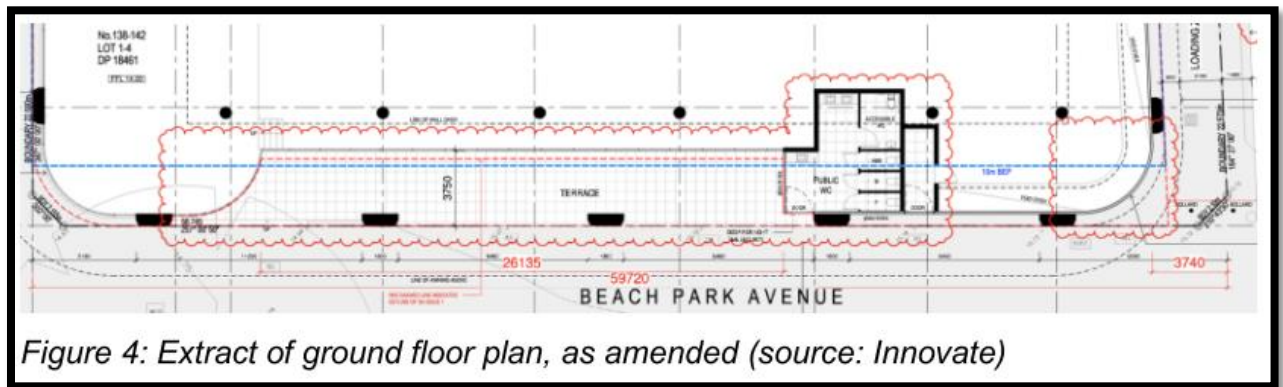
Clause 5.4 within Chapter 19 of SSDCP2015 provides design guidelines for a development proposed on this site. The proposal has been assessed against those guidelines:

1. *Maintain a 3m setback at ground level to Surf Lane to facilitate safe pedestrian and vehicular traffic for back of house functions.*

A 3m setback is provided at ground level from Surf Lane to accommodate pedestrian access and a loading zone at the rear of the building. To facilitate loading and unloading of goods from the building, a goods lift is provided at the rear of the building with direct access down to the basement. (Servicing of the building is discussed further under section 11.3 of the assessment report) Bollards are proposed at the southern end of the loading zone to protect pedestrians using Beach Park Avenue.

2. *Maintain a 3m setback at ground level to Beach Park Avenue for 50% of the frontage to facilitate pedestrian amenity and ease of access between public and private spaces.*

The applicant has adequately addressed this clause by providing a total of 29.88m of the frontage of the proposed development is setback 3.75m from the front of the allotment to Beach Park Avenue.



*Figure 4: Extract of ground floor plan, as amended (source: Innovate)*

*Figure 6: Extract of ground floor plan*

The building is designed with a number of curves at ground floor level. The south western and south eastern ends of the building are both curved and an open terrace at the ground level to Beach Park Avenue sits neatly within both ends of the building. The terrace area is 3.75m deep with glass doors opening onto the terrace from the ground floor of the building providing visual amenity to Beach Park Avenue and Monro Park. Public toilets are also accessed from this frontage which are tucked away around the eastern curve of the building and to the east of the ground floor terrace area.

3. *Maintain prime retail to the Cronulla Street frontage and Beach Park Avenue (Cronulla Centre Active Street front Map).*

The building has been designed with active frontages to the western and southern frontages with the main entrance into the building being from Cronulla Street. Glazing has been used on both Cronulla Street and Beach Park Road frontages of the building at the ground floor level to provide light into the building and visual interest for pedestrians given the commercial setting of the building.

4. *Preserve solar access to Monro Park.*

The shadow diagrams provided show the development will overshadow the northern end of Monro Park including the Fig trees. The shadow cast from the development is not significantly unlike that cast by a building that sits wholly within the BEP, albeit marginally further towards the west and south, however casts a smaller shadow at the eastern end. Overshadowing in this circumstance is acceptable..

5. *Improve public domain frontage to the Cronulla Street, Surf Lane and Beach Park Avenue with active uses, landscaping and pedestrian areas in accordance with the Public Domain Design Manual.*

The building has been designed with active frontages to Cronulla Street and Beach Park Avenue. Surf Lane has been designed to facilitate back of house functions, however glazing does wrap around the south eastern corner to activate this corner and access will still be maintained at the rear of the building when the loading zone is not in use.

6. *Preserve significant trees and vegetation in Monro Park.*

Two significant fig trees are found at the north western corner of Monro Park. Tree 1 is located closest to Beach Park Avenue and the site. This tree will be in shadow from 9am during winter and is required

to be pruned prior to the demolition and construction of the proposed development. A Tree Management Plan was provided with the application detailing how pruning and protection of the tree will be carried out whilst demolition and construction of the proposed building. Council's landscape architect considered the information provided and advised the trees are able to be retained with the development, subject to compliance with the Tree Management Plan and conditions of consent.

### *Elevations*

The building is sited on a zero setback to the northern boundary, anticipating that a new building may be constructed on the adjoining property abutting the site as is anticipated in commercial strip environments. The northern elevation will be viewed from surrounding properties and areas within the public domain. To enhance the presentation of this elevation, the wall is finished in a patterned pre cast concrete panel and landscaping is provided along the edges of the building.

### *Conclusion*

The building form is stepped as recommended by the BEP with terracing located outside of the BEP. The Urban Design Report provided with the planning proposal for the site indicated and anticipated a series of balconies/terraces at all terrace levels above ground with redevelopment of the site. No weather protection is proposed over the terrace levels for levels 4 and above. Landscaping is provided on all the terraces to soften the building form, provide a buffer from the edges and minimise useable areas at the eastern end to increase separation from residential development on the eastern side of Surf Lane.

The site is located at the southern end of Cronulla Mall and is a 'gateway' building from this corner to the commercial centre. Beach Park Avenue is an active pedestrian walkway and the building has been designed with active frontages to Cronulla Street and Beach Park Avenue. The upper levels have been stepped to minimise overshadowing impacts on Monro Park and demonstrates that whilst the terraces sit outside the recommended BEP, overshadowing from the development on Monro Park is acceptable. The proposal is consistent with the intent of the BEP and therefore is acceptable.

## **11.2. Public Toilets**

A voluntary planning agreement (VPA) is currently being prepared and in negotiations between the applicant and Council. This VPA is for the public toilets on the ground floor of the building and public domain works within Beach Park Avenue. The public toilets are accessed directly from Beach Park Avenue. The toilets have been designed with 1 female, male and ambulant and 1 accessible toilet.

Submissions from the community called for an improvement in the safety of users of the toilets in that the facilities should be designed with separate male and female toilets and include changing facilities. Separate male and female toilets exist to the west at Cronulla Railway Station, the northern end of the mall and to the east at Cronulla Beach. The toilets have been designed for users of Monro Park and pedestrians passing by. The design and location of the toilets being directly accessible from Beach Park Avenue was considered necessary for suitable accessibility from Monro Park and from a crime prevention perspective. The location allows for some security to be provided in association with the future use of the ground floor.

### 11.3. Use of the Building

The proposal is for a commercial building with a food and drink premises on the ground and first floor levels, six commercial premises on Level 2, co work office premises on Levels 3 – 5 and office premises on Level 6.

#### *Food and Drink premises*

Although the proposal includes the use of the ground and first floor levels of the building as food and drink premises, the fitout will be carried out under a separate development application. A *food and drink premises* is defined within SSLEP 2015 as the following:

***Food and drink premises*** means premises that are used for the preparation and retail sale of food or drink (or both) for immediate consumption on or off the premises, and includes any of the following –

- (a) a restaurant or café,
- (b) take away food and drink premises,
- (c) a pub,
- (d) a small bar

#### **Note:-**

*Food and drink premises are a type of retail premises – see the definition within Sutherland Shire Local Environmental Plan dictionary.*

The information provided by the applicant does not specify the type of food and drink premises proposed. Additional information was provided addressing some of the concerns raised by council which included a Social Impact Statement (SIS) and Draft Plan of Management (POM), however it still does not specify the type of food and drink premises. The Draft POM outlines the following details for the food and drink premises:

- Hours of Operation – 7am to 10pm on Monday to Sunday
- Capacity – 900 patrons including staff (maximum)
- Deliveries – 7am to 10am Monday to Sunday
- Waste Collection – 7am to 10am

Significant concern has been raised by the community with regards to the application. Specifically, these concerns have been that the application does not specify the use of the food and drink premises and the use will be a 'pub'. The submissions also state that if the use is a 'pub', the impacts from a pub use include noise, anti-social behaviour, inappropriate and criminal behaviour within Monro Park and this will impact on the ambience and uniqueness of Monro Park.

The SIS suggests that this premises will be operated by Feros Group. Feros Group operate other large licenced venues in the Sutherland Shire, including "Highfields" in Caringbah and "The Prince" in Kirrawee.

An acoustic report was not provided addressing the capacity and potential acoustic impacts from amplified music, general patron noise, use of external terraces and indoor spaces. An acoustic report and updated POM (as a minimum) would be required providing some further information on the specific use and any recommendations requiring management of noise, patrons, security, use of external and internal spaces and the like.

There are a number of residential unit developments which exist along Surf Lane to the north east, east and south east. Insufficient information has been provided for Council to adequately assess potential impacts from the food and drink premises with regards to the internal layout of the premises, noise impacts, management of security, use of the terraces and potential amenity impacts on Beach Park Avenue and Monro Park at this stage.

The applicant indicates that a separate development application will be lodged for the 'fitout' of the food and drink premises which will include an acoustic report and an updated POM. The floor area indicates that the future use will likely be a large restaurant, pub or similar. Approving a use with the capacity of 900 people is clearly linked to acoustics, management and BCA compliance, therefore insufficient information has been provided to conclude whether a food and drink premises accommodating 900 people is appropriate or not without the relevant information to complete that assessment. As a result of the assessment of the information provided, it is recommended that a development application be lodged for both the use and fitout which is likely to fall into the category of 'sensitive development' as a liquor licence would be requested. Development defined as sensitive development would typically be referred to the local planning panel for determination.

#### *Commercial Tenancies*

Level 2 is proposed to accommodate six separate commercial premises. Uses permitted as commercial premises include business premises, office premises and retail premises. Retail premises includes food and drink premises (which includes restaurant or café, take away food and drink premises, a pub and small bar). The use of these tenancies is unknown at this early stage. Under the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, a complying development certificate could be issued for some of those uses under the retail umbrella and a separate development application may not be required for future use and fitout of these premises. Given the use of commercial premises is unknown, to ensure any future use of Level 2 does not adversely impact the amenity of surrounding properties, a condition is recommended stipulating the hours of operation of Level 2 be 8.00am to 6.00pm.

#### *Office Premises*

Levels 3 to 6 are to accommodate office premises with terraces accessible from these spaces. These terraces can be used as break out spaces for future users of the office premises. The hours of operation proposed for the office premises is 8.00am to 6.00pm. The use of these spaces is acceptable and unlikely to result in significant unacceptable amenity impacts on surrounding properties.

In terms of the overall building typology, no objection is raised to a complete commercial building on the site, however, to ensure future uses of the building do not result in unacceptable impacts from the use of

the food and drink premises area, and given the level of certainty of impacts on the surrounding area, any future consent should incorporate the description of the development without reference to the food and drink premises. If the application is supported the following are recommended:

- The description of the development be modified removing food and drink to 'Demolition of existing structures and construction of a commercial building consisting of office premises on levels 3 to 6, 2 basement levels, 2 signs and stratum subdivision'.
- A development application is required for the first use and fitout of the ground floor and Level 1 of the building.
- The hours of operation for the commercial premises on Level 2 are between 8.00am and 6.00pm.
- Levels 3 to 6 are to be used as office premises only as defined within Sutherland Shire Local Environmental Plan 2015. The hours of operation for the office premises (including external terraces) is 8.00am to 6.00pm.

#### **11.4. Terraces**

The building is designed with open terraces on all levels of the building. The ground level and Level 1 terrace are likely to be occupied by a food and drink premises and the Level 2 terrace is likely to be occupied by commercial tenancies. The terraces on Levels 3 to 6 terraces are to be used by the office premises between 8am and 6pm.

Clause 2F of the ADG states '*when measuring the building separation between commercial and residential uses, consider office windows and balconies as habitable space and service and plant areas as non-habitable.*' The eastern end of the building has been designed stepping away from the east with large planting boxes/beds around the perimeter. The eastern end of Levels 1, 2 and 3 include planters to screen the building from the residential development on the eastern side of Surf Lane. To achieve acceptable separation between the terraces on Levels 4 to 6, the terraces have been designed stepping back from the eastern boundary and include large planters to reduce useable areas at the eastern end.

An acoustic report was requested to address the potential noise impacts from the use of the terraces but this was not provided. To minimise potential impacts from the use of the terraces conditions are recommended stipulating the hours of operation of the terraces.

#### **11.5. Character**

The site is located within the B3 Commercial Core. The site is at the southern end of Cronulla Street which appears as a 'gateway' to the commercial strip extending north along Cronulla Street. The south west corner of the site is highly active in terms of pedestrian activity, with Cronulla Train Station and bus stops located directly opposite the site to the west. Beach Park Avenue also provides a direct pedestrian link from the railway station and bus stop east to Cronulla Park and Beach.

The site is currently occupied by older style buildings with frontages to Cronulla Street and Monro Park. Significant concern has been raised by the community that the redevelopment of the site will impact on the character of the area and Monro Park, in particular if the ground and first floors of the building are occupied



by a pub or similar will change how Monro Park will be used and will impact on the ambience and uniqueness of the park.

The ground floor of the building has been designed to maintain active frontages to the west and south with an entry and large glazed windows to Cronulla Street and setback with openings from Beach Park Avenue to encourage ease of pedestrian access from Beach Park Avenue into the building.

Commercial development is permissible in the zone. Redevelopment of the site with a commercial building with active frontages to the streets will revitalise the southern end of Cronulla Street and be a positive contribution to the local area. The height, bulk and scale of the development is generally consistent with the desired future character of the local area and the Cronulla Centre DCP.

#### **11.6. Heritage**

Neighbouring sites are identified as items of environmental heritage pursuant to SSLEP 2015. Monro Park is listed as a local item and Cronulla Railway Station is listed as a state heritage item. Both are within 50 metres of the development site.

##### Cronulla Railway Station

Cronulla Railway Station on the western side of Cronulla Street, opposite the site. The proposed development was referred to Heritage NSW for comment. The heritage office advised Cronulla Railway Station is listed for its historic, aesthetic, rarity and research significance and the sites Inter-War Functionalist architectural style provides a dramatic street façade to Cronulla Street. In response to the proposed development the heritage office advised *the proposed development will not impact the aesthetic value and street presence of the SHR item due to its location on the opposite side of Cronulla Street and will not impact on current views to the SHR item, however there will be some overshadowing of the SHR item due to the overall height of the proposed development.*

##### Monro Park

Monro Park is located immediately to the south of the site. Monro Park, the bus shelter, the gate posts and monument are all listed under Schedule 5 Environmental Heritage of SSLEP2015. Council's Heritage Specialist considered the proposed development and advised the Fig trees are highly significant regarding heritage, landscape and streetscape, framing the entrance to the Park, WWI – II Monument, pillars and bus shelter.

Concerns were raised with regards to overshadowing of the park which will have negative impacts to the Fig trees causing a serious reduction of vigour and health of the Fig trees and an accelerated demise. Other trees/grass at the Park will also be overshadowed, views and appreciation of the Monument, the streetscape of Cronulla village as well as the amenity of the Park will also be impacted.

Council's Landscape Technician considered the potential impacts on the Fig Trees and based on the information provided, confirmed that overshadowing from the development will unlikely have significant adverse impacts on the trees. Compliance with a Tree Management Plan and conditions will be required to

ensure the absolute minimum of branches are removed to allow for the demolition of the existing structures and construction of the proposed building.

The proposed development is for a new building approximately 25m in height (with encroachments proposed to the maximum building height requirement). The proposal has been designed stepping the building form to minimise overshadowing impacts on Monro Park. The overshadow diagrams provided demonstrate that shadowing from the development will overshadow the northern end of the park only will not impact on views to the Monument. The proposal is consistent with the permitted building height and BEP plan and therefore overshadowing of Monro Park and the Fig Trees was anticipated by any redevelopment of this site to the extent of the applicable controls and therefore is considered acceptable.

#### **11.7. Car Parking and Traffic**

Clause 17.2.1 within Chapter 19 of SSDCP2015 stipulates 1 space per 30m<sup>2</sup> per for commercial premises and office and business premises. The development is proposed to include a food and drink premises on the ground and first floor levels, commercial premises on the second floor and office premises on Levels 3 to 6. In accordance with the car parking controls within SSDCP 2015, 137 car parking spaces are required for this development, 56 spaces for any future food and drink premises (ground floor and Level 1), 24 spaces for the combined commercial spaces on Level 2 and 57 spaces for office space on Levels 3 to 6. The proposal includes two basement levels to accommodate 4 motorcycle spaces, 21 bicycle spaces and 57 car parking spaces (accessed from the rear of the site along the Surf Lane frontage), resulting in a significant shortfall in car parking of 80 spaces.

To justify the shortfall in car parking, the applicant argues the site is very accessible by public transport with Cronulla Railway Station and bus stop located opposite the site on the western side of Cronulla Street. It is also anticipated patrons of the premises will likely be those who visit Cronulla Town Centre and local residents who are within walking distance to the site and therefore the parking demand can be satisfactorily accommodated offsite by using existing Council public parking assets. (Croydon Street car park and on street parking in Nicholson Parade and Tonkin Street)

*Council's Traffic Engineer suggests that Council's own data and site observations indicate that parking occupancy is at or near capacity in the middle of the day of a weekend during swim season and at other times. In this regard, traffic and parking is already a challenge under existing conditions in Cronulla. Traffic delays are also regularly experienced in the road network during the weekday and weekend peak periods, and, as indicated, parking is at a premium with high on and off street occupancy rates. The arguments that providing additional parking on site will induce additional traffic and traffic congestion there in is in all likelihood offset by the fact that if sufficient parking is not provided on site then existing public parking supply will be further compromised, most likely adding to congestion due to more traffic circulating to look for a parking space.*

Consideration was given to additional basement levels to accommodate more parking, however the site is burdened by an unlined rock sewer tunnel in the north eastern corner of the site. This sewer tunnel will sit below basement Level 2 and restricts excavation in the north eastern corner of the site.

Surf Lane is a one way street with vehicles travelling north only. Access to Surf Lane is from Laycock Avenue at the southern end of Monro Park. Providing more parking on site has the potential to attract more vehicles to the site and within Surf Lane, and may exacerbate traffic congestion in Surf Lane, at the southern end of Cronulla and within the Cronulla commercial centre.

On street parking is available within the local area and a public car park is accessible along Croydon Street on the western side of Cronulla Mall. Whilst providing more parking will address the numerical shortfall in car parking for the development, traffic generation to the site by providing more parking may adversely impact on Surf Lane and the local area. Not providing adequate car parking on site may also set an undesirable precedent for future redevelopment in the local area and could potentially impact other small businesses in the locality as customers may not be able to find parking.

In this particular case, the site is located in very close proximity to public transport with the railway station and bus stop located directly to the west and within walking distance from the Commercial Centre and surrounding residential properties. It is anticipated visitors to the food and drink premises will likely park at other locations within Cronulla and walk to the site, attend the site by public transport or walk to the site from the local residential area. Whilst not providing parking for food and drink premises is typically not supported given the site is within such close proximity to public transport the proposed shortfall in parking is acceptable in this circumstance.

#### **11.8. Servicing the Building**

The DCP requires loading and unloading of vehicles to occur on the site. It anticipates that the building be designed to be serviced by a heavy rigid vehicle (HRV) for food and drink deliveries, furniture and the like and remove the need for bins to be placed on Surf Lane for waste collection. The building has been designed with a loading zone within the 3m setback on Surf Lane and includes a goods lift that is accessible from the back of the building. To protect pedestrians along Beach Park Avenue, bollards are proposed to be installed at the southern end of the loading zone at the intersection of Surf Lane and Beach Park Avenue.

Concern was raised that the location of the loading zone and goods lift does not allow for efficient servicing of the building, as the goods lift will be located at the front of the vehicle and there is no direct access into the future food and drink premises. It is not clear how goods including kegs and other food and drink deliveries including waste are to be loaded/unloaded between the service vehicles and goods lift and therefore bins will likely be placed on Surf Lane for collection and deliveries to the future food and drink premises will likely occur from Beach Park Avenue. Revised plans were provided retaining the loading zone, however including a 1.1m indentation at the rear of the building, setting the goods lift within the building footprint with a secured area in front of the lift facing Surf Lane.

The purpose of the additional area is to provide more space for loading/unloading between the vehicles with an area for waste collection. A separate entrance directly into the ground level premises for deliveries has still not been provided as the applicant suggests *the goods lift has remained north of the loading area, as the waste trucks are front load, and the delivery vehicles are mostly side load*. In addition, the food and

drink premises will load all goods to this holding area, take them down to the basement in the goods lift and transport to respective storage area. There is no intention to take goods in through the Beach Park Avenue frontage, as this will be a 'front of house' area for the public.

A Loading Dock Management Plan and additional information was provided indicating deliveries and waste collection will be carried out in the loading zone between 7am to 10am only. Waste collection will also be carried out by a waste collection contractor and waste bins will be placed on Surf Lane for no more than 15 minutes at any given time.

The design is inconsistent with Council's controls for loading and unloading, however the design put forward will accommodate loading/unloading of vehicles at the rear of the building and therefore will unlikely result in significant impacts on traffic flow within Surf Lane or access and manoeuvrability into the building opposite site at 59 – 65 Gerrale Street. If the proposal is supported, the following conditions are recommended:

- Bins are not to be placed in the loading zone for more than 15 mins at any one time.
- Loading/unloading from the loading zone is only permitted between 7am to 10am.

#### 11.9. Emergency Vehicle Hardstand Area

Insufficient details were provided addressing the fire brigade hardstand requirements of the BCA, AS241.1 and the *Fire Safety guideline-Access for fire brigade vehicles and firefighters*. The applicant provided a pressure and flow statement from Sydney Water, however no correspondence from Fire and Rescue NSW was provided confirming where the emergency vehicle hardstand area is required to be located with the development.

The applicant has indicated the emergency hardstand vehicle could be accommodated on Cronulla Street (see image below showing hardstand location in red) as well as the pedestrian crossing. Both of these locations exceed the maximum 8m distance to the brigade vehicle. The applicant has acknowledged that in the event of an emergency Cronulla Street will be blocked off. However, this does not comply with the requirements of the guideline which requires traffic flow to continue to enable evacuation of the area without putting the brigade staff at risk of being hit by a vehicle.

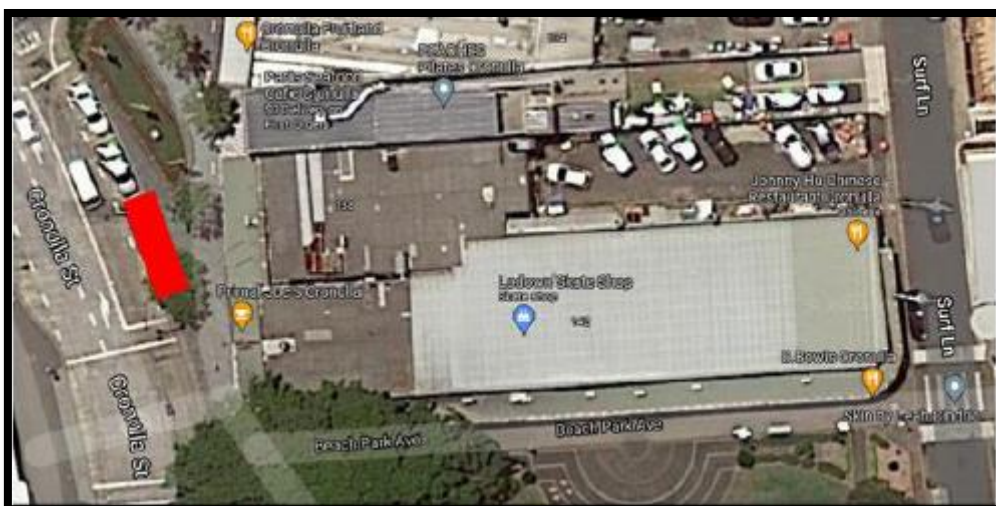


Figure 7: Red notation indicates potential location of emergency hardstand vehicle

The applicant has not provided sufficient information showing they can comply with the requirements of the BCA, AS2419.1 and the Fire Safety Guideline – Access for fire brigade vehicles and firefighters and to allow Council to assess whether the proposal will impact on street parking and the pedestrian footpath. At this point in time this matter remains unresolved. A condition of consent requiring the following is recommended:

1. A report prepared by a suitably qualified expert indicating the location of the Emergency Vehicle hardstand on Cronulla Street meets the requirements of the BCA, AS2419.1 and the Fire Safety Guideline - Access for fire brigade vehicles and firefighters. The report must include correspondence from Fire and Rescue NSW confirming that it is satisfied with the proposed location. The report is to be submitted to council prior to lodgement of a construction certificate.
2. In the event the report provided addressing “1” requires any works within the pedestrian footpath environment in Cronulla Street, a detailed design and construction detail is to be submitted and approved by council prior to the issue of a construction certificate.

#### 11.10. Height of Buildings

The proposed development fails to comply with the development standard for height. Clause 4.3(2) of SSLEP 2015 stipulates a maximum height of 25m for this site.

The proposal seeks a building height 26.2m which exceeds the maximum height by 1.2m, resulting in 4.8% variation. A clause 4.6 has been provided in support of the non – compliance. The roof elements that exceed the building height standard north western corner of the roof (RL 39.6), the parapet (RL 40.2), the lift over run (RL40.5) and the air condition units (RL 41.0).

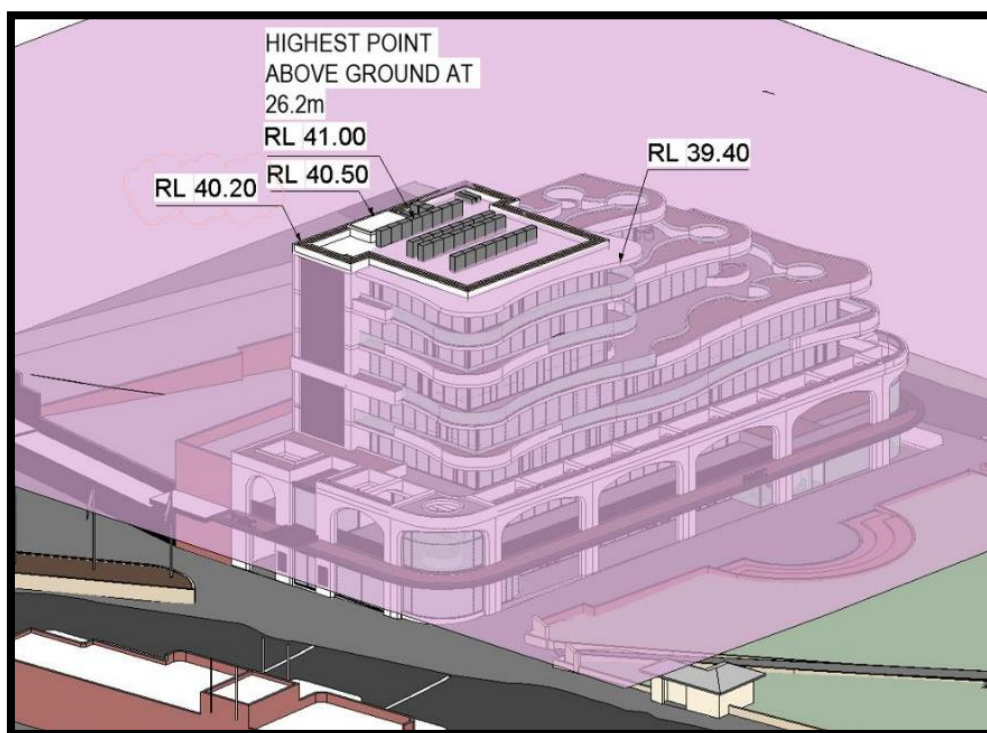


Figure 8: Height Plane Diagram

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

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

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

*Zone B3 Commercial Core*

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

The proposal is for a commercial building comprising 7 levels. Buildings that are in close vicinity to the site vary in height with 1-2 storeys north of the site along Cronulla Street and 2-9 storeys on the eastern side of Surf Lane. On the western side of Cronulla Street is the Railway Station and further beyond the station to the west are residential flat buildings of varying height up to 25m. New development in close vicinity of the site is permitted to a building height up to 30m to the east, 20m to the north, 25m to the west and 16m to the south. Cronulla is currently going through change with new development under construction. Furthermore, once surrounding sites are redeveloped, the building height will not be discernible in with the local area.





Figure 9: Showing height permitted on surrounding sites.

The building has been designed stepping the building form down toward the east to break up the visual impact of the building when viewed from surrounding properties and public domain. Breaking up of the building form minimises overshadowing impacts on Monro Park and residential buildings to the east. The northern elevation of the building has been designed abutting the northern boundary to allow a building in the future to abut. This elevation has been designed to be finished with precast concrete panels for visual interest while this side of the building remains exposed without any redevelopment adjoining it to its north.

The proposed height and building form is compatible with the scale of residential buildings and is of the desired future scale for the surrounding area.

The applicant has lodged a written request in accordance with the requirements of Clause 4.6 of SSLEP 2015. A full copy of this request is Appendix 'F' and the most relevant section is reproduced below:

*"....the proposed building has a maximum height of 26.2 metres. This equates to a variance of 1.2m or 4.8% to the numerical height standard. The departure from the standard is created as a result of the roof plant, and to a lesser degree the lift overrun and parapet.*

*The other built form elements which depart from the height standard are lift overrun and roof parapet as shown in the building height plane below. The lift overrun exceeds the height standard by 700mm and the roof parapet exceeds the maximum height standard by 400mm.*

*The services and lift over run have been located centrally in the roof floor plate and away from the*

*south, east and west edges to minimise visual bulk and provide shadows that are consistent with that anticipated in the Sutherland Shire Development Control Plan 2015 (SSDCP 2015).*

*There are sufficient environmental planning grounds to justify the variation. These include the elements being centrally designed on the roof top which minimises perception of bulk and scale, consistency with the built form envisaged by SSDCP2015 and SSLEP2015, lack of adverse environmental impacts, consistency with the relevant objects of the Environmental Planning and Assessment Act 1979, and consistency with the relevant aims of SSLEP2015.*

*The development satisfies the objectives of the height standard, as well as the objectives of the B3 Commercial Core zone. The proposal is in the public interest because it is consistent with the objectives of the height development standard in the B3 Commercial Core zone.*

*The elements which depart from the height standard are the air conditioning plant located on the roof, the lift overrun and parapet along the perimeter of the roof.*

*These elements have been positioned centrally within the overall building floor plate with the air conditioning plant and lift overrun pulled away from edges of the roof on the south, west and eastern elevations, to minimise the perception of bulk and overshadowing from ground level. It is anticipated that future development to the north will share a zero-lot boundary, hence the lift and services have been positioned in that location to reduce shadow and bulk impacts. Therefore, the elements do not add to the perception of bulk of the building that would make it incompatible with adjoining development.*

*The scale of the proposed development is compatible with the height and bulk of adjoining development to the east being 7-9 storey residential flat buildings with a maximum height of 30m. Lots to the north are currently single storey retail development but are anticipated to undergo a transition in the future, given the permissible height in the locality.*

*The variation to the height control will not result in unacceptable amenity impacts to adjoining properties noting the portion of the building which contravenes the standard will not result in additional overshadowing beyond what is anticipated for the site by the SSDCP2015. Further, the additional height will not have significant impacts onto existing view corridors which run across the site given its consistency with the envisioned massing; nor will it add to visual bulk or scale. Overall, the elements which exceed the height limit will mostly not be discernible from the public space and along the northern edge will just appear as part of the building.*

*The development achieves the objectives of the development standard and is of a height which is compatible with the desired future character of the Cronulla town centre as envisaged by the Sutherland Shire Development Control Plan 2015. The proposal also represents acceptable impacts in relation to overshadowing, visual impact and privacy on adjoining properties. This demonstrates that the proposal is of an appropriate height."*

The applicant's written submission demonstrates that compliance with the height development standard is unreasonable or unnecessary in the circumstances of the case. It also demonstrates sufficient environmental planning grounds to justify varying this development standard.

The proposed breach of the building height development standard is acceptable when assessed against Clause 4.6 for the following reasons:

- The overall roof height and form is consistent with the desired future character for the area as envisaged by SSLEP2015 and SSDCP2015.
- A building height of 20m is permitted to the north and 30m to the east. The proposed height will provide a transition in building height to any new development constructed to the east.
- The building form has been stepped down from the west to the east minimising visual impacts when viewed from surrounding properties and public domain.
- The non-compliant portions of the building are toward the western end of the site

The non-compliant elements of the building will likely be viewed from residential properties to the east that are at a similar height or greater. A building height of 30m is permitted for the residential lots on the eastern side of Surf Lane. A 10 storey building exists north east of the site and is known as 49 Gerrale Street. The non-compliant portions, being the north western corner of the roof (RL39.6), the parapet (RL40.2) and 32 air conditioning units (RL41.0) will likely be viewed from Level 8 and above of the building, as level 8 has a floor level of RL39.92 (300mm above the proposed roof level (RL39.6)). A 9 storey building exist south east of the site and is known as 83 Gerrale Street and is setback approximately 85m minimum from the site. The non-compliant elements may be viewed from a distance, however will unlikely result in significant visual impacts.

Whilst the non-compliant elements are setback from the western, southern and eastern boundaries of the site, the air conditioning units may appear unsightly and will likely be viewed from buildings with a height at or greater than the proposed. Planters are proposed on the roof to soften the appearance of the building and screen the air conditioning units, however the air conditioning units will sit above the height of the parapet/planters. In addition, acoustic screening was originally proposed with the air conditioning units and have been removed. A revised acoustic report was not provided confirming whether acoustic screening is required and therefore if acoustic screening is required this would result in another element on the roof.

To minimise visual impacts when seen from the east (and any future buildings that maybe constructed along Surf Lane), it is recommended that the air conditioning units be relocated and grouped within the northern half of the roof towards the lift over run or to another location on the building (see conditions 3 and 39).

A variation to the building height development standard is supported, subject to conditions requiring the air conditioning units be relocated on the roof or to another location on the building.

The proposed development is in the public interest, as the proposal complies with the objectives for both height and the *B3 Commercial Zone* and is consistent with the envisaged character in terms bulk and scale





Following is an assessment of the view loss in accordance with the planning principle established by Senior Commissioner Roseth in *Tenacity Consulting v Warringah* [2004] NSWLEC 140.

*Step 1 - The first step is the assessment of views to be affected*

Views exist west and south west toward Gunnamatta Bay. Gunnamatta Bay is approximately 188m west of the site. Surf Lane, Cronulla Street, Cronulla Railway Station, Tonkin Street which includes residential buildings of varied height exists between 59 – 65 Gerrale Street and Gunnamatta Bay. As seen in the image below, 59 – 65 Gerrale Street sits in line with the subject site.



Figure 11: Arrows showing views that will be retained from 59 – 65 Gerrale Street after the development is built on the site.



Figure 12: View looking west across the subject site from 26/59 to 65 Gerrale Street (level 7).



*(Photo provided by owner)*



Figure 13: View looking south west from 26/59 to 65 Gerrale Street (level 7). (Photo provided by owner)

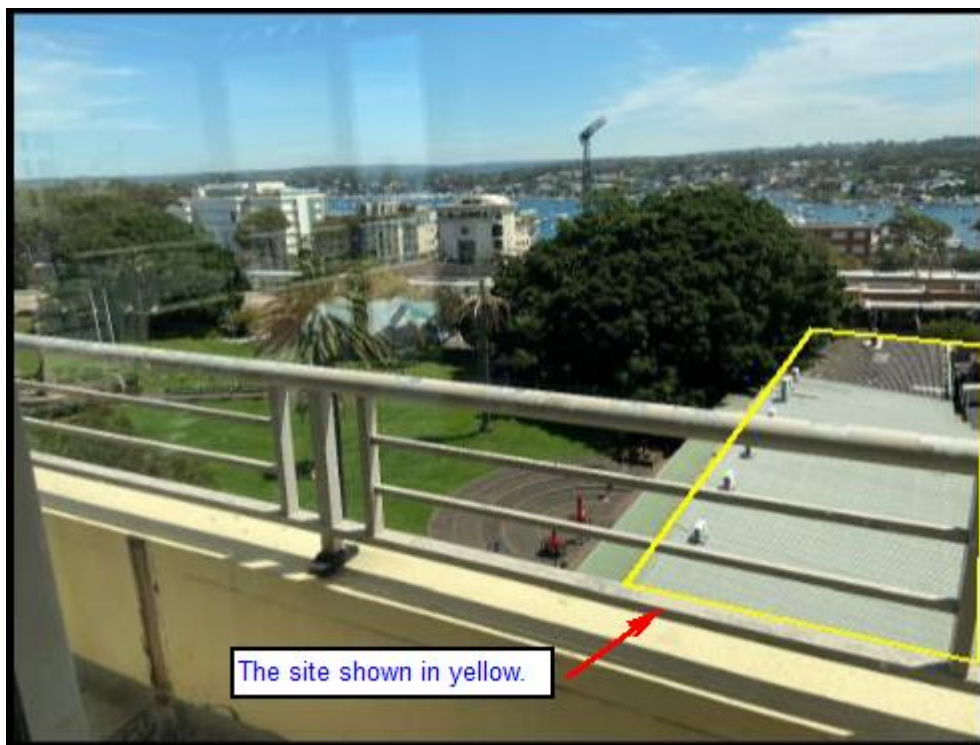


Figure 14: View looking south west from 26/59 to 65 Gerrale Street (level 7). (Photo provided by owner)

*Step 2 - The second step is to consider from what part of the property the views are obtained.*

The views are obtained across the rear boundary of the site.

*Step 3 - The third step is to assess the extent of the impact.*

The views are from the balcony across the rear boundary of the site looking west and south west. The balcony level of this unit is at RL33.65 and the proposed roof height of the development is RL39.60, almost two full levels above the floor level of Unit 26. The impact on views currently enjoyed to the west is devastating. Impact on views to the south west is minor/moderate, as the setback of each level increases as you go up the building.

The living/dining area and attached private open space of this unit enjoys views to the east toward Cronulla Beach and ocean. These views are to be retained.

Photos to the east were requested but not provided by the owner. A development application (DA19/0779) was lodged for alterations and additions to the unit. The photos below were taken with the assessment of the application. The photos provided below show the unit will retain views to the east.



*Figure 15: View to the north east. Views unaffected*



Figure 16: View looking east from living/dining area. Views unaffected.



Figure 17: View looking south west from southern side terrace. Views to the south and south west unaffected. The proposal is located directly west.

Impact on views to the west from levels 2 to 7 is devastating and anticipated. Impact on views from the south western balconies to the south west will be minor. Looking direct west from the south western balconies the proposal will have a moderate impact, as they will be interrupted by the terraces of the building. Views from the north western balcony of the building looking south west across the site will be devastating.



*Step 4 - The fourth step is to assess the reasonableness of the proposal that is causing the impact.*

A single storey building is currently on the site. Views currently enjoyed from 59-65 Gerrale Street to the west would be impacted by any building two storeys or greater depending on which level you are standing on. The views are already interrupted by other buildings located within Tonkin Street to the west. Buildings along the eastern side of Tonkin Street vary in height and development is permitted up to 25m along this strip. The building has been designed with staggered vertical setbacks as anticipated by the DCP. Views to the west from the south western balconies will be interrupted by terraces depending on which level. Views from the south west balconies looking over Monro Park to Gunnamatta Park will mostly be retained.

#### 49 Gerrale Street, Cronulla

A 9 storey residential building is located north east of the subject site and is known as 49 Gerrale Street (Wavelength). This building is located on the eastern side of Surf Lane with its primary frontage to Gerrale Street, opposite Cronulla Park and Beach. It is a new building and was still under construction during the assessment of this application and was very close to completion. Although owners of the units did not object to this proposal, an assessment of the view loss principles was still undertaken. The following images are an extract of the western and southern elevations of the building to provide context of the assessment below:

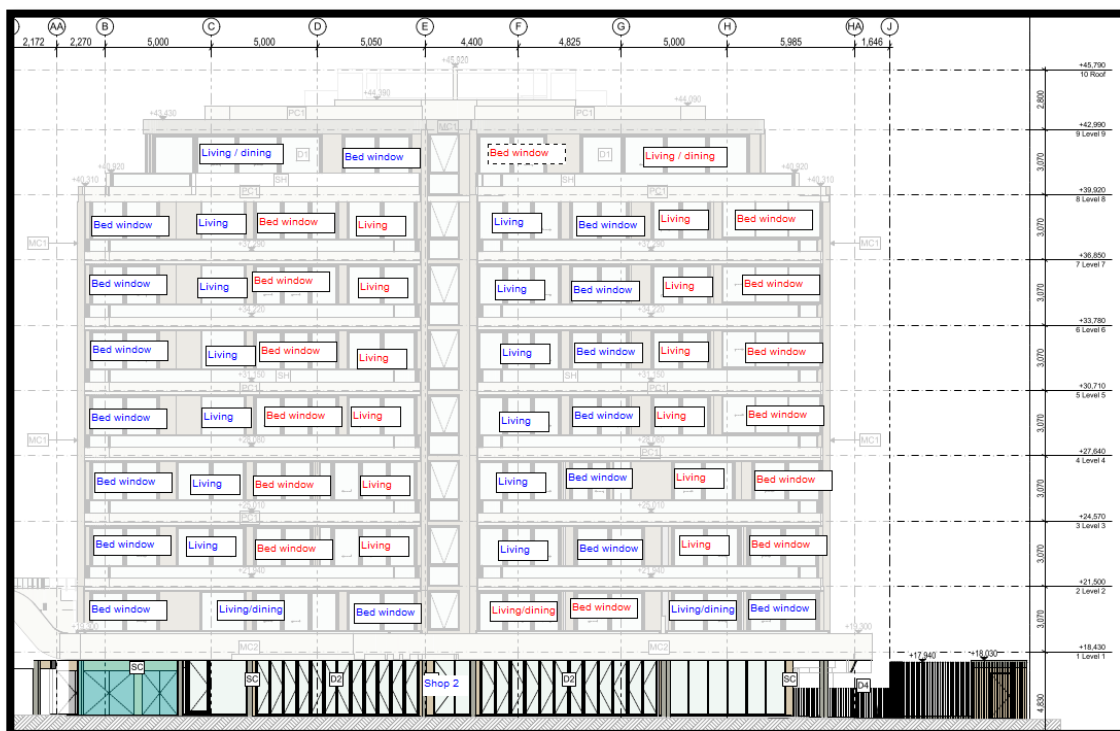


Figure 18: Western elevation of 49 Gerrale Street showing window locations

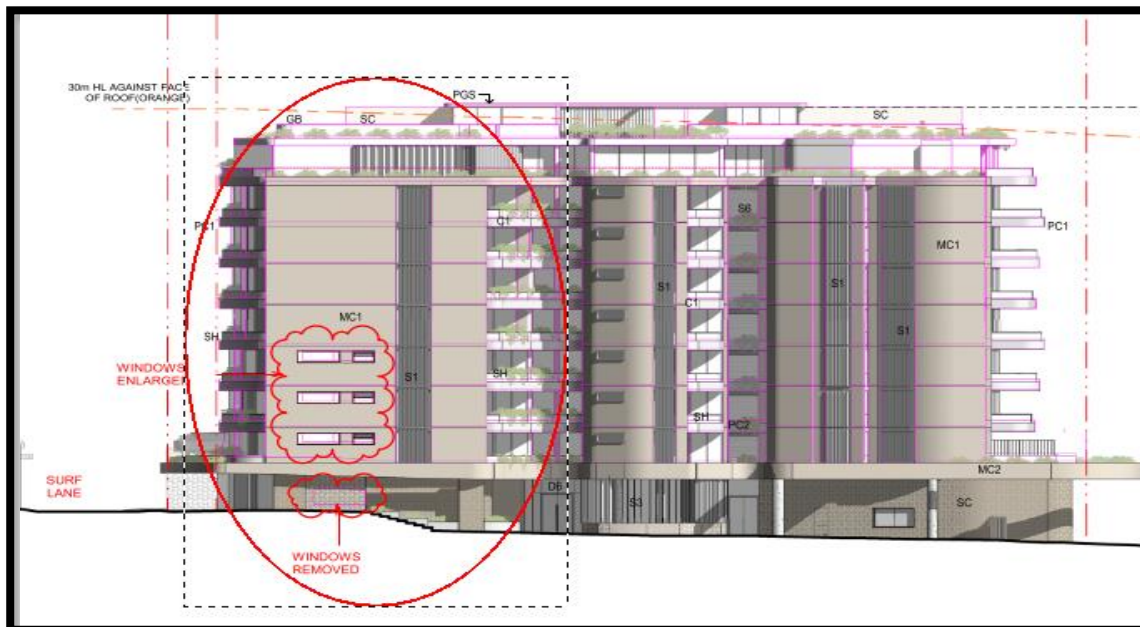


Figure 19: Southern elevation of 49 Gerrale Street showing south western of building designed deversive

Following is an assessment of the view loss in accordance with the planning principle established by Senior Commissioner Roseth in *Tenacity Consulting v Warringah* [2004] NSWLEC 140.

*Step 1 - The first step is the assessment of views to be affected*

Views are currently enjoyed west and south west toward Gunnamatta Bay. Gunnamatta Bay is approximately 232m west of the site. Surf Lane, Cronulla Street, Cronulla Railway Station, Tonkin Street which includes residential buildings of varied height exists between 59 – 65 Gerrale Street and Gunnamatta Bay. As seen in the image below, 49 Gerrale Street does not sit directly in line with the subject site.



Figure 20: Arrows showing views that will be retained from 49 Gerrale Street after the development is built on the site.

*Step 2 - The second step is to consider from what part of the property the views are obtained.*

The views are obtained across the rear and south western side boundaries of the site.

*Step 3 - The third step is to assess the extent of the impact.*

Impact on views directly to the west from Level 2 and above is minor. Impact on views from the south western balconies to the south west will be devastating. Views looking from south west across the site will be devastating, however the views directly to the west, north and east of the site will not be impacted by this development.

*Step 4 - The fourth step is to assess the reasonableness of the proposal that is causing the impact.*

Views enjoyed from 49 Gerrale Street looking west would be impacted by a building two storeys or greater in height depending on which level you are standing on and will be potentially impacted by redevelopment that may be carried out opposite the western side of Surf Lane. Views to the south west will be impacted by the proposed building and would also be interrupted by other buildings located within Tonkin Street to the south west. However, level 8 and above will likely retain some views to the south west as Level 8 has a floor level of FL39.92 (300mm above the proposed roof level) and the non-compliant portions, being the north western corner of the roof (RL39.6), the parapet (RL40.2) and air conditioning units (RL41.0) will likely be viewed from Level 8 and above of the building. Therefore, the building will retain current views to the west and Level 8 and above will retain some views, albeit it will be interrupted by some roof elements.

A building height of 25m is permitted on the site under SSLEP 2015 and therefore a building with the proposed height was anticipated by Council's development standards. The proposal in its current form will have an impact on views to the west and is acceptable.

#### **11.12. Crime Prevention through Environmental Design**

The proposal has been designed with active frontages to both Cronulla Street and Beach Park Avenue. The rear of the building has been designed to accommodate back of house functions. To accommodate queuing of vehicles accessing the site from Surf Lane, the basement entrance door has been relocated further into the building. This has resulted in a deep area that could attract loitering, anti social behaviour and the like. Units located on the eastern side of Surf Lane also offer casual surveillance as a number of windows overlook this area. To prevent potential loitering and undesirable behaviour, it is recommended that sufficient lighting and CCTV surveillance is provided at the rear of the building and within the basement entrance.

#### **11.13. Acid Sulfate Soils**

The subject site is identified as within 'Class 5' Acid Sulfate Soils Maps and the provisions of Clause 6.1 are applicable. The objectives of this Clause are to ensure that development does not disturb, expose or drain acid sulphate soils and cause environmental damage.

Within Class 5, the trigger under SSLEP 2015 is works within 500m of adjacent Class 1, 2, 3 or 4 land that is below 5m AHD and by which the watertable is likely to be lowered below 1m AHD on adjacent Class 1, 2, 3 or 4 land.

Given the nature of the proposed works, being a new commercial building, there is unlikely to be an impact on the water table on adjacent Class 1, 2, 3, or 4.

#### **11.14. Earthworks**

The proposal includes earthworks and Clause 6.2 of SSLEP 2015 requires certain matters to be considered in deciding whether to grant consent. These matters include impacts on drainage; future development; quality and source of fill; effect on adjoining properties; destination of excavated material; likely disturbance of relics; impacts on waterways; catchments and sensitive areas and measures to mitigate impacts. A rock lined sewer exists within the north western corner of the site. The relevant matters have been considered and the application is acceptable.

#### **11.15. Stormwater Management**

Clause 6.4 requires Council to be satisfied of certain matters in relation to stormwater management prior to development consent being granted. These matters include maximising permeable surfaces; on-site stormwater retention minimising the impacts on stormwater runoff. These matters have been addressed to Council's satisfaction.

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

Clause 6.15 of SSLEP 2015 contains matters for consideration relating to ecologically sustainable development and energy efficiency and sustainable building techniques. The relevant matters have been considered as a part of the assessment of the application and the proposal is considered to be acceptable.

#### **11.17. Urban design (non residential)**

Clause 6.16 of SSLEP 2015 contains certain matters of consideration relating to urban design. The relevant matters have been considered as a part of the assessment of the application and the proposal is considered to be acceptable.

### **12.0 DEVELOPMENT CONTRIBUTIONS**

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

This contribution is based upon the proposed cost of the development and has been calculated at 1% of \$17,350,937 (the estimated cost of development identified on the development application form). Therefore, the Section 7.12 levy for the proposed development is \$173,509.37.

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

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

### **14.0 CONCLUSION**

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

In response to public exhibition, 59 submissions, 1 petition (with 4,357 signatures 2 letters of support were received from the first notification period and 21 submissions from the second neighbour notification period. The matters raised in these submissions have been addressed in the report or dealt with conditions of consent where appropriate.

The proposal includes a variation to building height permitted under SSLEP2015, building envelope plan, car parking and loading dock controls contained within SSDCP 2015. These variations have been discussed and are considered acceptable subject to design changes and/or conditions of consent.

The site is located within a Commercial Zone and therefore a commercial building comprising office premises is acceptable for the site. The height and bulk and scale is of the desired future character of the area. Insufficient parking has been provided with the development, however the site is located at the southern end of Cronulla Street which is a very high pedestrian activity area and is within close proximity to public transport. The proposal is recommended for approval subject to conditions of consent.

The application has been assessed having regard to the matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979. The application will not result in any significant impact on the environment or the amenity of nearby residents. Following assessment, Development Application No. DA21/0326 may be supported for the reasons outlined in this report.