Shire Planning Committee Meeting

Monday, 1 May 2017
Commencing at the conclusion of the Corporate Governance Committee and Shire Services Committee Meetings

Council Chambers,
Level 2, Administration Building
4-20 Eton Street, Sutherland
ORDER OF BUSINESS

1. ACKNOWLEDGEMENT OF COUNTRY

2. APOLOGIES

3. DISCLOSURES OF INTEREST

4. CONFIRMATION OF MINUTES OF THE PREVIOUS MEETING

5. PRESENTATIONS

6. REPORTS FROM OFFICERS
   PLN031-17  Australian Mayoral Aviation Council (AMAC) - Reconsideration of Membership
   PLN032-17  Planning Proposal - Flora Street Precinct
   PLN033-17  Reclassification and Rezoning of 276B Gymea Bay Road, Gymea Bay
   PLN034-17  Exhibition Report Planning Proposal 1A & 1-13 Atkinson Road, Taren Point (Draft Amendment SSLEP2015)
   PLN035-17  Exhibition Report Planning Proposal Part 99R Acacia Road & Part 42 Auburn Street, Sutherland
   PLN036-17  IHAP013-17 - Alterations and Additions to an Existing ALDI Supermarket and Carpark, Construction and Use of 5 Storey Residential Flat Building Containing 57 Residential Apartments Above the Existing Carpark to Create a Mixed Use Development and Stratum Subdivision of 2 into 3 – Wandella Road, Miranda (DA16/0641)
   PLN037-17  IHAP014-17 - Demolition of Existing Shops and Dwelling and Construction of a Mixed Use Development Containing 5 Commercial and 19 Residential Units - Princes Highway, Sylvania (DA16/0377)
   PLN038-17  Proposed Modification to Approved Cronulla Sharks Retail Development - Addition of 222 Apartments, 125 Room Hotel and 308 Parking Spaces
   PLN039-17  Update on Flooding Notation for 66 Alexander Avenue, Taren Point

7. QUESTIONS

8. CONSIDERATION OF BUSINESS IN CLOSED SESSION

9. CONFIDENTIAL REPORTS FROM OFFICERS
PLN031-17 AUSTRALIAN MAYORAL AVIATION COUNCIL (AMAC) - RECONSIDERATION OF MEMBERSHIP

EXECUTIVE SUMMARY

- The Australian Mayoral Aviation Council (AMAC) was established in 1982 being a national association focused on working with relevant authorities and the airline industry to achieve workable solutions to the issues associated with aircraft movement.
- In 1996 the Sydney Airport Community Forum (SACF) was established followed by the Planning Coordination Forum (PCF) in 2010. Both of these associations focus specifically on issues in regards to Sydney Airport.
- While the AMAC has in the past added value to the debate about land development and the impact of aircraft noise, the SACF and PCF are now more relevant to the Sutherland Shire Community.
- Council will therefore continue to be a member of SACF and PCF, however membership to the AMAC will be discontinued.

REPORT RECOMMENDATION

That correspondence be forwarded to the Australian Mayoral Aviation Council thanking them for their assistance and advising that Council will not be continuing its membership beyond the current year.
PURPOSE
The purpose of this report is to recommend the discontinuation of Council's membership of AMAC.

BACKGROUND
AMAC is a voluntary national association of local governments whose communities are adjacent to and impacted by airport operations and aircraft noise. It is not a Sydney Airport specific group and has members Australia wide. AMAC has operated continuously since 1982 and presently represents the interests of some 3.25 million residents.

Although one of its prime objectives is to progress noise abatement, AMAC is not an anti-aviation organisation. Rather it seeks to cooperate with the appropriate authorities and the airline industry to achieve an acceptable and balanced solution to the obvious problems associated with the movement of aircraft.

AMAC objectives can be summarised as achieving recognition and understanding of matters of concern to communities affected by aircraft noise and airport operations by establishing a collaborative approach in seeking the resolution of those concerns.

Over the years, Council has been invited to attend numerous annual conferences held by AMAC around Australia on a range of topics.

DISCUSSION
The SACF was established in 1996 as the peak consultation forum on the Sydney Airport Long Term Operating Plan. SACF provides advice to the relevant Federal Minister, Sydney Airport Corporation and aviation authorities on the abatement of aircraft noise and related environmental issues. SACF includes representatives from all levels of government and meets at least quarterly.

Sydney Airport also has the PCF, which was established in 2010. The aim of this group is to ensure effective partnerships between the Airport and relevant Federal, State and Local Government planning and land use authorities. The group provides for a two-way exchange of information about development occurring at the airport that might affect nearby areas, and development occurring adjacent the airport that might impact or be impacted by its operations. Council is a member of both SACF and PCF.

AMAC was very useful as a focussed interest group during the rapid change and development of the Sydney Airport through the late 1980’s and 1990’s. While it continues to do some good work, it is questionable as to how much value it brings as a national group when Council’s focus is Sydney Airport, and is involved in its key planning and consultation groups.
BUDGET AND RESOURCES
AMAC membership cost is $5,868 and generally increases by several hundred dollars each year. Additional costs are incurred if Council chooses to send a representative to the Annual General Meeting and conference or other meetings held each year as these are held in capital/major cities in Australia.

POLICY
Council’s adopted Community Strategic Plan “Our Shire Our Future” contains the following Primary Strategies that generally align with the issues around Sydney airport:

- Providing effective and critical infrastructure.
- Deliver integrated transport options.

CONCLUSION
As a voluntary national association of local governments whose communities are adjacent to and impacted by airport operations, AMAC has added value to debate about land development and the impact of aircraft noise in particular. Sydney Airport is now well established and Council is involved as a member of its peak planning and consultative bodies. The value of maintaining membership of the AMAC has therefore diminished to the point where it is recommended that it be discontinued.

RESPONSIBLE OFFICER
The officer responsible for the preparation of this Report is the Director Shire Planning, Peter Barber, who can be contacted on 9710 0373.

File Number: 2015/65503
EXECUTIVE SUMMARY

- Council has received a Planning Proposal from Dickson Rothschild regarding land adjoining the Kirrawee Centre. It seeks to increase the maximum height from 16m up to 42m and floor space ratio (FSR) from 1.2:1 up to 3.7:1.
- Analysis of the proposed urban form is not convincing. The scale and density will result in poor streetscape outcomes, residential amenity would be compromised, a landscape context cannot be achieved, and poor transitional building forms would result. Increased residential capacity is not needed for Council to achieve the five-year housing target set in the draft South District Plan.
- Traffic is highly constrained in the Kirrawee area. Council's traffic modelling indicates that there is no spare capacity at the key intersections to accommodate the proposed traffic generation.
- Council needs to make a decision as to the future of the Sutherland/Kirrawee area in light of its strategic potential and the capacity of the existing infrastructure. This decision is best made after the finalisation of A Plan for Growing Sydney and the South District Plan.

REPORT RECOMMENDATION

THAT:

1. The Planning Proposal to increase the development potential of the Flora Street Precinct, Kirrawee be rejected on the grounds that:
   - The road network cannot accommodate the traffic likely to be generated;
   - The bulk and scale of future development would be inconsistent with the current strategic direction for Kirrawee;
   - The building forms would have poor streetscape outcomes, poor transitional relationships to surrounding development and compromise residential amenity to existing and future residents.

2. Upon release of the final South District Plan a report be presented to Council outlining how the Kirrawee Centre best fits within the larger strategic vision for the South District.
PURPOSE
The purpose of this report is to consider a Planning Proposal for the Flora Street Precinct in Kirrawee which seeks to amend Sutherland Shire Local Environmental Plan 2015 (SSLEP2015) by:

• Increasing the height limit from 16m to 30m (up to 42m for specific sites);
• Increasing the floor space ratio from 1.2:1 to 3:1 (up to 3.7:1 for specific sites);
• Amending Schedule 1 Additional Permitted Uses to permit food and drink premises as part of shop-top housing on sites fronting Flora Street.

The Planning Proposal makes provision for approximately 1,700 additional dwellings.

BACKGROUND
Council received a Planning Proposal to amend the development standards applicable to the Flora Street Precinct in Kirrawee Centre on 27 November 2015. Initial assessment found deficiencies in the documentation submitted. Council officers requested further information on 15 December 2015 with a specific emphasis on traffic. On 19 February 2016, an addendum to the Planning Proposal was submitted providing only some of the requested information. The proposal was tested at this point and did not achieve a number of key development or traffic standards.

At a meeting held on 18 August 2016, Council and the applicant came to an agreement that no further work would be carried out on the proposal until after the release of the Greater Sydney Commission’s (GSC) draft South District Plan. This was the most sensible approach as the plan determines the need for additional housing within the southern Sydney region. The draft District Plan was placed on exhibition in November 2016. However, the five year housing target provided in the draft District Plan will be achieved by the capacity created under SSLEP2015. As a result, the draft District Plan does not provide strong justification for increasing the development standards on the land at this point in time. However, the final plan is to be delivered at the end of 2017 and it will provide a 20 year housing target. The GSC has stated that future housing targets will be aligned with existing and planned infrastructure capacity.

Following a meeting on 1 February 2017, the proponent put forward a reduced proposal at a FSR of 1.8:1. Council’s traffic engineers modelled the key intersections surrounding the precinct with this reduced FSR. It was found that even with planned Roads and Maritime Services (RMS) and Council road and intersection improvements, future capacity would be taken up by approved development applications in the area. As such, there does not appear to be adequate infrastructure capacity to support the planning proposal. Given this feedback, the proponent has not prepared a design analysis to support the lower FSR.
DISCUSSION

Subject Site
The subject site is bounded by Flora Street to the north, President Avenue to the south, Acacia Road to the west and the rear of the lots in Oak Road, Kirrawee. The precinct is approximately 51,952m² and currently comprises 130 mostly low-density dwellings of varying age (60 houses, 48 villas/townhouses, 12 residential units and 10 independent living units). The site is located at the eastern edge of Sutherland centre and is in close proximity to the Kirrawee Brick Pit development. The site is zoned R4 High Density Residential and adjoins the B2 Local Centre zoned Kirrawee Centre to the east. The site has three main frontages and contains an existing cul-de-sac through the middle of the precinct. A plan of the site is contained in Appendix A.

Analysis of Proposed Built Form
The Planning Proposal seeks a building height of between 30m and 42m and FSR of between 3:1 and 3.7:1. Detailed analysis by Council's architect has shown that, pursuant to the criterion contained in the Apartment Design Guide, the built forms provided in the applicant’s submission only achieve a maximum FSR of up to 2.5:1. Consequently, the conceptual plans provided show a built form much smaller than what could be anticipated at an FSR of 3.7:1. This has made a detailed assessment of the bulk and scale impacts of the proposal difficult. The design concept, as attached as Appendix B, shows a potential built form at an FSR of approximately 2.5:1, much lower than the requested controls.

The precinct’s existing context is largely set by the two and three storey development in the area. The proposal places significant justification for increased building height and density by making comparisons with the Brick Pit development. What is proposed however, is significantly more intense than the Brick Pit. While the Brick Pit will be developed to a similar height, excluding the 9,000m² park on the site, it has a FSR of only 2.53:1.

The Brick Pit significantly differs from the Flora Street Precinct in that it is an entirely vacant site under single ownership where construction of the whole precinct is occurring at the same time. In this regard, the relationship and transition between buildings can be managed. In contrast, the Flora Street Precinct contains a large number of existing dwellings of varying age, and the site is unlikely to be redeveloped for some time due to strata titled developments. The redevelopment of the site will inevitably be staggered leading to significant impacts between existing low density dwellings and proposed buildings of up to 42m.

The highest FSR within the Sutherland Shire is 4:1 and is limited to a small number of key sites within the Sutherland Centre. These sites are all zoned B3 Commercial Core which require no setbacks or landscaped area, and typically see large floor plate commercial space on lower levels, making it far easier to achieve higher densities.
The bulk and massing diagram, contained in Appendix C, shows the scale of the proposed development. Ten to 14 storey buildings overwhelm the existing residential flat buildings on the northern side of Flora Street and the opposite side of Acacia Road. With this degree of density, it is not possible to achieve the landscaped context set by the draft Development Control Plan (DCP).

The SSLEP2015 provides objectives in relation to both height and FSR. These objectives ensure that future buildings do not adversely affect existing development and the character of an area. It is evident that increasing the height on the land to the extent proposed is contrary to the following objectives:

(a) To ensure the scale of buildings:
   i. is compatible with adjoining development;
   ii. complements any natural landscape setting of the buildings.

The increase in FSR of up to 3.7:1 also fails to meet the following objectives:

(a) To ensure that development is in keeping with the characteristics of the site and the local area;
(b) To ensure that the bulk and scale of new buildings is compatible with the context and locality.

Increasing the height and density in this precinct needs careful consideration to determine the spatial relationships between future buildings. Council needs to be satisfied that the land has the environmental capacity to accommodate the development facilitated by the Planning Proposal. In particular, it needs to ensure that the proposed development standards can achieve buildings with adequate separation and amenity. This approach ensures that future development will be able to meet the requirements of SEPP 65 – Design Quality in Residential Flat Buildings. Council also needs to be satisfied that building forms will have an appropriate transition in scale to existing dwellings where short term redevelopment is highly unlikely.

Separation requirements between proposed buildings appear to be compliant within the precinct however, in those areas where building separation is minimal; the concept uses blank walls to achieve SEPP 65 compliance. While technically permissible, blank walls would normally only be employed in dense urban centres. Here development will be taken up slowly leading to large blank walls dominating the landscape. In a suburban context such as this, it is preferable to design buildings as towers in the landscape where residents can benefit from views and ventilation on each face of a building. The density proposed would compromise the amenity of future residents while also reducing the quality of individual buildings.

Given the ground floor commercial uses proposed on Flora Street, a nil front setback is proposed when a 7.5m landscaped setback would normally be required. To achieve the FSR requested the proposal shows a continuous built form along Flora Street, with an unbroken built form approximately 116m in length. This produces buildings of excessive visual bulk with large unbroken shadows being cast. Development of this scale would rely upon blank walls to maintain the continuous built form.
The Planning Proposal assumes that all existing strata titled buildings will redevelop; however, strata titled properties are often barriers to redevelopment. Development of the precinct would inevitably be staggered leaving periods where 30m blank walls are major elements in the landscape sited with nil setbacks to existing low density dwellings. This is a poor planning outcome in what is a suburban context.

An underlying principal of SSLEP2015 was to increase housing capacity while maintaining the landscape character of the Sutherland Shire. Most neighbourhoods sit among canopy trees. SSLEP2015 was based on the concept of high rise buildings being in centres surrounded by high density residential flat zones that would sit comfortably among large canopy trees. A determining factor when deciding to apply the 16m height limit was to ensure future development would be of a comparable height to indigenous trees, helping to maintain the landscaped character of the Shire and soften the visual impact of large residential flat buildings. The heights and densities proposed negate the potential for a strong landscaped character to be achieved. The proposal is more akin to a dense B3 Commercial Core zone than a R4 High Density Residential zone. The degree of change sought by the proposal would result in a transformation in the character of the area comparable to places such as Chatswood and Hurstville. The question arises as to whether Council wishes to change local character to this extent.

The preparation of SSLEP2015 was based on more conservative increases in density that sought to accommodate increased housing while maintaining the qualities of an area. This strategy has worked and has allowed significant residential capacity to be realised. If Council is of the view that it is time to review the strategic role of Kirrawee and Sutherland, this is best conducted as part of a detailed study of how the entire area could function in the future. However, the concept presented in the subject Planning Proposal does not present a convincing argument.

**Implementation Strategy and Current Development Applications**

The scale of the proposal brings into question the way the redevelopment strategy would be implemented and how the precinct is expected to evolve over time. Given that 749 dwellings are under construction at the Brick Pit site and there is substantial potential for other sites to be developed in accordance with the existing planning provisions, the applicant was requested to provide an analysis of the likely take up rates and market demand for units in the medium term, this was not provided.

Since the gazetted of SSLEP2015, four development applications for residential flat buildings have been received within the precinct highlighting the economic viability of the current development controls. The applications show that the current development controls can significantly increase housing density, maintain good transitions to neighbouring dwellings and meet the objectives of the zone.
**Additional Permitted Use – Food and Drink Premises**

The Planning Proposal seeks food and drink premises as a permissible use along Flora Street. If this area is to be a dense urban environment, activation of the street with cafes would improve passive surveillance and the vitality of the neighbourhood. However, without clear market demand for such uses, the question arises as to what the outcome would be if food and drink premises are not taken up. Vacant space will be counterproductive to local amenity.

The Brick Pit makes provision for 8,000m$^2$ of retail/commercial floor space of which a large portion is anticipated to be taken up by cafes and restaurants. Without any analysis of the expected take up of the commercial floor space, concern is raised that the applicant may be seeking to add the additional uses in order to have a reduced street setback to Flora Street so that FSR can be more readily achieved.

In the making of SSLEP2015 the NSW Planning and Environment took the view that Council had over relied on Schedule 1. Many of the specific provisions of Schedule 1 were removed from the plan prior to its gazettal. The general advice Council received was that it should rely on zoning rather than Schedule 1. This suggests that the R4 zone is a poor fit for the outcomes sought by the proposal.

**Strategic Potential of the Site**

In 2007, the Draft Subregional South Strategy set a statutory responsibility for Sutherland Shire Council to make provision for approximately 10,100 additional dwellings by 2031. To meet this goal, Council prepared its most recent Housing Strategy which informed SSLEP2015. Development applications approved since gazettal of the new plan show the market is taking up housing opportunities at rates that exceed the demand forecasts of NSW Planning and Environment.

Council received the Planning Proposal in November 2015 at a time when Council was under no obligation to facilitate additional housing supply. The view at the time was that new housing targets would be contained in the Draft South District Plan. However, the Draft South District Plan has only set Sutherland Shire a target of 5,200 additional dwellings by 2021 based on likely market demand. SSLEP2015 will readily meet this target and therefore there is no immediate need for Council to increase its housing capacity.

However, the Flora Street Precinct is well located to centres and transport and does have strategic potential to take on a greater role in the future. In preparing its most recent housing strategy, Council did not increase the development standards in Kirrawee to the extent of Sutherland, Miranda and Caringbah centres due to of the degree of change expected from the Brick Pit development.

Council should note that the District Plan requires a minimum of 83,500 new dwellings in the south district by 2036. To accommodate these dwellings, good planning practice requires a capacity based approach to determine the location of future housing. A number of government agencies are currently reviewing the existing infrastructure across NSW to determine areas where capacity exists.
Investigation areas for future housing capacity will be part of the final District Plans. This process will direct each council to create additional housing supply where future infrastructure can accommodate growth. Both the Illawarra Line and the road network around Kirrawee are struggling to accommodate current levels of use in peak periods. It would be premature to commit to significantly increase development capacity at Kirrawee without knowing whether future infrastructure can accommodate the growth.

If Council wishes to change the role of the centre it would be best informed by a comprehensive design led review of the Kirrawee centre in its entirety and its relationship with the Sutherland Centre. This review would need to look at a wider area than just the Flora Street Precinct and determine an overarching strategic plan to guide the centres into the future. This should occur when the capacity of the area is known and not on a case-by-case basis as planning proposals are received. It is recommended that upon release of the final South District Plan a report be presented to Council outlining how Kirrawee best fits within the larger strategic vision for the South District.

Traffic
One of the key planning constraints in Kirrawee is managing traffic. A traffic report prepared by Ason Group formed part of the Planning Proposal. This report estimates that the proposal would generate the following additional trips:

<table>
<thead>
<tr>
<th></th>
<th>AM Trips</th>
<th>PM Trips</th>
</tr>
</thead>
<tbody>
<tr>
<td>Existing Site</td>
<td>88</td>
<td>90</td>
</tr>
<tr>
<td>Proposed Development (3:1)</td>
<td>358</td>
<td>445</td>
</tr>
<tr>
<td>Net Traffic Generation (increase)</td>
<td>270</td>
<td>355</td>
</tr>
</tbody>
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Council’s Traffic Engineers have assessed the impacts of the proposal in conjunction with other development within the Kirrawee Centre and surrounds. In March 2016, Council’s Traffic Engineers concluded that in order to minimise the impact from the Planning Proposal on the future road network, particularly at the Oak Road/Flora Street intersection, it was reasonable to increase the FSR up to a maximum of 1.5:1 subject to cumulative traffic impact assessment including Brick Pit, Woolworths and other Planning Proposals as appropriate.

The applicant subsequently put forward a revised FSR of 1.8:1. Council undertook traffic modelling on this basis for the key intersections, taking into consideration traffic generation and distribution from the Brick Pit development, proposed Woolworths and units in Flora Street, and the proposed childcare centres at 112 Oak Road, Kirrawee. Council’s traffic modelling indicated that even with the proposed RMS and Council road and intersection improvements, impending developments in the area will take up the additional capacity leaving no spare capacity at the key intersections to accommodate the traffic increases from the Planning Proposal. As a result, Council’s Traffic Engineers do not support any increases in the development standards in the precinct above the existing 1.2:1.
The Standard Instrument Order contains specific objectives relating to the application of a FSR to a parcel of land and the existing traffic capacity. Clause 4.4 states:

(c) to establish the maximum development density and intensity of land use, taking into account:
   iii. the capacity of the road network to accommodate the vehicle and pedestrian traffic the development will generate.

Any increase in FSR would be contrary to this objective. If Council seeks to increase the density in the area it is recommended that it wait for the release of the NSW Government Long Term Transport Master Plan and Infrastructure Plan which are due later this year. These plans will set the direction for transport planning in NSW and provide a framework for transport and infrastructure investment decisions.

BUDGET AND RESOURCES

The Planning Proposal could proceed within the Strategic Planning Unit’s budget allocation. Budget allocation would be necessary if Council chooses to begin a strategic review of the Kirrawee/Sutherland Centres.

POLICY

If the Planning Proposal proceeds, SSLEP2015 will be amended and locality specific DCP provisions would be required.

CONCLUSION

The planning proposal seeks to amend the development standards applying to the land in the Flora Street Precinct to provide an additional 1,700 dwellings. Based on State housing targets, there is no justification to increase the number of dwellings in Kirrawee at this point in time. The Planning Proposal has not adequately demonstrated that the height and density proposed will result in Kirrawee being a pleasant living environment. Instead, the density would struggle to meet the design standards of the Apartment Design Guidelines, have poor transitional relationships to underdeveloped sites, and generate more traffic than the road network can accommodate. As such, the Planning Proposal is not supported.

Despite this, Kirrawee Centre is strategically located and could take a very different strategic focus in the future, but this is best led by a comprehensive review of the wider area. The final version of the South District Plan will inform this review because it will highlight where future infrastructure capacity will accommodate growth.

RESPONSIBLE OFFICER

The officer responsible for the preparation of this Report is the Manager Strategic Planning, Mark Carlon, who can be contacted on 9710 0523.

File Number: 2015/225892
EXECUTIVE SUMMARY

- The restructure of Family Day Care in 2016 has resulted in the Council owed site located at 276B Gymea Bay Road, Gymea Bay becoming surplus Council to requirements.
- The identification of redundant Council owned assets and the divestment of surplus community land supports Council's financial sustainability, it is therefore recommended that this action proceed.
- To facilitate this outcome, the land will be rezoned from RE1 Public Recreation to R2 Low Density Residential and reclassified from Community Land to Operational Land, requiring the preparation of a Planning Proposal to amend Sutherland Shire Local Environmental Plan 2015 (SSLEP2015).

REPORT RECOMMENDATION

THAT:

1. The disposal of land identified as being surplus to the current and future needs of the local community located at of 276B Gymea Bay Road, Gymea Bay (Lot 1 DP 14346) be endorsed.

2. A Planning Proposal be prepared to amend Sutherland Shire Local Environmental Plan 2015 by rezoning 276B Gymea Bay Road, Gymea Bay (Lot 1 DP 14346) from RE1 Public Recreation to R2 Low Density Residential and reclassifying the land from 'Community' to 'Operational' land. The Planning Proposal is to be submitted to the Greater Sydney Commission for Gateway Approval to facilitate the public exhibition of the proposal.

3. Subject to point 1, a public auction process be undertaken for the sale of Lot 1 DP 14346 located at 276B Gymea Bay Rd, Gymea Bay and if the auction reserve price is reached, a contract for sale at terms and conditions to the satisfaction of the General Manager be entered into.

4. Subject to point 3, in accordance with the Power of Attorney dated 6 July 2016 BK 4710 No. 28, the General Manager execute any necessary documentation to give effect to this resolution.
PURPOSE
This report seeks Council’s endorsement of the divestment of surplus community land at 276B Gymea Bay Road, Gymea Bay. If supported, Council must also resolve to reclassify the land from Community land to Operational land and to rezone the site from RE1 Public Recreation to R2 Low Density Residential. A Planning Proposal is required to facilitate this process by amending SSLEP2015.

BACKGROUND
The site of 276B Gymea Bay Road, Gymea Bay is currently zoned as RE1 Public Recreation and is presently occupied by a Council Children’s Services Family Day Care. Council purchased this property on 20 September 1974 from the Church of England Property Trust for $27,500.00.

The site is triangular with a total area of approximately 708m². It is bordered by Gymea Bay Road to the west and Greygum Place to the east. The site contains a single storey fibro building with corrugated sheet roofing, as well as play equipment and shade structures. A number of large trees exist on the site. Pedestrian access is available from both Gymea Bay Road and Greygum Place to the rear. No vehicular access is present at this time, although Greygum Place has roll-top kerbing. The building is nearing the end of its economic life. While the site is currently zoned RE1 Public Recreation under SSLEP2015, it is fenced and public access is not permitted.

The subject site is located within a well-established R2 Low Density Residential zone, as shown in Appendix A. The rezoning from RE1 to R2 would make the property consistent with surrounding land. The rezoning of the land would include the application of the relevant development standards for the R2 Low Density Residential Zone to the site.

DISCUSSION
The key issues raised by the rezoning and disposal of the site are addressed below.

The Land is Surplus to Council’s Community Service Needs
The site has been used by Children’s Service to facilitate play sessions for Family Day Care Educators as well as local playgroups. A restructure of Family Day Care in 2016 has resulted in Children’s Services no longer facilitating play sessions or playgroups at Gymea Bay, the site is now only utilised to host training and meetings, which can occur in other locations. Family Day Care educators and families were involved in extensive consultation and this change has been implemented over the past year with many alternate networking opportunities provided. The site is now considered to be redundant and is surplus to the needs of Children’s Services.

The site is currently hired out to local playgroups and is utilised on Monday, Tuesday, Thursday and Friday 10am – 12pm. There are within close proximity alternative venues which playgroup users could occupy, these include Gymea Bay Oval and the Gymea Bay Community and Recreation Centre Hall, Forest Road Scout Hall, Grays Point Community Hall or the Gymea Community Centre located in Gymea Village.
Availability of Alternate Public Recreation Facilities

Approximately 94m south of the subject site is a Reserve located at 2-6 Casuarina Road, Gymea Bay (Lot 1 DP 10487). The reserve is zoned RE1 Public Recreation and is triangular with an area of approximately 936m². A 1.2m high fence borders the boundaries separating the park from traffic on Gymea Bay Road and Casuarina Road. The park includes play equipment on a sand pit base and has seating and public rubbish bins within a landscaped setting and is located opposite neighbourhood shops.

Approximately 200m north of the subject site is ‘Old School Park’ at 250B Gymea Bay Road, Gymea Bay (Lot 1 DP 847383) which is also zoned as RE1 Public Recreation. This is a large park with an area of approximately 5,050m². The park includes play equipment on a mulched based, multiple seating options, a cycle path, substantial grassed areas and two gazebo structures. This park adjoins an extensive area of bushland to the north east (Appendix B), which adds to its amenity and recreational value.

The presence of these two parks in close proximity to the subject site offer local residents good access to a wide range of recreational opportunities without needing to reply on the subject site. Being only 708m² in area and triangular, the subject site is too small to lend itself to a wide range of recreational uses.

Consideration of Alternative Community Uses

Maintaining this facility with its current usage requires ongoing costs such as cleaning, gardening, waste collection, utility charges, consumables and general maintenance. These costs are not met by the rent received by the playgroup users. In addition the existing revenue does not account for the significant investment that will be required on the buildings infrastructure in future years.

Other community uses have been considered and deemed not viable include:

- **Library** – the size of the subject site being only 708m² is not large enough to support a library. Furthermore, the site is not located in close proximity to a train line or regular bus services, and insufficient parking would be available to accommodate users.

- **Community Hall** – the provision of local community hall facilities are adequate to the current and future needs of the local community.

Fit for the Future: Strategy 3 Financial Sustainability seeks to identify redundant Council owned assets and develop a divestment strategy. The subject property is redundant in its present use of a Family Day Care and is surplus to the recreation and community service needs of the local community. Therefore, Council’s should divestment itself of the subject property.
Rezoning and Reclassification
If the land is considered surplus to existing and future requirements and Council looks to divest itself of the asset, SSLEP2015 must be amended to rezone the land and to be reclassified as Operational Land. A Planning Proposal must be prepared followed by community consultation, and a Public hearing on the proposed reclassification of land. This process cannot commence until a Planning Proposal is submitted to the Greater Sydney Commission and has received Gateway approval.

CONSULTATION
Subject to Gateway Approval, consultation will typically consist of a 28 day public exhibition. A public hearing will also be required to inform the reclassification of the land.

BUDGET AND RESOURCES
The preparation of a Planning Proposal can be met within the budget allocation of Strategic Planning. The Public Hearing will be the responsibility of the Property Services Unit utilising existing resources.

Funds from any sale of the property would be paid into the Property Fund to be allocated to future investment options to be considered by Council.

POLICY
Realising the locked capital held within this surplus asset allows Council to take a strategic approach to its asset management and progress towards achieving long term financial sustainability.

CONCLUSION
The present usage of the subject site does not facilitate public access and the use is redundant to the local community needs. The close proximity of alternative suitably equipped public recreation facilities meets the current and future needs of the immediate local community. These factors support Council divesting itself of the property. The proposed reclassification and rezoning to R2 Low Density Residential would be consistent with surrounding land and will facilitate the disposal of surplus Council owned land, by way of public auction.

RESPONSIBLE OFFICER
The officers responsible for the preparation of this Report are the Manager Property Services, Lani Richardson, who can be contacted on 9710 0614, Manager Children’s Services, Renae Giles, who can be contacted on 9710 0253 and the Manager Strategic Planning, Mark Carlon, who can be contacted on 9710 0523.

File Number: 2017/271413
This map has been produced with the most current data available to Council as supplied by various sources. INFORMATION IN THIS MAP IS SUBJECT TO COPYRIGHT. Council is not responsible for any inaccuracies in the data provided. Contact Council's Land Information Unit (ph. 9710 0116) for more information.
EXECUTIVE SUMMARY

• The land located at 1A and 1-13 Atkinson Road, Taren Point was to be purchased by Council to form part of the Woolooware Bay cycle way, however this has not eventuated and the site is no longer required.

• A Planning Proposal to reclassify and rezone 1A and part 1-13 Atkinson Road, Taren Point from RE1 Public Recreation to B7 Business Park, and remove the land reservation status was therefore prepared, the consultation phase of this is now complete.

• No submissions were received from the community, however submissions were received from the Office of Environment and Heritage (OEH) and Ausgrid supporting the Planning Proposal.

• It is recommended that the Planning Proposal proceed as exhibited.

REPORT RECOMMENDATION

THAT:

1. Council formally request Parliamentary Counsel prepare and make a legal instrument to rezone land at 1A and part 1-13 Atkinson Road, Taren Point to B7 Business Park with a Floor Space Ratio of 1.5:1, Minimum Lot Size 1Ha, Maximum Building Height of 16m and remove the Land Reservation status; Local open space (RE1).

2. On receipt of the Opinion of the Parliamentary Counsel's Office that the legal instrument can be made, pursuant to Clause 400 of the Local Government (General) Regulations 2005, the LEP be executed under the Common Seal of the Council of the Sutherland Shire in the presence of the Mayor and General Manager.
PURPOSE
The purpose of this report is to detail the results of the exhibition of the Planning Proposal for land at 1A and part 1-13 Atkinson Road, Taren Point.

BACKGROUND
Council resolved on 19 December 2016 (PLN013-17) to prepare a Planning Proposal to effect changes to zoning and the removal of the Land Acquisition status on the land. The land was originally reserved for the completion of the Woolooware Bay cycle way, however, Council has not been successful in purchasing the land. An alternative solution has been developed that does not require the acquisition of the land.

The proposal was prepared and submitted to the Greater Sydney Commission on 20 January 2017. A Gateway Determination was received on 10 February 2017, allowing the proposal to proceed to exhibition subject to conditions. The Gateway Determination delegated plan-making power to the Council.

DISCUSSION
The proposal seeks to rezone the land from RE1 Public Recreation to B7 Business Park, to apply the following development standards: Floor Space Ratio of 1.5:1, Minimum Lot Size 1Ha, and Maximum Building Height of 16m and to remove the Land Reservation status: Local open space (RE1).

Council has been delegated the authority to make the plan for this proposal.

CONSULTATION
Exhibition material was available at all Council library branches, at the Customer Service Centre and online through Council’s “Join the Conversation” website from 28 February to 29 March 2017.

As a condition of the Gateway Determination, Council was required to consult the Office of Environment and Heritage (OEH), who provided a submission in support of the planning proposal.

A submission was also received from Ausgrid that supported the planning proposal, commenting that any future development required due consideration to be given to the compatibility of the proposed development with the existing Ausgrid infrastructure.

No public submissions were received during the exhibition period.

BUDGET AND RESOURCES
The finalisation of the Planning Proposal is within the budget and resources allocation of the Strategic Planning Unit.
POLICY
The recommendations within this report will amend Council's primary planning instrument SSLEP2015.

CONCLUSION
The Planning Proposal seeks to amend the SSLEP2015 by rezoning land at 1A Atkinson Road and part 1-13 Atkinson Road, Taren Point. It is recommended that the Planning Proposal proceed as exhibited.

RESPONSIBLE OFFICER
The officer responsible for the preparation of this Report is the Manager Strategic Planning, Mark Carlon, who can be contacted on 9710 0523.

File Number: 2017/266883
EXECUTIVE SUMMARY

- Land in Council ownership (Part 99R Acacia Road, Sutherland) will be reclassified from Community to Operational Land and rezoned from RE1 Public Recreation to R4 High Density Residential. An equivalent area of land in private ownership (Part 42 Auburn Street, Sutherland) will be rezoned from R4 High Density Residential to RE1 Public Recreation.

- The Planning Proposal is running concurrently with the Development Application (DA16/1620) by Bupa Care Services Pty Ltd (BUPA) for seniors housing.

- Three submissions were received during the public exhibition, and these generally raised issues with the building height, traffic, parking, impact on existing character, overshadowing and pedestrian safety.

- The issues of concern to the community are essentially matters to be considered as part of the development assessment process. The issues do not establish that a better public recreation outcome can be achieved with the status quo. The issues do not warrant change to the Planning Proposal.

REPORT RECOMMENDATION

That Council formally request the Department of Planning and Environment to prepare and make a legal instrument to amend SSLEP2015 in accordance with the Planning Proposal Part 99R Acacia Road and Part 42 Auburn Street, Sutherland.
PURPOSE
The purpose of this report is to detail the results of the public exhibition of the Planning Proposal for part 99R Acacia Road and part 42 Auburn Street, Sutherland.

BACKGROUND
Council resolved on 18 July 2016 to prepare a Planning Proposal which seeks to facilitate a land swap between the developer of a seniors housing development (BUPA) and Council (FAS007-17). BUPA initiated the Planning Proposal to improve the development outcomes for their site but also recognising that making the open space square, rather than L-shaped, would improve its recreational value to the community. At present the land in Council ownership is fenced and does not provide any recreational value to the community.

DISCUSSION
The Planning Proposal seeks to reclassify and rezone Part 99R Acacia Road, Sutherland from Community to Operational land and rezone it RE1 Public Recreation to R4 High Density Residential while applying the following development standards: maximum floor space ratio 1.5:1, maximum building height of 20m and a minimum 30% landscape area. Additionally, the Planning Proposal seeks to rezone an equivalent area that forms part of 42 Auburn Street, Sutherland from R4 High Density Residential to RE1 Public Recreation, while removing the following development standards; maximum floor space ratio 1.5:1, maximum building height of 20m and a minimum 30% landscape area.

The proposal was submitted to the Department of Environment and Planning on 1 November 2016. The Gateway Determination was received on 25 November 2016, which allowed Council to exhibit the Planning Proposal. Due to the reclassification of land, the Gateway Determination delegated plan-making power to NSW Planning and Environment.

CONSULTATION
Exhibition material was available at all Council library branches, at the Customer Service Centre and online through Council’s “Join the Conversation” website. The proposal was on exhibition between 21 December 2016 and 31 January 2017. A public hearing was also held on 23 February 2017.

As a condition of the Gateway Determination, Council were required to consult with a number of public authorities which included NSW Health, Transport for NSW and the Office of Environment and Heritage.

Public Authority Submissions
Two public authority submissions were received from the Office of Environment and Heritage (OEH) and the Road and Maritime Services (RMS). The submission from RMS raised no objections.

The initial OEH submission referred to the impacts of removing and fragmenting the native vegetation evidenced as an Endangered Ecological Community - Sydney-Turpentine Ironbark Forest (STIF).
OEH concerns included the impact of the development on the Council reserve; removal, fragmentation and isolation of the STIF; the overshadowing of STIF vegetation by new buildings (height 22.65m); the close proximity of the development to the reserve (1.5m); and possible hydrological changes associated with excavated construction work. OEH recommended that further consideration be given to the impact of the development. It recommended further investigation be conducted through the development application to provide measures to limit negative impacts on the STIF species present and to enhance the connectivity along Acacia Road between the BUPA development and the Council reserve.

In response to OEH comments BUPA conducted further research which included:

- Comprehensive Flora Survey, Assessment of Significance and Section 5A Assessment (Seven Part Test) for STIFF dated 27 February 2017.
- Corrections to inconsistencies in the Arborist report, Ecologist report and Tree Removal and Retention Plan.

Council’s Environmental Science Unit have considered the further research and agree with the consultant’s assessment and conclusion being “provided there are no changes in design resulting in additional impacts on the STIF, then the proposal is unlikely to result in a significant impact and as such does not require a Species Impact Statement.”

On 30 March 2017, OEH reviewed the additional information provided. A subsequent submission from OEH was received. OEH are now supportive of the recommendations made by Eco Logical Australia and have no further comments in relation to the Planning Proposal. As such OEH’s initial concerns have been fully resolved.

**Public Hearing**

On 23 February 2017, a Public Hearing was convened for the purposes of Section 29 of the Local Government Act 1993. An independent facilitator managed the hearing that aimed to discover and explore issues of concern for those in attendance (12 attendees). The main concerns noted were the potential loss of public amenity due to overdevelopment of the BUPA site, the timing and type of park embellishment, and environmental concerns including impacts on the STIF.

Appendix A contains the Public Hearing Report (23 February 2017). The main comments/suggestions put forward regarding the Council reserve were:

- That Council build the park immediately;
- That the L shape be maintained in order to provide greater setbacks to the development;
- That Council acquire all the land along Acacia Road; and
- That Council acquire the back portion of the L shape park to create a new larger rectangle park (rather than proceed with a land swap).
Timing and design of the park are issues that Council can address. However, the main issues relate to the potential loss of the trees and the role of the park as a buffer to existing residents located opposite.

The primary purpose of public open space is to provide for the recreational needs of residents. The proposed consolidated square space is more useable than the existing L-shaped space. The ‘square’ configuration also enhances visual surveillance and security. As such the land swap is considered to facilitate a better public outcome.

Council’s Environmental Science Unit and OEH comments both concluded that there will be no adverse impacts on vegetation. BUPA have offered to embellish the park as part of a VPA. It is considered that the Planning Proposal is the best means of achieving a positive long-term outcome for the reserve without creating further acquisition liabilities for Council.

In conclusion, it is considered that the issues raised do not warrant abandoning the proposed rezoning and reclassification of the land.

Delegation of the Plan Making Process
The Department of Planning and Environment has the delegation of plan making for this proposal.

BUDGET AND RESOURCES
The finalisation of the Planning Proposal is within the budget and resources allocation of Strategic Planning.

POLICY
The recommendations within this report will amend Council’s primary planning instrument SSLEP2015.

CONCLUSION
The Planning Proposal for Draft Amendment to SSLEP2015 seeks to rezone and reclassify land at both part 99R Acacia Road, and part 42 Auburn Street, Sutherland. The main issue is the potential impact on significant vegetation. However, it has been established that there will be no adverse impacts on vegetation.

The ‘square’ configuration is also the best means of achieving a better design outcome for the reserve. At present the open space provides no recreational value. The land swap proposed in the Planning Proposal and it’s embellishment through a VPA will create value for the community with the delivery of a quality recreation space. The proposal should proceed as exhibited.

RESPONSIBLE OFFICER
The officer responsible for the preparation of this Report is the Manager Strategic Planning, Mark Carlon, who can be contacted on 9710 0523.

File Number: 2016/260973
Sutherland Shire Council

Proposed Reclassification of Community Land – 99R Acacia Road, Sutherland

Public Hearing - Report

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23 February 2017
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APPENDICES

Appendix 1  Sketches Presented by Council
Introduction

This report provides a record of the discussions that took place and the information shared at the public hearing in relation to the proposed reclassification of community land at 99R Acacia Rd, Sutherland. The hearing was held on Thursday, 23 February 2017, in Council Chambers, Sutherland Shire Council, Eton St, Sutherland.

There were approximately 12 attendees at the session. It commenced at 6:35pm and concluded at 7:50pm. While the names and contact details of those who attended were recorded, they are not included in this report for privacy reasons.

The independent facilitator for the session was Declan Tierney of Tierney Page Kirkland Pty Ltd who brought a clearly defined structure to the process. The mood throughout was non-adversarial with everyone in attendance displaying a respectful demeanour at all times. This helped ensure that key issues and concerns were identified and discussed openly.

Participants’ input/views were recorded verbatim and in real time using a computer and data projector.

After a brief presentation that provided information regarding the current status of the reclassification, the adopted methodology allowed attendees to:

- Spell out their assumptions regarding the proposed reclassification.
- Express concerns;
- Ask questions; and
- Put forward suggestions for consideration

1.1 Report

The information contained in this report is an accurate record of the input received from those in attendance. No attempt has been made to draw conclusions or infer meaning.
Setting the scene

2.1 Welcome – Lucia Coslovi, Property Officer

Lucia opened proceedings by welcoming participants to the hearing and thanking everyone for taking the necessary time from their busy schedules.

She briefly outlined the rezoning process and rationale underpinning the reasons for initiating the process.

Lucia stressed that the session was only about discussing the reclassification, it had nothing to do with the development approval process.

The sketches referred to may be found in Appendix 1.

2.2 Land reclassification explained

The following information was provided in the agenda for the session and is included here for information purposes.

What is reclassification of Council Land?

It is the legal process under the Local Government Act 1993 normally used for converting Community Land to Operational Land.

What do the terms Community and Operational Land mean?

Community Land is a class of Council owned or managed land which cannot be sold and can only be leased for a limited range of purposes, normally used for land such as parks it is generally intended to keep the land in Council ownership for uses that benefit the community. Operational Land on the other hand is unrestricted and Council can lease or sell the land with virtually no restrictions.

What purpose does the public hearing serve?

It is a statutory process under the Local Government Act 1993 allowing members of the community to raise their issues in front of an independent person and for that person to record the concerns and report them to Council.

Does zoning influence classification?

No. They are completely separate. Zoning under the Sutherland Shire Environmental Plan 2015 prescribes permitted forms of development while classification provides permissions to Council in relation to land transactions such as sale or lease.

What happens after the public hearing?

The independent chairperson of the hearing provides a report to Council detailing the submissions made. The Council then considers whether to proceed with the reclassification or not. If it decides to proceed the matter is sent to the Minister for Planning to make the final decision as part of the local environmental plan process and the reclassification is gazetted after which the classification changes.

2.3 Hearing objectives

Before launching into any workshop or hearing, it is important that participants agree on its purpose and the input being sought. The objectives were circulated prior to the workshop and these revisited at the commencement of the session.

The objectives for the hearing were:

♦ To update participants on the current status of the proposed reclassification;
♦ To identify issues and concerns;
♦ To record questions in regard to proposals;
♦ To obtain and record answers to questions, where possible;
♦ To record any suggestions put forward by participants; and
♦ To develop an action plan as necessary.
In expressing their views, the attendees were encouraged to dictate words that succinctly expressed their points. This information was recorded on a computer displayed on a data projector. Throughout, confirmation was sought that what had been recorded accurately reflected the intended meaning.
3  Information gathered from public hearing

The contributors were asked to provide input by listing their assumptions regarding the situation, their concerns, and / or their questions. The results are provided in the sections that follow.

3.1  Assumptions

When the various assumptions had been listed, they were discussed as being facts, working assumptions or questionable.

Facts
♦ The shape of the recreational space will change from L-shaped to rectangular.
♦ Final design of the park has not been fully resolved.
♦ If the parcel of land was to remain in its current shape, it is unlikely that there would be significant investment in developing it - it would likely remain a pocket park.
♦ If the land swap does not proceed, BUPA will still be able to develop its site but would need to amend the current design.
♦ Retaining the L-shape would restrict the frontage face of the high rise - there would be a greater setback from the street.

Working assumptions
♦ There is parkland there at present and there will be parkland in the future.

Questionable
♦ Council is proposing this change to improve amenities for the community.
♦ Trees currently on site will not be removed.

3.2  Concerns

♦ The L-shaped block of land being transferred to BUPA – therefore lost as a public amenity.
♦ The swap happens, the reclassification goes ahead and a monstrosity gets built.
♦ If the land swap proceeds, the developer will construct high rise to the street face, which could not occur without the land swap.
♦ Following the land swap, the park is never developed.
♦ The premise that a rectangular park is easier to maintain than a L-shaped park may not be true
♦ A good reason for proceeding with the land swap does not appear to be evident, since Council does not have a clear plan as to what to do with the new area that will result.
♦ The impact that the land swap could have on the significant Sydney Turpentine Ironbark Forrest.

3.3  Questions

The attendees were asked to table any questions they had regarding the reclassification. The Council officers present agreed to provide feedback where possible. The results follow:

<table>
<thead>
<tr>
<th>Question / concern</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Why does Council want to reclassify 99R Acacia Rd from community land to operational?</td>
<td>Council would like to have some flexibility in the future use of the site. It cannot do this under the community land classification.</td>
</tr>
<tr>
<td>Question / concern</td>
<td>Response</td>
</tr>
<tr>
<td>----------------------------------------------------------------------</td>
<td>--------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Why does the land have to be reclassified?</td>
<td>Without reclassifying Council cannot do the land swap, which it has endorsed.</td>
</tr>
<tr>
<td>What is the benefit to the community of having a rectangular park rather than L-shaped</td>
<td>Regular shape facilitates maintenance, enhances visual surveillance and security. It is a more traditional park shape.</td>
</tr>
<tr>
<td>Would Council be reclassifying if a DA had not been lodged?</td>
<td>No. Following BUPA’s pitch to Council, benefits were seen and Council resolved to support the land swap.</td>
</tr>
<tr>
<td>What will the road frontage be of the new park?</td>
<td>Approximately 35 - 40 metres, the existing frontage is in the order of 58 metres</td>
</tr>
<tr>
<td>If land swap goes ahead how long will it be before the park is developed?</td>
<td>It is not possible to predict at this stage.</td>
</tr>
<tr>
<td>Will BUPA be responsible for developing the new park as part of the DA approval conditions?</td>
<td>It is a possibility; however, it has not been discussed / negotiated at this stage.</td>
</tr>
<tr>
<td>Will there be public consultation regarding design of the new park?</td>
<td>Yes, this is standard practice.</td>
</tr>
<tr>
<td>Are the land areas being swapped identical in terms of area?</td>
<td>Yes.</td>
</tr>
<tr>
<td>Have valuations been undertaken on the parcels being swapped?</td>
<td>No, but it is likely that the valuations would show different values due to the current zonings, but would be valued the same under the proposed zoning as the land size is the same.</td>
</tr>
<tr>
<td>Is BUPA receiving a commercial benefit through this land swap without providing appropriate compensation?</td>
<td>Comment.</td>
</tr>
<tr>
<td>How often do land swaps occur?</td>
<td>Rarely, although reclassifications do occur on a reasonably regular basis.</td>
</tr>
<tr>
<td>Has Council considered taking the rear part of the “L” and putting it to the street frontage?</td>
<td>No, it would limit development potential for BUPA and would create a greater impact on the endangered trees.</td>
</tr>
</tbody>
</table>

### 3.4 Suggestions

Finally, the group was invited to put forward suggestions that could be considered by Council going forward. They were:

**Can we ...?**

- Get Council to build the park right now as L-shaped and cancel the land swap.
- Create a rectangular park by purchasing a portion of the BUPA site adjacent to the “L”.
- Obtain closure in relation to the issue of the park, as it has been in a state of flux for 15 years.
- Take the rear part of the “L” and put it to the street frontage
3.5 Action plan

The final task undertaken in bringing the hearing to a conclusion was to list actions that need to be pursued.

Just one item as identified as shown below:

<table>
<thead>
<tr>
<th>No</th>
<th>Action</th>
<th>Who</th>
<th>By When</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Prepare and submit the draft report from tonight’s hearing to Council.</td>
<td>Declan Tierney</td>
<td>28 Feb 2017</td>
</tr>
</tbody>
</table>
Appendix 1
Sketches Presented by Council
Reclassification of Community Land – 99R Acacia Rd, Sutherland
Public Hearing – Report

NAME OF PLANNING PROPOSAL
Sutherland Shire Local Environmental Plan 2015 Amendment 8

LAND AFFECTED AND PROPOSED CHANGES

- Part 99R Acacia Road Sutherland (part Lot 11 DP 1103619)
  - Reclassify approximately 445 m² from Community to Operational Land
  - Rezone approximately 445 m² from RE1 Public Recreation to R4 High Density Residential
  - Apply development standards to the land to be zoned R4 – maximum Floor Space Ratio (FSR) 1.5:1; maximum height of buildings 20m and minimum 30% landscape area

- Part 42 Auburn Street Sutherland (part Lot 200 DP 1110295)
  - Rezone approximately 445 m² from R4 High Density Residential to RE1 Public Recreation
  - Remove development standards from the land to be zoned RE1 - maximum FSR 1.5:1; maximum height of buildings 20m and minimum 30% landscape area

The rezoning and reclassification are to facilitate a land exchange to occur between Sutherland Shire Council (owner of the RE1 land) and Bupa Care Services Pty Ltd (owner of the R4 land). Bupa intends to develop the resultant R4 zoned site. The resultant RE1 Public Recreation land will be reconfigured into a regular rectangular shaped allotment, rather than as current - an ‘L’ shaped allotment.

Subject Site Locality Plan - Aerial photo 2015
Site Plan

- 42 Auburn Street (part Lot 200 DP 1110295) - 445sq.m. to be zoned RE1 and
- 99 Acacia Rd (part Lot 11 DP 1103619) - 445sq.m. to be reclassified as Operational land and zoned R4
EXECUTIVE SUMMARY

- This report was referred to the Independent Hearing and Assessment Panel (IHAP) because the application was called up by Cr Barry Collier, Cr Jack Boyd, and Cr Peter Scaysbrook. The proposal exceeds the maximum building height development standard of 25m specified in Sutherland Shire Local Environmental Plan 2015 (SSLEP 2015) by 4.8% (1.2m) and various setback controls contained within the Apartment Design Guide (ADG).

- The application is for alterations and additions to an existing ALDI supermarket and carpark, construction of a five storey residential flat building containing 57 residential apartments above the existing carpark to create a mixed use development and stratum subdivision of two lots into three at the above property.

- The subject site is located on the corner of Wandella Road and Penprase Lane, Miranda. It is an irregular shape and legally described as Lots 1 and 2 in DP1153094. The site has an area of 3,780m² and presently comprises a three storey commercial building containing an ALDI supermarket and associated car parking, and a multi-deck car park for the adjacent Miranda RSL / gymnasium.

ASSESSMENT OFFICER’S RECOMMENDATION

THAT:

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 Clause 4.3 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 Building Height development standard be varied to 26.2m (4.8%), in respect to this application.
2. Development Application No. 16/0641 for alterations and additions to an existing ALDI supermarket and carpark, construction and use of 5 storey residential flat building containing 57 residential apartments above the existing carpark to create a mixed use development and stratum subdivision of two lots into three at Lots 1 & 2 DP 1153094 (Nos. 14 & 16) Wandella Road, Miranda, be approved by way of deferred commencement consent subject to the conditions contained in Appendix “A” of this report.
IHAP COMMENTARY

Extract from the Report of the Meeting of the Independent Hearing
and Assessment Panel, held on Wednesday, 19 April 2017,
commencing at 6:00pm, in the Council Chambers, Level 2,
Administration Building, 4-20 Eton Street, Sutherland

PRESENT:    Charles Hill (Chairperson/Expertise in Planning), Erica Marshall-McClelland (Expertise in
Traffic & Transport, Planner & Registered Architect), Larissa Ozog (Expertise in Town Planning) and
Craig McCallum (Community Representative with Expertise in Traffic).

Staff in attendance was the Acting Manager Major Development Assessment (Carine Elias).

***

Disclosures of Interest

File Number: 2016/260430

Charles Hill indicated that he was known to one of the Consultants acting on behalf of the application
DA16/0641 - Wandella Road, Cronulla, but he indicated that he had no discussions nor involvement
with the project in which the Consultant was now involved.

Ms Long and Mr Linden on behalf of the Objectors, and Messrs Quartermain, Innes, Woods and
Mss Huy and Castellanos, on behalf of the Applicant, addressed the Panel regarding this
matter.

IHAP RECOMMENDATION:

THAT:

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 Clause 4.3 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 Building Height development standard be
varied to 26.2m (4.8%), in respect to this application.

2. Development Application No. 16/0641 for alterations and additions to an existing ALDI
supermarket and carpark, construction and use of 5 storey residential flat building containing 57
residential apartments above the existing carpark to create a mixed use development and
stratum subdivision of two lots into three at Lots 1 & 2 DP 1153094 (Nos. 14 & 16) Wandella
Road, Miranda, be approved by way of deferred commencement consent subject to the
conditions contained in Appendix “A” of the report with the following amendments:
a) Deletion of Deferred Commencement Condition 1(a)
b) Deletion of Deferred Commencement Condition 1(b)
c) Amend Condition 18A (xi) by adding the following words after the word mirrors:
   “or an automated system or both.”
d) Amend Condition 41A (iv) by adding the following words after the word Level 2:
   “through the reallocation of spaces from the existing designated RSL spaces”
e) Addition of the following new condition:
   “A traffic assessment is to be carried out to ensure that vehicles are able to safely ingress and egress the site. The focus of the report is to consider the design of the existing ramps, in an attempt to minimise any potential traffic conflicts and adopt mitigation measures recommended by that report.”
f) Addition of the following new condition:
   “The provision of privacy screens on the balconies on the sixth floor of the southern elevation of the proposed building are to be included to offer a greater degree of privacy for the existing units at No. 621 Kingsway, Miranda.”

PANEL COMMENTARY:
Site Visit
The Panel attended the subject site at Wandella Road, Miranda and the neighbouring the property at Unit 21/ 621 Kingsway, Miranda.

Presentations to Panel at the Public Meeting
The main issues raised in submissions related to road safety, view loss, traffic and parking, garbage collection, overshadowing, privacy, and building height and separation.

On behalf of the objectors, Ms Long and Mr Linden expressed concerns mainly in respect of the increased potential for overlooking from the new apartments.

The applicant’s main concerns with the Council Officers report related to a number of proposed conditions relating to further increasing the setback of the building to the north, the need for the development to be cross ventilated in accordance with the minimum requirements of the ADG (60%), the addition of 22 car spaces, and the provision of storage in the basement area.

Consideration of Issues
The Panel was satisfied that the assessment report prepared by the Council officers had adequately addressed all the issues raised by the objectors in their submissions. The Panel felt that some additional screening along the southern elevation at the 6th level could be incorporated to satisfy the residents’ concerns in the existing RFB at No.621 Kingsway Avenue, Miranda. This would improve privacy to this development.
However the Panel was in disagreement with the Council Officers’ in relation to increased separation distances between the buildings on the basis that the building is proposed to be setback 7.5m from the northern boundary and has been designed in such a manner to minimise any potential for overlooking and loss of solar access to the neighbouring properties.

Providing a greater setback will adversely affect the internal amenity of the existing apartments (as proposed) and would substantially compromise the overall design and form of the development. A substantial redesign would need to occur. Considering that the proposal has been designed to substantially minimise any amenity impacts to the north, and the development has been skilfully designed in attempt to improve the visual amenity and outlook for those apartments. The unit block to the north currently looks back onto the service areas of the carpark and access stairs which is a poor visual outcome. The proposed development attempts to improve this situation.

The Panel was also satisfied that the applicant was capable of providing cross ventilation to approximate 79% of the units and therefore it met the requirements of 60% as required by the ADG controls. The applicant’s expert consultant in Wind Engineering provided sufficient evidence to satisfy the panel that the development satisfied the minimum cross ventilation requirements of the ADG as such the panel agreed to remove Condition No. 1(b) be deleted.

The Panel however did not agree with the applicant’ to delete Condition 3A (xi) in relation to the provision of additional storage in the Level 2 and 3 carparks.

The Panel also felt that privacy to the building at 621 Kingsway could be improved by the provision of privacy screenings on the balconies of the sixth floor on the southern elevation of the proposed building.

The Panel also believe that a traffic assessment should be carried out to consider and suggest additional measures to ensure that vehicles could ingress and egress the site safely particularly in relation to the design of the existing ramps which are tight and relatively narrow and mitigation measures should be implemented to minimise conflicts.

The Panel also proposed an amendment to Condition 41A (iv) to clarify that an additional 22 car spaces were not required, but a reallocation of existing RSL spaces was proposed.

*Reasons for Variation from Council Officer’s Report*

The conditions in relation to separation distance, and increased cross ventilation, were deleted on the basis that the Panel were of the view that an increase in the separation distance would not achieve any significant change in amenity, and that there was no adverse impacts in relation to solar access, and privacy, the building having been designed in such a manner addressing these concerns.
In relation to cross ventilation the applicant had addressed this issue, and the Panel were satisfied that the applicable standard could be achieved.

A traffic management assessment report was also recommended to ensure that the design as proposed, particularly in relation to the existing ramp access within the carpark, was capable of facilitating appropriate safe ingress and egress within the carpark, conflicts were minimised and the issue of access in the car park was improved as a consequence of a greater number of cars servicing and accessing the car park.

Privacy screens were also recommended in response to the concerns raised by the objector at the Panel meeting.

**VOTES: 4:0**
ASSESSMENT OFFICER’S COMMENTARY

DESCRIPTION OF PROPOSAL

The application is for alterations and additions to an existing ALDI supermarket and carpark, construction and use of a five storey residential flat building containing 57 residential apartments above the existing carpark to create a mixed use development and stratum subdivision of two lots into three at the above property.

The proposal is outlined in more detail as follows:

**ALDI Supermarket**
- Alterations and additions to the existing outdoor carparking area involving removal of existing planter boxes on the northern side of the carpark to make provision for three new car spaces and a lowering of the car park to RL 33.40 (a reduction of between 280mm and 1000mm).
- An increase in the size of the ALDI supermarket (Ground Level) by 185m² including the provision of new storage areas, chiller and freezer rooms. The change in the built form occurs on the northern side of the building with an increased building footprint of 6.7m cantilevered out over the existing car park.

**RSL Car Park**
- Alterations to the existing three level car park involving the construction of a new foyer and lift for RSL patrons and a new separate residential entry foyer (Ground Level); augmentation of the structural supports of the existing car park (Ground, Level 1 and Level 2).
- Modification to the ground level car park to include a waste storage room.
- An extension of the existing carpark to the north at Ground Level, Level 1 and Level 2 resulting in an increased building footprint of 5m cantilevered over the ALDI carpark below.
- A reduction in the existing number of car parking spaces (150) currently shared by the RSL and a 24 hour gymnasium (within the RSL premises) to 135 spaces.

**Residential**
- Construction of a five storey residential flat building above the eastern side of the existing rooftop carpark comprising the following unit mix:
  - 4 x studio units
  - 27 x 1 bedroom units
  - 24 x 2 bedroom units
  - 2 x 3 bedroom units
- Construction of two new levels of car parking above the western end of the existing carpark providing for 61 additional car parking spaces, two motorcycle spaces and six bicycle spaces.
- Landscaping works within and around the perimeter of the building, including communal open space on Level 3 and a roof terrace on top of the residential building.
Stratum Subdivision

- The existing two lots (1 and 2 in DP1153094) are proposed to be extinguished and a new three lot stratum subdivision is proposed to accommodate each of the landuses on the site.

A site plan is provided below.

Site Plan – 14-16 Wandella Road, Miranda

SITE DESCRIPTION AND LOCALITY

The subject site is located on the corner of Wandella Road and Penprase Lane in central Miranda. The site is a large irregular parcel of land comprising 3,780m². It is currently developed by way of a three storey building containing an ALDI supermarket and associated car parking which front Wandella Road. To the rear and above the supermarket is a multi-deck carpark owned and operated by the Miranda RSL. Vehicle and pedestrian access to the RSL carpark is obtained via Penprase Lane. The Miranda RSL Club has its main pedestrian entry on Kingsway, with a rear address facing Penprase Lane, adjacent the car park entry. A proportion of the RSL parking spaces (24) are utilised by a gymnasium which operates out of the basement of the RSL (DA15/0089).
Development surrounding the site comprises a mix of uses outlined as follows:

- To the north is a seven storey flat building known as 8-12 Wandella Road. It fronts Wandella Road but has its central courtyard area facing the Council carpark and commercial development to the north. There are south-facing units which are located close to the southern boundary adjacent the ALDI carpark.

- To the east is an eight storey predominantly residential flat development but with ground and podium level commercial uses facing Central Road (19-21 Central Road).

- To the south of the site is a mix of low rise commercial buildings fronting the Kingsway, which have their ‘back of house’ facing Penprase Lane. The RSL and gym are one such use. Directly opposite the site is a basement carpark and commercial podium with a residential flat building above, known as 621-635 Kingsway. The pedestrian entrance to the units is obtained via Kingsway with the units oriented to the north with views over the subject site.

- To the west of the site across Wandella Road are the grounds and school buildings of Port Hacking High School.

A locality map and an aerial photo are provided below.
BACKGROUND
A history of the development proposal is as follows:

- A pre-application discussion (PAD16/0027) was held on 5 April 2016 regarding the development. A formal letter of response was issued by Council on 3 May 2016 (a copy of which is included in Appendix “B”).
- On 12 May 2016 the applicant attended a Pre-DA ARAP meeting.
- The current application was submitted on 20 May 2016.
- The application was placed on exhibition, with the last date for public submissions being 15 June 2016. Seven submissions were received during the notification period.
- On 9 August 2016 Council advised the applicant by letter of the significant design deficiencies with the proposal and the lack of consideration which had been given to the points raised by Council at the Pre-DA and the Pre-ARAP meeting (outlined above).
- On 14 October 2016 Council officers advised the applicant by email of the outstanding traffic / waste storage / collection related matters. Amended plans were required to be submitted.
- On 26 October 2016 Council officers met with the Applicant to discuss the applicant’s amended proposal.
- On 27 October 2016 the applicant submitted a set of revised plans and information.
- On 28 November 2016 the applicant submitted further information regarding solar access and cross ventilation for Council’s consideration.
- On 6 and 15 December Council officers met with the applicant and their wind consultants to discuss further design amendments and to discuss the wind report.
- The requested amended plans and information were lodged on 21 December 2016.
The amended plans were re-notified from 4 to 18 January 2017. Three submissions were received.

The applicant submitted revised plans on 22 March 2017 addressing building height and reducing the area of the rooftop communal terrace.

ADEQUACY OF APPLICANT’S SUBMISSION

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

PUBLIC PARTICIPATION

The application was advertised in accordance with the provisions of Chapter 41 of draft Sutherland Shire Development Control Plan 2015 (DSSDCP 2015).

Council notified 172 adjoining or affected owners of the proposal and seven submissions were received from the following properties:

<table>
<thead>
<tr>
<th>Address</th>
<th>Date of Letter/s</th>
<th>Issues</th>
</tr>
</thead>
<tbody>
<tr>
<td>54/19-21 Central Road</td>
<td>23/05/16</td>
<td>1,</td>
</tr>
<tr>
<td>621-635 Kingsway</td>
<td>13/06/16</td>
<td>2, 3, 4</td>
</tr>
<tr>
<td>43/19-21 Central Road</td>
<td>10/06/16</td>
<td>1, 3</td>
</tr>
<tr>
<td>637 Port Hacking Road (Port Hacking High School)</td>
<td>15/06/16</td>
<td>1, 3</td>
</tr>
<tr>
<td>49/19-21 Central Road *</td>
<td>13/06/16</td>
<td>2, 3, 5, 6</td>
</tr>
<tr>
<td>40/19-21 Central Road</td>
<td>14/06/16</td>
<td>1, 3</td>
</tr>
<tr>
<td>21/621 Kingsway</td>
<td>02/06/16</td>
<td>6</td>
</tr>
</tbody>
</table>

*Owner has since advised they are moving and no longer object to the proposal.

MAJOR ISSUES

The main issues identified are as follows:

- Road safety
- View Loss
- Traffic and Parking
- Garbage collection
- Overshadowing
- Privacy.
Issue 1: Road Safety – Penprase Lane
Comment: The proposed vehicle entrance and new pedestrian entries for the development have been assessed as acceptable from a traffic safety point of view.

Issue 2: View Loss
Comment: This issue is addressed in the Assessment Section below.

Issue 3: Traffic and Parking
Comment: Council’s Traffic engineers have assessed the proposal. The design changes made by the applicant during the assessment process in terms of the vehicle and pedestrian entry points on Penprase Lane are now acceptable. Conditions are recommended for frontage works to the pavement and lighting on the southern elevation of the building, as well as internal manoeuvring requirements within the carpark. These aspects are discussed further in the Assessment Section of the report.

Issue 4: Garbage Collection
Comment: Waste storage will occur on the ground level of the building behind the residential lobby. The waste room is not sufficient in size and has been conditioned to be increased to ensure adequate storage area. Collection of garbage will occur twice weekly by private contractors, with pick-up occurring on Penprase Lane in a designated location. This is satisfactory to Council’s engineers as outlined further in the Assessment Section below.

Issue 5: Overshadowing
Comment: DSSDCP 2015 does not specify any minimum requirements for solar access for neighbouring residential properties. Nonetheless, shadow plans submitted by the applicant have been assessed on the basis of the minimum requirement for solar access specified in the R4 Zone (High Density Residential). The shadow diagrams indicate that there will be no unacceptable shadow impacts for any of the surrounding residential units, with all of the units retaining a minimum two hours of solar access to their principal living areas.

Issue 6: Privacy
Comment: Concern was raised by an objector located within the residential flat building to the south (621-635 Kingsway). This issue is addressed in the Assessment Section below.

Revised Plans
The applicant lodged revised plans on 21 December 2016.

In accordance with the requirements of draft SSDCP2015 these plans were publicly exhibited in the same way as the original application.
As a result of the re-notification three submissions were received from the following properties:

<table>
<thead>
<tr>
<th>Address</th>
<th>Date of Letter/s</th>
<th>Issues</th>
</tr>
</thead>
<tbody>
<tr>
<td>Central Apartments</td>
<td>18/01/17</td>
<td>1, 2</td>
</tr>
<tr>
<td>32/8-12 Wandella Road</td>
<td>12/01/17</td>
<td>3, 4</td>
</tr>
<tr>
<td>79/8-12 Wandella Road</td>
<td>03/01/17</td>
<td>General objection</td>
</tr>
</tbody>
</table>

Issue 1: *Dilapidation Report*

*Comment:* A condition of consent requires the applicant to submit Dilapidation Reports for each of the sites immediately surrounding the subject development (including the objector’s site).

Issue 2: *Structural Report to support proposed development*

*Comment:* A Structural Report prepared by Northrop Consulting Engineers was submitted with the proposal. The report certifies that the existing structure is adequate and capable of carrying the additional loads resulting from the proposed alterations and additions.

Issue 3: *Loss of sunlight*

*Comment:* The objector is concerned that the development will result in less sunlight into their apartment. The subject unit is south-facing and as such no direct sunlight reaches the apartment. Ambient light is achieved at present as a result of the setback of the ALDI supermarket and the reflected light off the side of the northern wall of this building. The objector can also view the sky from the balcony so there is access to natural day light even though no direct northern sunlight enters the apartment or balcony.

The proposal involves increased building height and an increased footprint to the north, which will have an impact on the outlook currently enjoyed by the objector. The portion of the building directly opposite the objector’s apartment complies with the building setback and height controls applicable to the site. The proposed residential apartment component of the development is non-compliant in its northern setback and has been conditioned to comply.

Whilst there are no specific planning guidelines in the ADG or DSSDCP 2015 which govern loss of light generally (as opposed to overshadowing and solar access), consideration has been given to the objector’s concern regarding loss of outlook, and the overall loss of residential amenity. Notwithstanding this, the commercial core location of the subject site and that of the objector means that compromised amenity (particularly at the lower levels) may occur as sites are developed. The expectation that an apartment will continue to enjoy unobstructed outlook from within an urban centre and across urban centre zoned redevelopment sites is unreasonable.

Issue 4: *Loss of airflow*

*Comment:* The proposed development will not result in a loss of airflow to any of the adjacent residential apartments as more than sufficient setbacks are provided.
Submission Review Panel (SRP)
As a result of the submissions received and the issues raised, the Council’s SRP decided that the application could be determined by way of the delegation of the Director Shire Planning.

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

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

- Sutherland Shire Local Environmental Plan 2015 (SSLEP 2015).
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.
- Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment.
- Sutherland Shire Development Control Plan 2015 (SSDCP 2015).
- State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55).
- State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (SEPP 65).

Section 94 and Section 94A
- 2005 Shire Wide Open Space & Recreation Facilities.
- Miranda Centre Contribution Plan.

COMPLIANCE
The statement of compliance below contains a summary of applicable development standards and controls and a compliance checklist relative to these:

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

State Environmental Planning Policy No. 55 – Remediation of Land
State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55) requires a consent authority to consider whether the land is contaminated and, if so, whether the land will be remediated before the land is used for the intended purpose. The existing site is already developed for commercial purposes. The proposed residential development will be sited on the existing rooftop carpark.
A check of Council’s GIS system indicates no history of contamination. The subject site is therefore fit for high density residential development, in conjunction with the existing commercial uses.

**Greater Metropolitan Regional Plan No. 2 – Georges River Catchment**

Greater Metropolitan Regional Environmental Plan No. 2 (GMREP2) includes a number of aims and objectives for the environment and water quality within the catchment. The proposed new residential development will drain into the stormwater system for the existing development. Appropriate stormwater management will ensure there are minimal likely adverse impacts on existing coastal processes. The implementation of the recommended conditions of consent will ensure the proposal is consistent with the aims and objectives of GMREP2.

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

The proposal is affected by SEPP 65. Sutherland Shire Council engages its Architectural Review Advisory Panel (ARAP) to guide the refinement of development to ensure design quality is achieved in accordance with SEPP 65. A brief assessment of the proposal having regard to the design quality principles of SEPP 65 is set out below, with the ARAP comments contained in the Specialist Comments and External Referrals Section below.

<table>
<thead>
<tr>
<th>Design Quality Principles</th>
<th>Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Principle 1: Context and neighbourhood character</td>
<td>The site comprises a large parcel of land located within the Miranda Commercial Core. It is just to the north of the Miranda Westfield and to the east of the Port Hacking High School. On the northern boundary of the site is a large residential flat building, with mixed use commercial / residential buildings on the southern and eastern side. The existing site contains an ALDI supermarket and associated car parking as well as multi-level carpark for the adjacent Miranda RSL Club. The proposed residential development on top of the RSL parking is somewhat constrained by the existing ALDI supermarket, but nonetheless is a form of development which is anticipated within the B3 Zone. New streetscape works within Penprase Lane will improve the context of the laneway and assists to create a more pedestrian environment in Penprase Lane consistent with DSSDCP 2015.</td>
</tr>
</tbody>
</table>
| Principle 2: Built Form and Scale | The proposed built form is constrained by the existing stratum arrangement on the site and the fact that the existing building is being retained, with additional development located above. ARAP commented that the proposal is a ‘less than optimum outcome’ for the site, with the location of built form driven by commercial imperatives.

Whilst the proposal has been revised during the course of assessment, the location of the development on the site remains the same. For the most part the siting of the new residential component meets the required ADG setbacks in terms of the neighbouring buildings, with the exception of part of the northern and southern sides. Deferred commencement conditions are recommended to address these non-compliances and to achieve an improved built form outcome. The architectural expression of the residential building itself is of a high quality, with the residential facades well proportioned.

The visual bulk of the upper level car parking, given its corner siting, requires additional architectural detailing. This also forms part of the deferred commencement consent.

The proposal has been revised during the course of assessment and a number of the key deficiencies with the application which previously existed have been improved. Subject to deferred commencement conditions, it is considered the proposal can present a well expressed building on the site and one which improves the underutilised building presently on the site. |
<table>
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</thead>
<tbody>
<tr>
<td>Principle 3: Density</td>
<td>The proposed density is less than the maximum set out in SSLEP 2015 (1.81:1 instead of 2:1). The proposed development is constrained by the existing development on the site and the separate stratum ownership, as well as the need to maintain acceptable building separation from existing residential flat buildings (to the north, south and east of the site). The deferred commencement condition will result in a further reduction in GFA for the development, but will ensure an improved built form relationship and amenity outcome for a neighbouring development. On this basis, the proposed floorspace will be generally acceptably distributed across the site.</td>
</tr>
<tr>
<td>Principle 4: Sustainability</td>
<td>The development incorporates BASIX requirements and sustainability measures into its overall design. Implementation of conditions will ensure dwellings will receive adequate solar access and cross ventilation so as to enhance water and energy efficiency and to provide suitable amenity to the building’s future occupants.</td>
</tr>
<tr>
<td>---</td>
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</tr>
<tr>
<td>Principle 5: Landscape</td>
<td>SSLEP 2015 does not require the provision of landscaped area for the site, given its location within the Miranda Commercial Core. Notwithstanding this DSSDCP 2015 (Chapter 21) sets out a Landscape Strategy which identifies Penprase Lane for future upgrades in conjunction with activating the streetscape within the laneway. There is not sufficient pavement width to plant street trees, but a pavement upgrade will be required to improve the quality of the streetscape in front of the subject site. The existing building on the site is largely built to the boundaries and as such there is little opportunity for landscaping or tree planting unless at the upper levels. The applicant has proposed landscaping for the communal open spaces areas and green walls around much of the existing lower level car parking facades of the building, as well as the new two level upper carpark areas. Introduction of the landscaping around the perimeter and within the site is encouraged as it will assist to soften the development and assist to moderate the temperature of the open level car park and nearby west facing units. Conditions are recommended to ensure the landscaping species are appropriate for the site and can be maintained in perpetuity.</td>
</tr>
<tr>
<td>Principle 6: Amenity</td>
<td>The proposal has the potential to adequately satisfy the provisions of the ADG with respect to residential amenity in terms of building and floor plan layout, solar access, natural ventilation and visual/acoustic privacy, subject to implementation of conditions. The proposal falls short on cross-ventilated apartments and this forms part of the deferred commencement consent to ensure compliance, but has been conditioned to comply. The revised scheme represents improved circulation areas from that originally submitted and a roof terrace is now proposed in conjunction with the Level 3 communal open space area, which affords an improved amenity for future occupants of the development.</td>
</tr>
</tbody>
</table>
Principle 7: Safety

The revised scheme results in an improved vehicle and pedestrian entry on Penprase Lane, with a new residential foyer, separate RSL patrons’ parking foyer, lighting of the building façade and a new pedestrian pavement for the full frontage of the site. The proposed upper level residential use will result in increased surveillance of Penprase Lane and ground level activity. To the north of the site, the upper level balconies will provide additional surveillance of the ALDI carpark.

Principle 8: Housing Diversity and Social Interaction

The proposal provides a mix of apartment types (studios, 1, 2 & 3 bedrooms), encouraging diversity in the future occupation of the development in terms of social mix. Adaptable and liveable housing options are also proposed. The development includes facilities to encourage social interaction including the Level 3 (podium communal area) and the landscaped roof terrace.

Principle 9: Aesthetics

The residential building facades are well proportioned and present an appropriate composition of building elements, textures, materials and colours. The facades of the residential carpark component lack architectural merit for such a prominent element of the development and as such are conditioned as part of the deferred commencement consent.

Apartment Design Guide (ADG)

The proposal is affected by the ADG. The following table contains an assessment of the proposal against key controls of the ADG. Refer to the Assessment section of this report for further details with respect to performance of the proposal against the ADG.

<table>
<thead>
<tr>
<th>Apartment Design Guide (ADG) – Key Controls</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Guide</strong></td>
</tr>
<tr>
<td>Building separation (2F)</td>
</tr>
<tr>
<td><strong>Visual Privacy (3F)</strong></td>
</tr>
<tr>
<td>-------------------------</td>
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<tr>
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</tbody>
</table>

| **Natural ventilation** | 60% of apartments to be naturally cross ventilated (34). Max. Depth 18m | 31/57 (54%) (3 units not complying) | No – see comment below |

| **Solar access** | Living rooms and private open space, 2 hours direct sunlight in mid winter to 70% of units. Maximum 15% of units receive no sunlight to habitable rooms | 40/57 (70%) | Yes |
|                 |                                                             | 8/57 units (14%) receive no solar access | Yes |

<p>| <strong>Single aspect apartment depth</strong> | 8m | All units comply except for Units 303, 403, 503, 603 and 703 which are 9.4m | No – conditioned to comply |</p>
<table>
<thead>
<tr>
<th>Apartment size</th>
<th>1br: 50m²</th>
<th>1br: 57 - 65m²</th>
<th>Yes</th>
<th>Yes</th>
<th>Yes</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2br: 70m² (or 75m² when second bathroom)</td>
<td>2br: 82 - 102m²</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>3br: 90m²</td>
<td>3br: 118 - 131m²</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

| Ceiling heights | 2.7m (3.1m floor to floor) | 2.7m habitable and 2.4m non-habitable but only 3m floor to floor. Condition imposed to require minimum 2.7m ceilings | Yes subject to condition |

<table>
<thead>
<tr>
<th>Private open space:</th>
<th>Primary balconies:</th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>- Studio</td>
<td>4m² no min depth</td>
<td>8m²</td>
<td>Yes</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- 1 br apartment</td>
<td>8m², min. 2m depth</td>
<td>12m² – 14m²</td>
<td>Yes</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- 2 br apartment</td>
<td>10m², min. 2m depth</td>
<td>10m² – 26m²</td>
<td>Yes</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- 3 br apartment</td>
<td>12m², min 2.4m depth</td>
<td>29m² – 50m²</td>
<td>Yes</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Ground level apartments (or on a podium)</td>
<td>15m² with min 3m depth</td>
<td>20m² – 61m²</td>
<td>Yes</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

| Communal open space – size | 25% of site area (940m²) | 14% (539m²) | No – see below |

| Communal space - solar access | 50% of principal area of communal open space area to receive 2hrs of direct sunlight in mid winter | Roof terrace will receive all day sunlight in mid winter. At least 50% of Level 3 communal space (located on the eastern side of the building) will receive 2 hours of morning solar access | Yes – see below |

<table>
<thead>
<tr>
<th>Residential storage</th>
<th>6m² per 1br apartment</th>
<th>Level 3 parking makes provision for 312m³ of storage but only for 27/57 units. No storage proposed on Level 4 carpark.</th>
<th>No - to be conditioned re provision and allocation</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>8m³ per 2br apartment</td>
<td>Storage in units appears to be less than the required 50% but sufficient room to be provided. Condition of consent recommended ensuring units comply.</td>
<td>No – see below</td>
</tr>
<tr>
<td></td>
<td>10m³ per 3br apartment</td>
<td>(398m³ required)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(398m³ required)</td>
<td>At least 50% of storage to be located within the apartments (199m³)</td>
<td></td>
</tr>
</tbody>
</table>
Local Controls – SSLEP 2015 and DSSDCP 2015

The compliance table below contains a summary of applicable development controls:

<table>
<thead>
<tr>
<th>Standard/Control</th>
<th>Required</th>
<th>Proposed</th>
<th>Complies? (% variation)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Sutherland Shire Local Environmental Plan 2015</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Building Height</td>
<td>25m</td>
<td>26.2m</td>
<td>No (4.8%) – see Cl. 4.6 below</td>
</tr>
<tr>
<td>FSR</td>
<td>2:1 (7,560m²)</td>
<td>1.81:1 (6,838m²)</td>
<td>Yes</td>
</tr>
<tr>
<td>Landscaped Area</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td><strong>Sutherland Shire Development Control Plan 2015</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Adaptable apartments</td>
<td>20% (11.4 apartments)</td>
<td>13</td>
<td>Yes</td>
</tr>
<tr>
<td>Liveable Apartments</td>
<td>10% (5.7 apartments)</td>
<td>5</td>
<td>Yes</td>
</tr>
<tr>
<td>Streetscape and Building Form</td>
<td>Built form articulated to avoid large expanses of broken wall and reduce visual bulk</td>
<td>Built form for the residential component is of a high quality. Concern is raised regarding the carpark level which is discussed further below.</td>
<td>Yes / No – see below</td>
</tr>
<tr>
<td>Development must be sited and designed to address the street / have a clearly identifiable entry</td>
<td>Revised plans demonstrate clear street entrance for apartments and separate entrance for the RSL club parking patrons</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>Where 2 street frontages for the site vehicle access must be from the lower order road</td>
<td>Vehicle entry on Penprase Lane</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>Highly reflective roof or wall materials are not acceptable</td>
<td>Majority of roof covered by terrace and planting but condition to be included requiring non-reflective roof for remaining area.</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>Basement car parks above ground level must ensure podiums and vehicle entries do not dominate the building or streetscape and are integrated into the architectural design of the building</td>
<td>Above ground parking proposed</td>
<td>No – see comments below</td>
<td></td>
</tr>
<tr>
<td>Development to contribute to the pedestrian environment, through signage, lighting, planting, awning cover, seating</td>
<td>Proposal involves pavement upgrade and lighting to improve Penprase Lane environment</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td><strong>Blank end walls</strong></td>
<td>Must have a high quality finish that contributes positively to the appearance of the centre</td>
<td>No blank end walls proposed but carpark façade at Levels 3 and 4 needs improvement in terms of external finishes</td>
<td>No – see comment below</td>
</tr>
<tr>
<td><strong>Street setbacks</strong></td>
<td>First 2 storeys of development to have nil boundary setback with 8-10m wall height and active street frontage</td>
<td>Existing building has nil boundary setback with ALDI store in Wandella Road but no active street frontage in Penprase Lane.</td>
<td>Yes - see comment below</td>
</tr>
<tr>
<td>Greater than 2 storey development shall be setback 4m for the upper storeys</td>
<td>Existing building height 6.5m to top of parapet in Penprase Lane. New residential building and parking above has part nil setback and part 1.5m. Wandella Road frontage is 8-10m high to the parapet with proposed parking levels setback between 4.5 – 6.2m from the parapet.</td>
<td>No – see comment below</td>
<td></td>
</tr>
<tr>
<td><strong>Landscape</strong></td>
<td>Min 1 canopy tree per 15m of the frontage</td>
<td>Penprase Lane is too narrow for street trees</td>
<td>N/A</td>
</tr>
<tr>
<td></td>
<td>Planting on podiums, roof tops or within planter boxes designed to min. 600mm depth of soil</td>
<td>Podium planting proposed on Level 3 and Level 4 as well as roof terrace. Planters will be conditioned to comply</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Trees on roofs or planter boxes must have an area of 3m x 3m</td>
<td>Proposal will be conditioned to comply</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Appropriate paving must be provided to driveways, walkways and entries.</td>
<td>Streetscape works are proposed to Penprase Lane. A revised landscape plan will be required to be submitted for consideration of the treatment of the communal roof terrace and Level 3 open space areas</td>
<td>Yes</td>
</tr>
<tr>
<td><strong>Active Frontages</strong></td>
<td>Semi-active frontage required for Penprase Lane in accordance with Miranda Centre Active Frontage</td>
<td>New residential lobby area and improved RSL parking entry lobby will result in positive activation of the Penprase Lane frontage</td>
<td>Yes</td>
</tr>
<tr>
<td>Planning Item</td>
<td>Proposal Description</td>
<td>Additional Notes</td>
<td></td>
</tr>
<tr>
<td>------------------------------------------------------------------------------</td>
<td>-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
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<td></td>
</tr>
<tr>
<td><strong>Active frontages</strong></td>
<td>Active frontages must occur at footpath level and should exclude vehicle entrances and service areas. Continuous awnings to be provided. Shopfronts to be glazed to ensure visual interest, light and surveillance to the street</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td><strong>Existing frontage</strong></td>
<td>Existing frontage contains RSL carpark entry. The proposed entry changes are a positive streetscape outcome. The existing awning in Penprase Lane will be replaced with new awning. New residential lobby and RSL entry lift to parking will be glazed, thereby improving the street presence and natural surveillance of the laneway</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td><strong>Side and rear setbacks</strong></td>
<td>Nil setback to side and rear boundaries unless a merit based approach is required to protect amenity for adjoining residential buildings or for built form transition with the existing streetscape. Merit based approach has been taken with proposed development.</td>
<td>See note below</td>
<td></td>
</tr>
<tr>
<td><strong>Building separation</strong></td>
<td>Existing setback maintained. ADG compliance achieved subject to deferred commencement conditions.</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td><strong>New development to incorporate passive solar building design</strong></td>
<td>BASIX Certificate has been provided with the proposal. Loading / unloading will be undertaken in a designated location on Penprase Lane. Vehicle ingress / egress will occur in a similar location to the existing driveway. On-street loading required due to existing building constraints</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td><strong>Loading and unloading and manoeuvring of vehicles</strong></td>
<td>Loading and unloading will be undertaken in a designated location on Penprase Lane. Vehicle ingress / egress will occur in a similar location to the existing driveway. On-street loading required due to existing building constraints</td>
<td>No – see comment below</td>
<td></td>
</tr>
<tr>
<td><strong>On-street loading to be avoided and freely accessible at all times</strong></td>
<td>No – see below</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Non-residential and residential landuses in the same development to be sited and designed to ensure residential amenity for future occupants</td>
<td>Residential use will occur at upper levels, separate from RSL / gym parking. ALDI maintains separate loading and pedestrian and vehicle entries.</td>
<td>Yes</td>
</tr>
<tr>
<td>----------------</td>
<td>---------------------------------------------------------------------------------------------------------------------------------</td>
<td>---------------------------------------------------------------------------------------------------------------------------------</td>
<td>-----</td>
</tr>
</tbody>
</table>
| Shop Top Housing and Residential Flat Buildings | Residential flat buildings must comply with the design quality principles of SEPP 65.  
Facades of upper storey residential accommodation with no windows or openings may have a nil boundary side setback.  
Facades of upper storey residential with windows or balconies must achieve the following setbacks:  
Up to 12m in height = 4.5m – 6m  
12m – 25m in height = 6.5m / 9m  
Variations to side setbacks controls will be assessed on their merits  
Residential development to be sited / designed to maximise direct sunlight to north-facing living areas and all private open space areas  
Variety of dwelling types between 1, 2 and 3 bedroom units must be provided  
Living rooms and private open spaces for 70% of units to receive 2 hours sunlight between 9-3 in mid-winter | See ADG Table above  
Small part of eastern façade has no windows and nil setback  
Variation in setbacks sought to the south – nil to 1.55m setback proposed for entire facade  
Units are oriented east-west with no north-facing units  
A mix of unit sizes proposed | See comments below  
Yes  
No – see comment below  
No – see comment below  
Yes  
Yes |
<table>
<thead>
<tr>
<th>Requirement</th>
<th>Requirement Details</th>
<th>Compliance</th>
</tr>
</thead>
<tbody>
<tr>
<td>New residential flat building without an active street frontage must be</td>
<td>setback 4m from the street</td>
<td>Yes</td>
</tr>
<tr>
<td>Dwelling entries to be distinguished from retail / commercial entries</td>
<td></td>
<td>Yes</td>
</tr>
<tr>
<td>Balcony sizes to be provided as follows:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Studio – 4m²</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1 bedroom – 8m²</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2 bedroom – 10m²</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3 bedroom – 12m²</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ground level or podium level – 15m²</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Balcony design to be integrated into the form and detail of the building</td>
<td></td>
<td>Yes</td>
</tr>
<tr>
<td>Balustrades to respond to the location, designed to allow views and</td>
<td>Balconies proposed to be clear glass with stainless steel balustrade. This will allow</td>
<td>Yes</td>
</tr>
<tr>
<td>surveillance whilst maintaining visual privacy for occupants of the unit</td>
<td>good surveillance. Natural wood privacy screens on some balconies will provide privacy</td>
<td></td>
</tr>
<tr>
<td>Clothes drying facilities to be provided where not visible from a public</td>
<td>Conditioned to be provided in Level 3 communal area</td>
<td>Yes</td>
</tr>
<tr>
<td>place</td>
<td></td>
<td>Can comply</td>
</tr>
<tr>
<td>6m³ per 1br apartment</td>
<td>Insufficient storage provided. See ADG Table above. To be conditioned</td>
<td></td>
</tr>
<tr>
<td>8m³ per 2br apartment</td>
<td></td>
<td></td>
</tr>
<tr>
<td>10m³ per 3br apartment</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(398m³ required)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Min 50% of storage to be provided in units</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Topic</td>
<td>Requirement</td>
<td>Proposal Complies</td>
</tr>
<tr>
<td>------------------------------</td>
<td>------------------------------------------------------------------------------</td>
<td>-------------------</td>
</tr>
<tr>
<td>Communal open space</td>
<td>Minimum 25% of the site</td>
<td></td>
</tr>
<tr>
<td>Communal rainwater tank</td>
<td>and pump to be located in common open space</td>
<td></td>
</tr>
<tr>
<td>14% communal open</td>
<td>space split between two areas (Level 3 and roof terrace)</td>
<td></td>
</tr>
<tr>
<td>terrace</td>
<td>Conditioned for Level 3 communal area</td>
<td></td>
</tr>
<tr>
<td>14% communal open</td>
<td>area</td>
<td></td>
</tr>
<tr>
<td>space split between two</td>
<td>areas (Level 3 and roof terrace)</td>
<td></td>
</tr>
<tr>
<td>14% communal open</td>
<td>area</td>
<td></td>
</tr>
<tr>
<td>split between two areas</td>
<td>(Level 3 and roof terrace)</td>
<td></td>
</tr>
<tr>
<td>14% communal open</td>
<td>space</td>
<td></td>
</tr>
<tr>
<td>split between two areas</td>
<td>(Level 3 and roof terrace)</td>
<td></td>
</tr>
<tr>
<td>Adaptable and Liveable</td>
<td>housing</td>
<td></td>
</tr>
<tr>
<td>New development to</td>
<td>ensure adequate visual</td>
<td>proposal</td>
</tr>
<tr>
<td>privacy between buildings</td>
<td>privacy between buildings</td>
<td>complies - see</td>
</tr>
<tr>
<td>and adjacent private open</td>
<td>and adjacent private open space</td>
<td>above</td>
</tr>
<tr>
<td>20% adaptable</td>
<td>10% liveable</td>
<td></td>
</tr>
<tr>
<td>Privacy</td>
<td>New development to ensure adequate visual privacy between buildings</td>
<td></td>
</tr>
<tr>
<td>and adjacent private open</td>
<td>Privacy for adjacent</td>
<td>privacy conditions</td>
</tr>
<tr>
<td>space</td>
<td>residential buildings acceptable given building</td>
<td>still imposed</td>
</tr>
<tr>
<td>Noise generating</td>
<td>separation and orientation but privacy conditions still imposed for</td>
<td>internally within</td>
</tr>
<tr>
<td>equipment must be</td>
<td>privacy internally within the</td>
<td>development</td>
</tr>
<tr>
<td>designed to protect</td>
<td>development</td>
<td></td>
</tr>
<tr>
<td>acoustic privacy of</td>
<td>Privacy for adjacent</td>
<td></td>
</tr>
<tr>
<td>residents</td>
<td>residential buildings acceptable</td>
<td></td>
</tr>
<tr>
<td>Design</td>
<td>Design must demonstrate</td>
<td></td>
</tr>
<tr>
<td>compliance with CPTED</td>
<td>Design must demonstrate</td>
<td></td>
</tr>
<tr>
<td>Guidelines</td>
<td>compliance with CPTED Guidelines</td>
<td></td>
</tr>
<tr>
<td>Safety &amp; Security</td>
<td>Design must demonstrate</td>
<td>Comments from the</td>
</tr>
<tr>
<td>Car parking</td>
<td>Design must demonstrate</td>
<td>NSW Police outlined in the Specialist Comments and External</td>
</tr>
<tr>
<td>Residential</td>
<td>Design must demonstrate</td>
<td>Consent Section</td>
</tr>
<tr>
<td>Minimum 1 space and</td>
<td>Design must demonstrate</td>
<td>below. Conditions</td>
</tr>
<tr>
<td>maximum 2 space per unit</td>
<td>Design must demonstrate</td>
<td>will be imposed</td>
</tr>
<tr>
<td>No visitor parking required</td>
<td>Design must demonstrate</td>
<td>in the consent</td>
</tr>
<tr>
<td>Total required 57 - 114</td>
<td>Design must demonstrate</td>
<td></td>
</tr>
<tr>
<td>RSL Parking survey</td>
<td>Design must demonstrate</td>
<td></td>
</tr>
<tr>
<td>based (150 existing /</td>
<td>Design must demonstrate</td>
<td></td>
</tr>
<tr>
<td>approved)</td>
<td>Design must demonstrate</td>
<td></td>
</tr>
<tr>
<td>Gym Parking</td>
<td>Design must demonstrate</td>
<td></td>
</tr>
<tr>
<td>Allocated 24 out of the</td>
<td>Design must demonstrate</td>
<td></td>
</tr>
<tr>
<td>150 RSL spaces</td>
<td>Design must demonstrate</td>
<td></td>
</tr>
<tr>
<td>ALDI Parking</td>
<td>Design must demonstrate</td>
<td></td>
</tr>
<tr>
<td>1 space per 30m² retail</td>
<td>Design must demonstrate</td>
<td></td>
</tr>
<tr>
<td>(1671m² existing plus</td>
<td>Design must demonstrate</td>
<td></td>
</tr>
<tr>
<td>185m2 proposed = 62</td>
<td>Design must demonstrate</td>
<td></td>
</tr>
<tr>
<td>61 spaces</td>
<td>Design must demonstrate</td>
<td></td>
</tr>
<tr>
<td>None provided</td>
<td>Design must demonstrate</td>
<td></td>
</tr>
<tr>
<td>Total 61 provided</td>
<td>Design must demonstrate</td>
<td></td>
</tr>
<tr>
<td>111 spaces proposed</td>
<td>Design must demonstrate</td>
<td></td>
</tr>
<tr>
<td>24 spaces retained</td>
<td>Design must demonstrate</td>
<td></td>
</tr>
<tr>
<td>(allocation to be</td>
<td>Design must demonstrate</td>
<td></td>
</tr>
<tr>
<td>conditioned)</td>
<td>Design must demonstrate</td>
<td></td>
</tr>
<tr>
<td>90 proposed (maximum</td>
<td>Design must demonstrate</td>
<td></td>
</tr>
<tr>
<td>85 spaces to be conditioned</td>
<td>Design must demonstrate</td>
<td></td>
</tr>
<tr>
<td>Yes</td>
<td>Design must demonstrate</td>
<td></td>
</tr>
<tr>
<td>Yes</td>
<td>Design must demonstrate</td>
<td></td>
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<tr>
<td>Yes</td>
<td>Design must demonstrate</td>
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<tr>
<td>Yes</td>
<td>Design must demonstrate</td>
<td></td>
</tr>
<tr>
<td>Yes</td>
<td>Design must demonstrate</td>
<td></td>
</tr>
<tr>
<td>Yes – see note below</td>
<td>Design must demonstrate</td>
<td></td>
</tr>
</tbody>
</table>

Waste Management

<table>
<thead>
<tr>
<th>Waste storage area to be provided for general waste (G) and recyclables (R)</th>
<th>Garbage storage area provided within the ground level car park. Insufficient storage area – condition to be enlarged</th>
<th>No – see Engineering comment below</th>
</tr>
</thead>
<tbody>
<tr>
<td>For 20 or more units waste storage requirements are: 1 bedroom – 80L G/R 2 bedroom – 100L G &amp; 120L R 3 bedroom – 120L G/R</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**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 NSW Police raised the following matters for consideration:

1. Lighting – to the entry and exit points of the building, pathways through the site, car park access / exit driveway. Lighting to be projected away from residential apartments and directed towards pathways and public areas;
2. Landscaping – ensure this does not conceal intruders;
3. Installation of security shutters at the entry to the car park and CCTV;
4. Ensure the design of the building shows clear transitions between public and private space and that there is a clear responsibility for who maintains the space (in terms of its use and maintenance);
5. Utilise materials for construction which are less porous to minimise graffiti vandals and ‘tags’. Run-down areas negatively impact upon perceptions of fear and may affect community confidence to use the public space in front of the building;
6. Ensure way-finding for the development is clear in terms of directional signage to entrances;
7. Letter boxes should be located inside the development.

**Architectural Review Advisory Panel (ARAP)**

The application was referred to ARAP who provided the following comments:

*This is a difficult site, mainly due to the constraints resulting from the differing existing ownerships in stratum. While the proposal is architecturally skilled in its expression, the Panel has misgivings about the resulting outcome in urban design terms - a large building, in the wrong location, grafted on top of a poor existing street environment. With a clean slate, there would be an opportunity to improve both streetscapes and provide housing with better amenity. The applicant should provide substantiation that all avenues have been explored in this regard,*
as well as in testing the possibilities of building over the existing supermarket on the west of the site. As noted at Pre-DA, for any proposal to be supportable it needs to convincingly demonstrate:

- that it achieves unambiguously good amenity standards, both for the development itself and in its effect on neighbouring buildings. As currently submitted, this cannot be said to be the case, and is unlikely to be possible without a reduction in GFA.

- that Penprase Lane could be appropriately upgraded to a street worthy of providing a residential address for the building, at the same time resolving safety and legibility concerns. The Panel believes that it would be advisable to engage an experienced public domain design professional to consult on this. If it could be demonstrated that an upgrade of the Lane could achieve this outcome, it would enrich and add to the quality of the street network in the area.

In reviewing this DA submission the Panel concurs with the above summary recommendations. Whilst there have been incremental improvements in some areas, it is yet to be convinced that the proposal meets acceptable design quality standards in the areas of urban design and residential amenity. The decision to avoid building above the supermarket for structural reasons remains unconvincing. The proposal prioritises maximising yield for the residential component, and this has resulted in a cramped development with a number of ADG non-compliances and poor urban design outcomes. If the proponent is to persist with retention of the existing buildings, the Panel recommends that the following matters as a minimum are resolved:

- an improved outcome for all adjacent developments is achieved through increased/compliant building separation, screening and significant landscape. This is likely to require a reduction in development yield. Alternatively car-parking could be located below ground to reduce bulk.

- Penprase Lane is to be designed by an experienced urban landscape consultant as a shared space with appropriate uses, and is upgraded by the proponent to Council requirements (lighting, paving, landscape, furniture). The building facades are to be more integrated and engaged with the street – presently the scheme presents as a disengaged, heavy building atop a car-park.

- The residential lobbies on all levels are to be enlarged and more visually engaged with the street and the public domain, preferably by relocation of the fire-stair and lift.

- Unit plans are adjusted so that bedrooms can remain private to balconies and main living areas when their windows and blinds/curtains open.

- The landscape proposal for very large planted green screens to cover the existing buildings is technically unconvincing, and more work is required. A less “plant-dependent” design strategy should also be considered.
Environmental Health
The application was referred to Council’s Environmental Health Unit who raised no objections subject to the imposition of standard conditions.

Building Surveyor
The application has been assessed for compliance against the National Construction Code Series (NCCS). A condition will be imposed on the consent requiring that the reports submitted with the application (Building Code of Australia Assessment Report prepared by Blackett Maguire + Goldsmith 18th May 2016, and the Accessibility Design Review prepared by ABE Consulting job number 6104, 19th May 2016), be complied with and be submitted with the Construction Certificate.

Engineering (Assessment Team)
The application was referred to Council’s Assessment Team Engineer who provided the following comments:

Assets
The proposed change in use of the building from purely commercial to the inclusion of a residential component necessitated a review of the suitability of Penprase Lane for increased pedestrian use. This review resulted in recommendations requiring the provision of new public domain works and upgraded works as follows:
1. Lighting – required to be provided on the Penprase Lane side of the building (as proposed by the applicant) as well as standard street lighting (new poles);
2. Upgrade of the footpath for the entire frontage of the site (involving removal of existing pavement and replacement with suitable pavement as outlined in Council’s Public Domain Design Manual;

Construction and Site Management
The Site Management Plan submitted with the application proposes a tower crane in two separate locations around the site. Ideally the crane and the boom should be located within and over the subject site to remove the requirement for temporary easements. Additional area could be provided in Penprase Lane but this would require a Roads Act Consent. Conditions in this regard have been included in the consent.

Vehicle Access
A revised vehicle entry on Penprase Lane was designed as part of the assessment process of the application. The vehicle accessway now complies with the relevant Australian Standards. In terms of the design of the internal RSL carpark Council’s engineers will require some modifications. The introduction of significantly more vehicles through the existing carpark will create an unacceptable area of conflict at the bottom and top of the ramps. Conditions are recommended to remove parking spaces (approximately seven) in and around these areas, designate small car spaces and create additional splays to improve manoeuvring area.
Parking

The existing uses on the site at present each have allocated car parking as a result of existing development consents. The proposed residential development introduces a third landuse and requirement for car parking. Council’s engineer requires the following provision of parking for each of the landuses:

ALDI – DA09/0223 granted consent for 87 car spaces (in excess of the required 58 spaces). Three additional spaces proposed to be achieved by removing existing planter beds on the northern boundary of the site. The additional spaces are in excess of what is required under DSSDCP 2015 and the existing planters are required to minimise amenity effects for the adjoining neighbours and as such no additional parking for ALDI is supported.

Miranda RSL Parking

- DA99/3231 for the refurbishment of Miranda RSL Club consented to the creation of 150 parking bays. The assessment report for this application bases car parking on floor space calculations rather than patron numbers.
- DA05/1491 sought to increase the capacity of the RSL club to 1000 patrons, with no change to the maximum car parking provision of 150 spaces.
- DA15/0089 sought approval for the provision of a gym within the RSL club. Consent granted enabled allocation of 24 parking spaces bays of the approved 150 RSL spaces.

As a result of the modifications to the existing carpark to facilitate the residential development, the applicant proposed a reduction in parking provision for the RSL of 15 spaces (resulting in a new total of 135 spaces – including 24 for the gymnasium).

Residential Units

DSSDCP 2015 specifies a minimum of one space per unit and a maximum of two spaces per unit with no requirement for visitor parking. The required provision is therefore min. 57 and max.114 spaces.

The applicant proposes 61 spaces (30 on Level 3 and 31 on Level 4). Council’s engineer considers that additional parking should be provided on the basis of there being no available on-street parking to accommodate overflow parking. It is suggested that one space per studio / 1 bedroom unit and two spaces per 2 / 3 bedroom unit be required. This results in a requirement for 83 residential parking spaces (22 in excess of that currently proposed).

The additional 22 car spaces can be readily accommodated on Level 2 where the applicant had proposed tandem car spaces for use by the RSL. The Traffic and Parking Impact Assessment submitted by McClarens in support of the proposal stated that the RSL Club carpark is underutilised. It further states that the RSL can hold a maximum of 600 patrons but that ‘it is very rare for this to occur’.
The reduced parking provision for the RSL is therefore consistent with the current use needs of the club, with the benefit being increased parking for the new residential development.

The total parking provision for the site will therefore be as follows:
ALDI – 85 spaces
RSL – 105 (including 24 spaces for the gym)
Residential – 83 spaces

**Stormwater Management**
The BASIX Certificate submitted with the proposal specified a 2m³ rainwater tank to harvest rainwater from the roof for irrigation purposes. No tank has been shown on the plans and has therefore been conditioned. A stormwater drainage design plan has not been submitted with the application but will be required to be submitted showing a connection to the existing drainage system and has been conditioned accordingly.

**Pedestrian Access**
The existing pavement in Penprase Lane is uneven and reconstruction of this is required as a condition of consent.

**Waste**
The existing vehicle entry point to the RSL carpark and the limited headroom of the carpark restricts the option for on-site waste collection which DSSDCP 2015 would normally require. The alternative in this instance is a new waste room located on the ground level to the rear of the new enclosed residential lobby. The area provided is of insufficient area to accommodate the estimated waste for the new residential development and is therefore conditioned to be enlarged. The proposed garbage shoot is also sited in a location which will impact on vehicle manoeuvring at the top of the vehicle access ramps and is conditioned to be relocated. Waste collection will occur twice weekly by private contractor on-street in a designated space on the northern side of Penprase Lane. This will require new signage to demarcate the area.

**Architect**
The application was referred to Council’s Architect who still has a number of concerns with the proposal. The comments are included below:

*The placement of the building remains unchanged during the numerous plan revisions. All of the building bulk is pushed to the rear (eastern) side of the site away from the street. This creates an undesirable relationship with existing neighbouring buildings to the east and north, compromising the amenity of the proposed building and its immediate neighbours.*
Though the residential component of the proposal is a competently designed building with a refined modern aesthetic it remains a large building located inappropriately on its site.

The car park located above the existing supermarket will be a most prominent aspect of this proposal. Its aesthetic success is dependent upon the success of the proposed green screens. If the planting fails the majority of the building will read as a two storey high car park sitting on top of a supermarket, encased in a fence.

*Floor to floor height within the residential building should be increased to 3.1m in accordance with the ADG.*

25 units (44%) are considered cross ventilated. The applicant claims a further 17 units are single sided units that are naturally ventilated. A report has been provided by the applicant to justify / demonstrate that the proposed single sided units are naturally ventilated.

**Landscape Architect**

The application was referred to Council’s Landscape Architect who provided the following comments:

**Communal Open Space**

Additional Communal Open Space (COS) has been provided to the rooftop. The spatial composition of the roof top COS should however read as a series of spaces as opposed to a passage, to allow for more than one user group at a time. This can be achieved by decreasing the extent of planter bed to the south by 2m and the east by 1m. Conditions are recommended in this regard.

**Streetscape Presentation**

The applicant is proposing to retain the planting / climbers to the southern and western façade of the car park, despite having been advised to consider architectural treatment or art work on these facades as an alternative. Whilst the applicant submitted a Vegetation Plan of Management to demonstrate how the green walls could work and be maintained, concern is still raised as to the viability of this as an option. As previously stated by ARAP, the temperamental nature of vegetation, reliance on maintenance and insufficient sized planters to support the expanse of vegetation shown on the submitted montages, an alternative facade treatment of a more permanent nature is sought. Artwork or detailed architectural panelling would liven up the lane and make it more presentable to the public.

**Species Selection**

The plant species proposed to screen the walls is unsuitable and should be replaced with a more hardy / prolific climber / creeper. The tree species *Ficus rubignosa* (Port Jackson Fig) proposed to the rooftop car park is unsuitable as these grow in rainforest margins and on sheltered rocky outcrops. Any tree and shrub species proposed within the rooftop car park must be a hardy species capable of tolerating full sun and harsh winds. Species from exposed heath communities such as Banksias and Leptospermums would be more suitable in this kind of environment.
ALDI Ground Level Carpark

A reduction in the ground level planter beds in the ALDI carpark is proposed to enable the provision of three additional car spaces. This is not supported on the basis of the unacceptable impact for the existing residential flat building which overlooks this car park. Conditions are recommended to ensure the planters are retained.

ASSESSMENT

A detailed assessment of the application has been carried out having regard to the Heads of Consideration under Section 79C(1) of the Environmental Planning and Assessment Act 1979. The following matters are considered important to this application.

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.

Height of building is defined in SSLEP 2015 as follows:

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

1. *in relation to the height of a building in metres—the vertical distance from ground level (existing) to the highest point of the building, or*
2. *in relation to the RL of a building—the vertical distance from the Australian Height Datum to the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.*

The maximum building height on the site is 26.2m which fails to comply with the 25m development standard and represents a 4.8% variation to Cl. 4.3(2).

The elements of the proposed building which exceed the control are the northern end of Level 7 and part of the roof terrace, as well as the lift to the roof terrace at the south-eastern corner.

This is illustrated in the height plane diagram below.
Subject to Clause 4.6(3) development consent may be granted for development that contravenes a development standard but only on the basis of a written request from the applicant seeking to justify the contravention. The written request must demonstrate the following:

(a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case,* and

(b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

In terms of Clause 4.6(4) consent must not be granted for development that contravenes the standard unless the written request has adequately addressed the matters in subclause (3). Sub-clause (4) also requires that Council must be satisfied that the proposal is in the public interest because it is consistent with the objectives of the development standard and the objectives for development within the B3 Zone.

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 on the file and the most relevant section is reproduced below:

“The exceedance of the height of buildings development standard is caused by the change in the topography of the site and the provision of a roof top garden on the roof of the building.

At the highest point of the proposed development, it will be no more than 1.25metres above the 25m height control. The area of this exceedance is limited to the lift overrun at the northern end of the building, which is required to service the roof top garden.

In general the height exceedance is a response to the slope of the land, which falls towards the north-east due to previous excavation for the ALDI undercroft car park. It is also a response to the site constraints and careful siting and design of the proposed development which sites the five-storey residential flat building component over the eastern portion of the site (where the existing ground level is lowest) to reduce impacts on surrounding development./

The proposal provides an appropriate transition in height between the high-density built forms located along the Kingsway and the medium to high density developments situated further north of the site. In particular, the proposed eight storey development is commensurate in scale with the adjoining seven and eight storey developments to the north and east. Consequently the proposal is scaled appropriately to achieve a harmonious integration with the surrounding built environment. /

A height control of 25 metres and a FSR control of 2:1 is established for the site. However, a FSR of only 1.8:1 is achieved on the site. Were Council to insist on strict compliance with the height control, the achievable density on the site would be reduced even further, which would limit the ability to provide an appropriately scaled residential development within the Miranda Town Centre in close proximity to existing transport and services.”

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 subject proposal is largely consistent with the desired future character of the Miranda Commercial Core, reflecting a residential flat development above podium level commercial uses. Surrounding residential development comprises buildings of seven and eight storeys commensurate with the height (or higher than) that of the proposed building. The building maintains appropriate separation distance from the surrounding developments, with the exception of parts of the buildings to the north and south, which is discussed further below.

The proposed FSR for the development is less than the maximum permitted as a result of the site constraints and the need to ensure the residential amenity for existing neighbours and future occupants of the building is maintained. The height breach occurs largely at the northern end of the site where the site reaches its lowest point on a downward slope from Penprase Lane. The exceedance in itself has little impact on the overall perception of built form on the site, except in the context of the relationship with the building to the north. As discussed earlier, the ADG non-compliance in terms of building separation which occurs to the north, is unacceptable in its current form and potentially exacerbated by the additional height encroachment.

As it is proposed to condition an increased setback to the north (deferred commencement), the impact of the increased height is reduced. In terms of other amenity impacts such as solar access, or visual intrusion, no adverse impact as a result of the height breach is anticipated. The roof terrace area is well setback from the sides of the roof, with views from this area projected outwards rather than downwards. Residential buildings to the south and east receive more than the minimum solar access requirements and adequate building separation is provided to ensure no visual intrusion.

The subject proposal results in minimal change to the streetscape level experience in Wandella Road (eastern side), but results in an improved streetscape and pedestrian environment in Penprase Lane, where the ground level improvements are proposed. Views of the development from Wandella Road are of a reduced scale because the residential building component is setback behind the carparking levels. Further discussion is included below regarding the treatment of the facades of the carpark levels to improve the visual appearance.

Overall, the proposal satisfactorily addresses the objectives of the building height development standard.
The proposed development is located within zone B3 Commercial Core. The objectives of this zone are as follows:

- 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 subject site is presently underutilised. It has a central location within the Miranda Commercial Core. The residential component of the development will serve to strengthen the viability of the existing commercial area and add to its vibrancy with an injection of new resident population central to all of the existing services and transport links.

The proposal will result in an improved ground level streetscape in Penprase Lane with both the new pedestrian entry foyer and the separate RSL parking foyer. New pavement treatment and lighting on the building will also serve to improve the laneway environment in terms of safety, urban design and the public domain.

The surrounding uses in Penprase Lane, Central Road and Wandella Road comprise upper level residential apartments, which the subject proposal will contribute to in terms of increased housing stock and choice. Overall, the proposal demonstrates consistency with the objectives of the B3 Zone.

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.

Subject to the design changes proposed as part of this report, the proposed development is in the public interest as the proposal complies with the objectives for both the building height development standard and the B3 Commercial Core zone.
The proposed variation does not raise any matters of State or regional environmental planning significance. The building height development standard has local relevance only. In addition there is no public benefit to maintain the height development standard in the circumstances of this case. As demonstrated above, the elements causing the height encroachment are largely setback from the edges of the roof and the side elevations so in terms of visual impact from the public domain, no adverse effect is likely. The additional height results in no adverse view loss for the public, or overshadowing of the public way and privacy from the roof terrace is minimised by its location setback from the edge of the roof. The proposed roof terraces provide a substantial benefit for future residents and having regard to the circumstances of the case, the height encroachment is reasonable in this instance.

In conclusion the variation to the height development standard satisfies all relevant parts of clause 4.6 and therefore the variation can be supported.

**Earthworks**

The proposal includes earthworks and as a result clause 6.2 of SSLEP 2015 requires certain matters to be considered in deciding whether to grant consent. The only area of the site involving earthworks is the ALDI carpark on the northern side of the site. This existing hardstand area will be lowered and the planters re-instated to provide an improved carpark area.

Clause 6.2 requires the consideration of impacts on drainage; future development; quality and source of fill; effect on adjoining properties; destination of excavated material; likely disturbance of relics; impacts on waterways; catchments and sensitive areas and measures to mitigate impacts. The relevant matters have been considered and the application is acceptable, subject to conditions regarding drainage and increased amenity planting.

**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 subject to conditions of consent.

**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. The proposal represents continued use of and new additions to the existing building, rather than demolishing the building and starting again. This is a sustainable building approach and the proposal is considered to be acceptable.
Urban Design (Residential Buildings)

Clauses 6.16 and 6.17 of SSLEP 2015 contain certain matters of consideration relating to urban design. The relevant matters have been considered as a part of the assessment of the application and on balance the proposal is considered to be acceptable subject to deferred commencement consent involving design changes to the building. These aspects are addressed below.

The Crime Prevention through Environmental Design (CPTED) principle aims have been considered with regards to potential safety and security issues associated with the design of the development. The proposed new works provide suitable opportunities for both active and passive surveillance. The development is considered appropriate subject to suitable conditions of consent incorporating additional CPTED treatment measures.

Contaminated Land

A site inspection and search of Council records has revealed that the subject site is unlikely to be contaminated and is therefore fit for its intended use.

Archaeological Sensitivity

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

Built Form & Building Separation

One of the key concerns with the proposal for ARAP and Council’s architect is the arrangement of buildings on the site and the fact that the applicant has sought to retain the existing building and make alterations and additions to it rather than to demolish and start again from the ground up. ARAP considered that a more desirable scheme would be a mixed use development which includes basement car parking, active street uses at ground level, and a residential element above, facing Wandella Road. Whilst it is accepted that a scheme of this nature may have its benefits, it is not the proposal before Council to consider.

The ownership arrangement and the existing uses on the site have led to the current arrangement of proposed built form. In most respects however the proposed new residential building complies with the required setbacks and building separation requirements set out in the ADG (with the exception of parts of the northern and southern elevations). The southern side separation non-compliance is minor and can be rectified by way of a condition requiring privacy measures. The northern separation non-compliance requires an increased setback and therefore a redesign of some of the apartments as outlined further below.
The building separation requirements of the ADG specify the following for buildings five to eight storeys / up to 25 metres:

- 18 metres between habitable rooms/balconies
- 12 metres between habitable rooms/balconies and non-habitable rooms
- 9 metres between non-habitable rooms

As stated above, the proposal meets the required building separation distances to the east and west but not to the north and south. The existing flat building to the north (8-12 Wandella Road) was built approximately 15 years ago, when the subject site was an at-grade carpark. Apartments in this building were built very close to the southern boundary such that a number of the units have balconies which are setback approximately 1.5 – 2m from the boundary. These balconies presently face the ALDI carpark, the rear of the ALDI supermarket and multi-deck RSL carparking. The level of residential amenity afforded these units is compromised in terms of noise, privacy and outlook.

The proposed new residential building will be situated on top of the existing carpark level (effectively 12m in height). The applicant has designed the building to be defensive, to provide visual and acoustic privacy between the new development and the existing building, but has proposed a maximum separation distance of between 9m and 14m building to building. The ADG requires a minimum of 12m between habitable rooms / balconies and non-habitable rooms. Objective 3-F aims to ensure that building separation is shared equitably on neighbouring sites. In this instance, an equitable sharing of building separation cannot occur as the existing building has been built too close to the boundary. The burden for building setback is therefore greater on the subject site.

In some instances, the required building separation may not result in adverse amenity impacts and a reduced setback could be considered. In this instance, notwithstanding the Miranda Centre location of the building, the extent of compromised residential amenity for the neighbouring apartments is such that no encroachment in building separation can be supported. The proposed building separation of 9m directly opposite one wing of the existing residential building has the potential to further exacerbate the limited outlook and sense of available light for these apartments. The perceived visual dominance will also be unacceptable.

The applicant has gone to considerable lengths to design a building which complies with the building separation requirements for other sides of the building. The northern setback for the residential parking levels is also compliant, providing a 14m setback to the closest balcony.

The applicant was advised of Council’s concerns with respect to the northern setback during the course of the assessment and has only made minor amendments. This resulted in a 9m setback from the building to the edge of the neighbouring balcony. For the proposal to be acceptable, a minimum 12m setback is required. Achieving the 12m setback will require a redesign of the northern end units and has therefore been incorporated into a deferred commencement condition.
The setback requirement to the south is 18m as the southern elevation of the proposed building contains bedroom windows. The flat building on the southern side of Penprase Lane has living areas and balconies facing north – a number of which are opposite some of the bedroom windows. The closest setback point between the two buildings is 16.6m (from the edge of the balcony to the wall of the proposed development at the closest point). The amenity impact is not so much one of visual bulk and scale but in terms of privacy, as floor to ceiling bedroom windows are proposed. Whilst these are only narrow, it is considered appropriate to require privacy measures to be incorporated on these windows. The elevation would then be considered defensive and the building setback appropriate in terms of its relationship with the adjacent building.

A key concern related to the placement of the built form on the site is that of the presentation of the upper level car parking for the residential component. The applicant is seeking to screen the carpark walls with planting, to create a green wall appearance for the development. This is proposed to extend to each of the existing RSL carpark facades as well as the two new levels of parking. In principle and appearance (in terms of the 3D montages submitted with the application), the green walls would make a positive contribution to the development and to the Penprase Lane / Wandella Road streetscapes. The key concern with the green wall scheme however is the likelihood for achieving this and the long-term viability of the green wall for maintenance by the future body corporate. If the green wall were to fail at any stage, the visual impact of the car parking structure would be significant.

ARAP stated that the landscape proposal was technically unconvincing and that a ‘less plant-dependent’ design strategy should also be considered. The applicant responded to ARAP and Council’s concerns by submitting revised elevations for the parking levels showing two different types of elevational treatments and a Vegetation Management Plan. The applicant wants to proceed with the green wall proposal, but put forward the revised architectural detailing as a solution in the short or long term should the green walls not take hold.

Council’s architect is not satisfied with the proposed architectural treatment, considering it creates the appearance of a screen / fence. Alternative treatments such as fixed panels, with art work elements or a more typical built form treatment is required, such that the car parking levels appear more a commercial building than a carpark. Council’s Landscape Architect remains dissatisfied with the proposed landscape species, but can impose conditions to ensure a more successful long term result.

It is considered that a suitable architectural treatment for the car parking levels can be achieved through continued negotiation with the applicant and as such deferred commencement conditions are recommended to address this aspect.
Traffic and Parking

The application, including the submitted traffic assessment and parking provisions, have been reviewed by Council's Engineers. The impacts arising from the proposed development are generally considered to be acceptable. The vehicular entry is suitably located in Penprase Lane away from the busy intersection of Wandella Road, which will minimise potential conflicts and enhance vehicular and pedestrian safety.

DSSDCP 2015 sets out the key objectives for car parking as follows:

a. To ensure all landuses and / or combination of activities provide sufficient parking on-site to satisfy the demand for parking by different vehicle types generated by the development including Traffic Generating Development.

b. To minimise amenity impacts on neighbouring properties including streetscape, noise and lightspill.

c. To ensure that off-street parking areas are provided having regard to the area of the building, the number of employees, residents and visitors, the availability of public transport and use of bicycles.

The existing site accommodates two different uses at present (supermarket with associated parking as well as RSL patron / gymnasium carparking). The present parking arrangement appears to operate with minimal conflict, albeit Council officer’s site visit indicated that the RSL has been operating the carpark as a commercial ‘user-pays’ carpark. This is contrary to the existing RSL consent and the applicant has been advised accordingly.

Introducing a third landuse activity to the site with the residential accommodation component means ensuring sufficient parking provision for this landuse. The applicant has sought to provide the minimum number of car parking spaces, but Council’s traffic engineer is of the view that additional parking for two and three bedroom units should be provided (utilising the maximum parking requirements in DSSDCP 2015). This would ensure that objective a. of DSSDCP 2015 is met.

The additional residential parking provision would mean a further decrease in parking for the RSL. As stated in the traffic report submitted with the application, patrons’ numbers are nowhere near what they once were and a reduced parking provision will still meet the patron needs of the Club.

In terms of objective b. conditions are recommended to ensure no adverse effects from vehicle noise and lightspill for the residential apartments to the north and south of the site, which face the proposed new residential parking decks. These conditions are tied in with the need for improved elevational façade treatment for this carpark structure (see above).
Views
The issue of view loss has been raised by one of the submitters in the residential flat building known as 621-635 Kingsway, Miranda. The submitter lives on the top floor of the units on the north-western corner and currently enjoys 180 degree views across the Port Hacking High School grounds panning towards the city skyline and Botany Bay.

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

1 - Assessment of views to be affected
The submitter’s unit is on the top floor of an 8 storey building directly south of the subject site on the opposite side of Penprase Lane in a block fronting the Kingsway. The unit is on the corner and is therefore afforded views directly west, partially to the south, but most expansively to the north and north-east. The submitter’s balcony wraps around the north-western corner of the unit, directly accessed from the main dining / living area of the unit.

The subject site is currently under-developed and sited on the downward side of Penprase Lane. This, along with the height of the objector’s unit, affords 180 degree views over the Sydney Basin towards the north, in an arc from east to west. These views comprise most importantly distant views of:
• Botany Bay, the Airport and Ports;
• Sydney CBD Skyline; and
• The greater metropolitan area.

A similar view is afforded to the other units on the northern side of the building which all have north-facing balconies. The most prominent existing building in the foreground of the view is that of the Central Apartments tower (19-21 Central Road, Miranda).

The general ‘openness’ of the aspect enjoyed by the objector’s apartment is assisted by the location of Port Hacking High School which is situated on the western side of Wandella Road. The school contains significant playing fields which abut the freeway reserve and which provide a large vista of vegetated area. This view undoubtedly adds to the amenity of the apartment.

There are iconic view elements involved yet these are distant and the views are assessed as being of ‘moderate’ significance.

2 - Consider from what part of the property the views are obtained.
The view is largely obtained from the balcony of the apartment, but also from within the living area via the north-facing windows. The view is enjoyed in both day and night time hours, and from a standing and seated position.
3 - Assessment of the extent of the impact.
The subject site has a maximum 25m height limit applicable to it under SSLEP 2015. If the full height available on the site was taken up, the 25m height line across the site would result in significant view loss for the objector and other property owners within the Kingsway apartments.

The predominant massing of the proposed residential building occurs at the eastern end of the existing building, which obscures the objector’s distant views of the city and Botany Bay. Whilst these views could be said to be the more significant of the wider sweeping views, the reduced height and scale of building proposed for the remainder of the site ensures that the majority of the sweeping suburban views are retained.

4 – Assessment of the reasonableness of the proposal that is causing the impact.
The proposed residential building breaches the maximum height limit at certain points. A Clause 4.6 objection for the height breach is supported on the basis of minimal impact. The height breach does not impact on the degree of view loss as this occurs at a lower level than the 25m.

Earlier discussion in this report has addressed the various benefits or not of the proposed arrangement of built form on the site and consideration of the possible alternatives. In any alternative development form, view loss would occur, given the building height and FSR achievable on the site. The subject arrangement of built form enables substantial sweeping views to be retained, which, given the urban centre location of the site is more than reasonable. An expectation that apartments will continue to enjoy unobstructed views ‘outwards’, from within an urban centre and across urban centre zoned redevelopment sites is unreasonable.

Communal Open Space
The ADG requires the provision of 25% of the site area for the purposes of communal open space. The applicant has submitted that the proposal complies with the ADG, with a 26% provision divided between the two terrace areas (Level 3 and the roof). Council officers have calculated the provision at 14% (or a shortfall in numeric terms of 401m²).

The key design guidance for the provision of communal open space is that they should be consolidated into a ‘well designed, easily identifiable and useable area’.

The original proposal made provision for a single communal open space area on the eastern side of the development on Level 3. This area accounted for approximately 7% of the requirement. The applicant was advised of the significant shortfall and amended the proposal to provide a large roof terrace on top of the building. The area of the roof terrace is constrained by skylight windows for each of the top floor units (required to achieve cross-ventilation) and solar access. The applicant has designed the roof terrace to exclude these areas for use and provide planting in this area instead. Whilst the planting adds a degree of amenity to the roof terrace and is supported, it is considered to sit outside the area of the actual ‘useable communal open space area’ and has therefore not been included in the calculation to achieve the 25%.
Notwithstanding the shortfall, the design of each of the communal open space areas still achieves the objectives of the ADG. Both spaces offer a different level of amenity and will afford spaces for different groups of occupants to enjoy passive recreation outside their individual units or private balcony / terrace areas. The Level 3 private terrace areas are generous and the majority of upper level balconies exceed the ADG minimum size requirements. The site is also located within the Miranda Commercial Core and a five minute walk to the nearby Seymore Shaw Park, which contains a playground and large expanse of playing fields. The on-site shortfall of communal open space can therefore be off-set by the good proximity to public open space facilities as well as those afforded by the location of the site within the Miranda Centre.

Residential Amenity

Privacy

For the most part the proposed residential component of the building has been designed to respect the visual and aural privacy of the residents in the existing flat buildings to the north, south and east. The proposed units are largely oriented east and west, with four studio apartments oriented north-south but in the south-east corner of the site.

None of the proposed units look directly into the balconies or principal living area windows of any existing unit. The northern and southern sides of the building incorporate solid ends to the balconies to prevent direct looking to the south or north, orienting views to the west. There are several rooftop terraces to the north on the building known as 8-12 Wandella Road. The proposed new building has maintained more than sufficient separation distance from these terraces (being approximately 22m from the closest balcony to the closest terrace).

On the eastern side, the neighbouring building (19-21 Central Road) is oriented to the north and east, with some windows in the western elevation. Units in the western component of this building face due north. Whilst the balconies in the east facing units face due east, adjustable privacy screens are proposed for the balconies to assist with moderating viewing angles.

An objector located in the Kingsway apartments (621-635 Kingsway) raised concern with respect to the windows proposed in the southern elevation of the new residential building and requested that this elevation be treated in a more defensive way, similar to the northern elevation. The separation distance from the closest point on the balconies of the Kingsway building to the windows in the southern elevation is 16.6m. As discussed above, this separation falls slightly short of the required 18m. Notwithstanding this the elevation is for the most part reasonably defensive, containing only bedroom windows. The windows vary in width and are full height floor to ceiling. Whilst bedrooms are low-use rooms, given the reduced setback and the opposite residential balconies, visual and aural privacy for both the existing and future occupants could be improved with the inclusion of privacy measures on these windows. Deferred commencement conditions have been incorporated to addresses this, giving the applicant the opportunity to design either highlight or frosted windows, or incorporate external angles louvers on these windows.
Internal privacy within the development is largely satisfactory with appropriately located balconies and the use of adjustable louvers. ARAP has raised concern with respect to the material proposed for the balconies of the apartments (solid glass) as this affords minimal privacy. Some balconies incorporate vertical louvers but largely only the top floor units. The west facing apartments would also benefit from a more solid balcony to reduce the impact of west facing sunlight during the summer months. A condition has been imposed requiring further consideration of this as part of the deferred commencement.

Cross Ventilation
The subject proposal falls short (54%) of the required 60% of cross-ventilated apartments. The shortfall accounts for approximately five units. To achieve the 54% the top floor units require roof vents in the roof of the building, and other strategically placed window openings (Units 306, 406, 506) which are only just acceptable in terms of cross-ventilation.

The applicant was advised of the shortfall, which occurs largely as a result of the number of single-sided apartments. In support of the proposal the applicant submitted a Natural Ventilation Assessment report prepared by Cermak Peterka Petersen (CPP). This report demonstrated that the single sided apartments are naturally ventilated to an extent which satisfies the ADG. Reference was made to projects elsewhere within the Metropolitan area where natural ventilation was found to be a satisfactory measure to cross-ventilated apartments. These examples were checked but could not be qualified as all of the developments had been determined with reference to the Residential Flat Design Code (RFDC).

The ADG requires ‘at least 60%’ of apartments to be cross-ventilated. The ADG also requires that all habitable rooms are naturally ventilated. The applicant is close to achieving the requirement. The deferred commencement conditions require modification to a number of the units which is likely to reduce the overall number of units in the development. This will make it easier to achieve the 60%. A condition has been included in the deferred commencement consent to require compliance with the ADG in this regard.

SECTION 94 CONTRIBUTIONS
The proposed development will introduce additional residents to the area and as such will generate Section 94 Contributions in accordance with Council’s adopted Contributions Plans. These contributions include:

Open Space: $476,685.07
Community Facilities: $79,688.31
Miranda Centre $165,247.19

These contributions are based upon the likelihood that this development will require or increase the demand for local and district facilities within the area. It has been calculated on the basis of 57 new residential units with a concession of two existing allotments.
DECLARATIONS OF AFFILIATION, GIFTS AND POLITICAL DONATIONS
Section 147 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.

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 alterations and additions to a commercial building and the construction of a residential flat building, is a permissible land use within the zone with development consent.

The application was placed on public exhibition on two occasions, with seven submissions received during the initial notification period and three from the second notification period (revised plans). The matters raised in these submissions have been discussed in this report and some matters have resulted in design changes to the building or recommended conditions of consent.

The proposal includes a variation to the building height development standard. This variation has been discussed and is considered acceptable subject to building separation design changes and deferred commencement conditions of consent.

The subject proposal represents in fill development within the Miranda Centre. The site is constrained by the existing commercial development on the site and by existing residential flat developments to the north, south and east. For the most part the proposed development will result in a good development outcome for the site. The architectural quality of the building and finishes is high. The proposed green wall planting is encouraged, but insufficient architectural detailing is provided in the event that the green wall is not as successful as intended. Deferred commencement consent is recommended on the basis of the built form changes on the northern side of the building, the architectural detailing of the carpark facades and compliance with the minimum cross-ventilation requirements of the ADG. Conditions are also imposed to ensure residential amenity for surrounding residential property owners is maintained and to minimise any environmental impacts.

The application has been assessed having regard to the Heads of Consideration under Section 79C(1) 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. 16/0641 may be supported for the reasons outlined in this report.

RESPONSIBLE OFFICER
The officer responsible for the preparation of this Report is the Manager, Major Development Assessment (AT).

File Number: DA16/0641
PART 1 - DEFERRED COMMENCEMENT CONDITIONS

To enable the submission of further information to clarify or resolve specific aspects of the proposed development this Development Consent is issued as a "Deferred Commencement" Consent under the provisions of Section 80(3) of the Environmental Planning and Assessment Act as amended. The Consent does not operate until the applicant satisfies the Council as to the following matters.

The required information must be submitted within 12 months of the date of issue of this development consent.

Note- Under the provisions of Clause 95A(5) of the Environmental Planning and Assessment Regulation 2000 upon submission of the required information, Council must advise in writing whether or not it is satisfied as to the relevant matters.

1. Architectural Design Changes Required

   Revised plans are to be provided showing the following modifications which are to be made to the development:

   a. Increased Building Separation
      The north-western wing of the residential building must achieve a minimum 10.5m setback from the northern boundary. This setback shall extend to the side of the stepped wall of the eastern wing of the building.

   b. Cross-ventilated Apartments
      The development must achieve 60% cross-ventilated apartments in accordance with the requirements of the Apartment Design Guide.

   c. Treatment of carpark facades
      All of the facades of the existing and proposed carparking levels shall be suitably screened utilising architecturally designed panelling. The panelling must largely comprise solid elements which minimise any view of the internal car park. Details shall be submitted to the Director of Shire Planning for Approval.

   d. Privacy
      Privacy measures must be implemented for the bedroom windows in the southern façade of the building. Such measures shall include frosted glazing, fixed privacy screens angled to the east or windows with a minimum sill height of 1.5m.
PART 2 - CONDITIONS OF CONSENT

2. Approved Plans and Documents

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

<table>
<thead>
<tr>
<th>Plan number</th>
<th>Reference</th>
<th>Prepared by</th>
<th>Date</th>
</tr>
</thead>
</table>

The above table will be populated upon arrival of revised plans as required by Condition 1.

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

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

i) A Construction Certificate.

ii) Notification of the appointment of a Principal Certifying Authority and a letter of acceptance from that Principal Certifying Authority.

iii) Notification of the commencement of building works with a minimum of 2 days notice of such commencement.

3. Design Changes Required

A. Before Construction

The following design changes must be implemented:

i) The size of the proposed garbage room must be increased by moving the western wall 4m to align with Grid 9 (Drawing No.2327.01 sheet DA1101/T prepared by Altis Architecture).

ii) The parking bay adjacent to the northern side of the “new lobby” must be deleted to enable sufficient area for the increased garbage room.

iii) The planter box adjacent to the southern elevation of the “new lobby” and west of the “new lobby” main entrance doorway must be deleted.

iv) The lift to the residential flat building shall be altered to enable persons to enter / exit the lift on Level 2 (carpark).

v) An ordinance fence must be provided adjacent to the eastern side of the Aldi loading dock, forward of the southern elevation of the RSL car park.

vi) The four parking spaces in the north western corner of the ground level car park shall be deleted and replaced with a planter bed.

viii) The storage area to the western side of the Level 4 car park must be deleted and the planters extended into this area.
ix) Units 303, 403, 503, 603 and 703 shall be redesigned to ensure a maximum depth of 8m for the open play living / dining / kitchen area.

x) The floor to floor height for each of the residential levels shall be 3.1m.

xi) A minimum of 199m$^3$ of storage shall be provided within the Level 2 and Level 3 carparks allocated on the basis of 6m$^3$ per 1 bedroom unit, 8m$^3$ per 2 bedroom unit and 10m$^3$ per 3 bedroom unit.

xii) A minimum of 199m$^3$ of storage shall be provided within the individual apartments allocated on the basis of 6m$^3$ per 1 bedroom unit, 8m$^3$ per 2 bedroom unit and 10m$^3$ per 3 bedroom unit.

Details of these design changes must be included in documentation submitted with the application for a Construction Certificate.

4. CCTV  
   a) CTV surveillance cameras shall be strategically installed, operated and maintained throughout the carpark (Levels Ground, 1 and 2) with particular coverage to:
      i) principal entrance/s and exits
      ii) staircases
      iii) the area within a 10m radius external to the public entrance(s) to the premise.

b) Suitable and clearly visible signage shall be displayed at the principal entrance(s) to the carpark and entry foyers and in a prominent location on each floor of the carpark position on each floor accessible to the public with the words "Closed Circuit Television in use on these premises".

c) All CCTV recording equipment and cameras shall be of high grade digital quality capable of establishing the population and identification of patrons, offenders and incidents within the depth of field view of the cameras. In this respect each surveillance camera shall be capable of recording a minimum rate of 10 frames per second and at high resolution.

d) CCTV recording discs or hard drive recordings shall be retained for 28 days before being re-used, destroyed or deleted. Time and date shall be auto recorded on the disc or hard drive. The CCTV recording equipment shall be capable of reproducing a CD, DVD or other appropriate digital copy of recorded footage on demand of Council or Police Officers either immediately or within 12 hours of the request being made. Copy discs must be handed to Council, Police Officer or Special Inspectors as required.

e) All CCTV recording devices and cameras shall be checked daily to ensure the equipment is operating correctly. The RSL shall record this daily checking activity in the security/incident register book that meets the standards required by the Police. If it is discovered at any time that the equipment is not in full operating order all reasonable steps must be taken to repair the system as soon as practicable.

f) All CCTV recording devices and cameras shall be operated at all times when the carpark is open to the public.
g) The CCTV recording device shall be secured within the RSL premises and only be accessible to senior management personnel so as to maintain the integrity of the recorded footage. When the carpark is operating there must be at least one staff member present at the premises who is authorised to access the CCTV system and able to immediately review recordings and produce copies.

h) Camera views are not to be obstructed by temporary or permanent structures, signage or other impediments.

5. Public Place Environmental, Damage & Performance Security Bond

A. Before Issuing of any Construction Certificate

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

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

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

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

The value of the bond is $10,210.00.

Note: Bond amount includes a non refundable administration fee which must be paid separately if security is provided by way of a deposit with Council or a bank guarantee.

Use of Bank Guarantee - As bond releases may occur under different timeframes only one bond amount/bond purpose is permitted on a Bank Guarantee. Multiple bonds will require multiple bank guarantees to be lodged.
B. After Occupation
A request for release of the bond may be made to Sutherland Shire Council after all works relating to this consent have been completed. Such a request must be submitted to Council on the ‘Bond Release Request Form’ signed by the owner or any person entitled to act on the consent and must be accompanied by a current dilapidation report including photographs.

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

The Contributions Plan may be viewed on line on Council’s web page (search for S94 Contributions Plan). A copy may also be viewed or purchased at the Customer Service Counter in Council’s Administration Centre, Eton Street, Sutherland during office hours.

6. Monetary Contribution for Shire-Wide Open Space and Recreational Facilities
A. Before Construction
Pursuant to Section 94 of the Environmental Planning and Assessment Act 1979 and Sutherland Shire Council’s Contributions Plan - Shire Wide Open Space and Recreation Facilities 2005, a monetary contribution of $476,685.07 must be paid to Sutherland Shire Council toward the cost of land identified for acquisition and works contained in the Works Programme of the Contributions Plan.

This contribution has been assessed and calculated in accordance with the Shire Wide Open Space and Recreation Facilities 2005, Contribution Plan on the basis of 57 new residential apartments, with a concession for 2 existing allotments.

The contribution will be indexed on 1 July in each year in accordance with the Implicit Price Deflator for Gross Fixed Capital Expenditure - Private Dwellings, with amended rates being available from Council.

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

7. Community Facilities, Shire Wide 2003 Plan
A. Before Construction
A monetary contribution of $79,688.31 amount must be made for the cost of providing community facilities.

This contribution has been assessed pursuant to s.94 of the Environmental Planning and Assessment Act, and the Sutherland Shire Contributions Plan - Community Facilities in the Sutherland Shire, after identifying the likelihood that this development will require or increase the demand for community facilities within the shire. It has been calculated on the basis of 57 residential apartments, with a concession for 2 existing allotments.
The contribution will be indexed on 1 July in each year in accordance with the Implicit Price Deflator for Gross Fixed Capital Expenditure - Private Dwellings, with amended rates being available from Council.

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

8. S94 - Miranda Centre

A. Before Construction

Pursuant to Section 94 of the Environmental Planning and Assessment Act 1979 and Miranda Centre Open Space Embellishment Plan, a monetary contribution of $165,247.19 must be paid to Sutherland Shire Council toward the cost of works contained in the Works Programme of the Contributions Plan.

This contribution has been assessed and calculated in accordance with the Miranda Centre Open Space Embellishment Plan on the basis of 57 residential apartments, with a concession for 2 existing allotments.

The contribution will be indexed on 1 July in each year in accordance with the Implicit Price Deflator for Gross Fixed Capital Expenditure - Private Dwellings, with amended rates being available from Council.

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

9. Approvals Required under Roads Act or Local Government Act

A. Before Construction

No occupation or works are to be carried out on public land (including a road or footpath) or access provided over a public reserve adjacent to the development site without approval being obtained from Sutherland Shire Council and the necessary fee paid under the Roads Act 1993 and/or the Local Government Act 1993. These approvals must be to the satisfaction of Council for the required development works and may include but are not limited to the following:

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

Note: All Plans and Permits are required to be on site, at all times and may be requested by council officers at any time.
Note: Approval under the Roads Act or Local Government Act cannot be granted by a Principal Certifying Authority or by a Private Certifier. Failure to obtain approval may result in fines or prosecution.

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

      i) Safe access to and from the site during construction and demolition.
      ii) Safety and security of the site, road and footpath area including details of proposed fencing, hoarding and lighting.
      iii) Method of loading and unloading excavation machines, building materials.
      iv) How and where, construction materials, excavated and waste materials will be stored.
      v) Methods to prevent material being tracked off the site onto surrounding roadways.
      vi) Erosion and sediment control measures.

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

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

      The purpose of the meeting is to:

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

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

### 12. Supervising Engineer

#### A. Before Construction

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

i) Road frontage works.

ii) Construction / installation of stormwater drainage.

iii) Rainwater harvesting & reuse.

iv) All other works that form part of a subdivision.

#### B. During Construction

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

i) All relevant conditions of development consent.

ii) Any Consent issued under the Roads Act for this development.

#### C. Before Occupation

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

### 13. Stormwater Design - General

#### A. Design & Constructed

The stormwater drainage system where altered or newly constructed must be designed and constructed to comply with Australian Standard AS3500.3:2003.

### 14. Damage to Adjoining Properties

#### A. Before Works

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

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

A. Before Construction
Suitable arrangements must be made with all relevant utility service providers to ensure the development is appropriately serviced by electricity, gas, telecommunications and the like, and any necessary underground conduits are provided.

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

16. Awnings within the Road Reserve
A. Design
Council has determined that the proposed development generates a need for construction of an Awning to be undertaken by the Applicant within the Road Reserve in conjunction with the development. To this end an application under the Roads Act shall be submitted to Sutherland Shire Council together with the Awning design drawing and specification (prepared by the Owner / Applicant's Consultant), for Consent to undertake the required works. This design will generally comply with the approved architectural design drawings and must specifically address / accommodate the following;

i) Awnings are required to be set back a minimum of 600mm from the kerb face and be a minimum height of 2.4m above the footpath level, and
ii) Drainage from the awning shall be connected to the stormwater system for the development.

B. Before Construction
Certification from an Accredited Certifier or a Chartered Civil Engineer to the effect that the Awning design and specification was prepared in accordance with the Development Consent and the associated Roads Act Consent and to their satisfaction, shall accompany the application for the Construction Certificate.

C. Before Occupation
The Supervising Engineer shall certify the Awning was constructed to their satisfaction and in accordance with the Development Consent and associated Roads Act Consent. Prior to the occupation or use of the building the Applicant / Owner shall submit to Council a copy of the aforementioned letter of certification.
Note: Council’s Engineering Division charges a fee for assessment and approval of the awning design and specification. A quotation may be obtained by contacting the Sutherland Shire Council’s Assets Manager.

17. Design and Construction of Works in Road Reserve

A. Design

Council has determined that the proposed development generates a need for the following works to be undertaken by the Applicant in the Road Reserve in conjunction with the development. To this end an application under the Roads Act shall be submitted to Sutherland Shire Council for a Road frontage design drawing and consent to undertake the required frontage works. This design will generally comply with the approved architectural design drawings, SSC Specification for Civil Works Carried Out in Conjunction with Subdivisions and Developments and SSC Public Domain Design Manual, except where amended and or addressing the following;

i) Establish the property alignment levels and crossing profiles,
ii) Reconstruct the vehicle crossing,
iii) Reconstruct the footpath pavement,
iv) Install street lighting,
v) Construct a traffic calming devise,
vi) Install street parking signage to enable on-street garbage pickup,
vii) Adjust public services infrastructure where required, and
viii) Ensure there are adequate transitions between newly constructed and existing infrastructure.

B. Before Construction

Establish the property alignment levels and crossing profile.

C. Before Occupation

The Supervising Engineer must certify the Road Frontage Works were constructed to their satisfaction and in accordance with the Development Consent and associated Roads Act Consent. Prior to the occupation or use of the building the Applicant / Owner shall submit to Council a copy of the aforementioned letter of certification.

Note: Council’s Engineering Division charges a fee for the creation of the road frontage works design and specification. A quotation may be obtained by contacting the Sutherland Shire Council’s Assets Manager.
18. Parking Layout and Vehicle Access

A. Design

The vehicular access-way and car park layout shall comply with the approved annotated architectural design drawings, Australian Standard AS2890.1:2004 and Australian Standard AS2890.6:2009, except where modified by the following:

i) Align with Council’s issued vehicular crossing levels.

ii) Parking bays must not be caged or enclosed.

iii) All parking bays must be line marked.

iv) All “disabled” parking bays and associated shared zones and small car spaces shall be signed.

v) The three parking bays on the ground floor closest to the boom gate shall be designated small car spaces.

vi) The two western parking bays on the ground floor at the northern end of the driveway ramp shall be deleted. The two western parking bays on the first floor at the northern of the driveway ramp shall be deleted.

vii) The proposed east-west parking bay on the northern side of the aisle on the ground floor shall be deleted. The proposed east west parking bay on the northern side of the aisle on the first floor shall be deleted.

viii) A 1m by 1m splay shall be constructed at the north western corner of the driveway ramp on the ground floor. A 1m by 1m splay shall be constructed at the north western corner of the driveway ramp on the first floor.

ix) The top of the driveway ramp of level one shall be widened by reconstructing the kerb of the outside curve. This kerb shall be set 450mm off the existing column and outside wall of the fire escape. The proposed garbage shoot shall be relocated from within the vehicle swept path of this ramp.

x) The top of the driveway ramp of level two shall be widened by reconstructing the kerb of the outside curve. This kerb shall be set 450mm off the existing column and outside wall of the fire escape. The proposed garbage shoot shall be relocated from within the vehicle swept path of this ramp.

xi) Mirrors shall be installed at the top and bottom of each driveway ramp of levels ground, first and second to assist motorists accessing the ramps.

xii) The maximum longitudinal grade of the driveway ramps shall be 25%.

B. Before Construction

Certification from an Accredited Certifier or a Chartered Civil Engineer or a Registered Surveyor, to the effect that the carpark layout and vehicle access-way design was prepared having regard to the conditions of development consent, shall accompany the application for the Construction Certificate.
C. Before Occupation

i) A Works-As-Executed drawing (WAED) of the carpark shall be prepared by a Registered Surveyor. This drawing must detail the alignment of each parking bay. An original or a colour copy shall be submitted to Sutherland Shire Council.

ii) A Civil Engineer or Registered Surveyor must certify the aforementioned WAED that the carpark was constructed to their satisfaction and in accordance with the Development Consent. Prior to the occupation or use of the building the Applicant / Owner shall submit to Council a copy of the aforementioned letter of certification.

Note 1: Be advised that this condition is based on a B85 vehicle (Ford Falcon Sedan). The recommended condition will not necessarily protect exotic or altered cars from "scraping" the vehicular access-way.

Note 2: Please be aware that the longitudinal grade of the driveway ramp is steep and that slip/traction may be an issue. It is recommended that specialist advice be sought in this regard.

Note 3: This condition will require the allocation of approximately 22 parking bays for the residential flat building, upon level two.

Note 4: Stratum Lot one known as the Aldi Supermarket site, Stratum Lot two known as the RSL carpark and Stratum Lot three known as the RFB site.

19. Stratum Subdivision

A. Before Occupation

i) Following completion of the requirements detailed in the conditions of this Development Consent an original and five (5) paper copies of the Stratum Plan of Subdivision shall be submitted to Council together with the Instrument (in duplicate) under Section 88B of the Conveyancing Act, where required for ultimate lodgement at the Land Property Information NSW.

ii) The existing Stratum Plan shall be released.

iii) Alternatively, a Subdivision Certificate issued by an Accredited Certifier and a copy of the registered Plan of Stratum Subdivision and evidence that the original Plan of Stratum Subdivision has been released shall be submitted to Council following completion of the requirements detailed in the conditions of this Development Consent.

Note: A Subdivision Certificate application form can be found on Council’s website.

20. Approved Landscape Plan

A. Design Changes

The landscape works on the site must be carried out in accordance with the approved Landscape Plan except as amended by the following:

i) Provide heath species to the planters within the Level 8 rooftop communal open space. Ensure taller species are strategically located to minimize impacts on sky lights.
ii) Ensure the following planter box depths are provided across the development:
- 450mm for grasses and groundcovers
- 600mm for shrubs
- 900mm for small trees
- 1200mm for large trees

iii) Replace *Ficus rubignosa* to Level 4 planters with a mix of *Banksia serrata* (Old Man Banksia), *Leptospermum laeavigatum* (Coastal Tea Tree), *Metrosideros thomasii* (NZ Christmas Bush) and *Melaleuca armillaris* (Giant Honeymyrtle).

iv) Delete *Carpobrutus glaucescens* (Pig Face) and *Cissus antarctica* (Kangaroo Vine) across the site and replace *Trachelospermum jasminoides* (Star Jasmine), *Hibbertia scandens* (Snake Vine) and/or *Parthenocissus tricuspidata* (Boston Ivy)

v) Delete proposed canopy planting of *Harpula pendula* (Tulipwood) to ground level car park planters along the northern boundary and replace with the following:

**Northwest Planter**
2xAcmena smithii (Lily Pily)
1xSyncarpia glomulifera (Turpentine)

**Mid Planter**
2xElaeocarpus reticulatus (Blueberry Ash)
1xSyncarpia glomulifera (Turpentine)

**Northeast Planter**
1xAcmena smithii (Lily Pily)
1x1xSyncarpia glomulifera (Turpentine)

vi) Under plant the ground level carpark planters with an informal mix of shrubs grasses and groundcovers selected from Sutherland Shire Council’s online tool Native Plant Selector.

vii) The communal open space areas and all planter boxes on slab must be provided with a water-efficient irrigation system, connected to mains to enable effective landscape maintenance.

The applicant must engage a suitably qualified Landscape Designer or Landscape Architect to oversee any design changes to the approved Landscape Plan and amendments required above. Details of these design changes must be included in the documentation submitted with the application for a Construction Certificate.

**Notes:**
A Landscape Designer is a person eligible for membership of the Australian Landscape Designers and Managers and a Landscape Architect is a person eligible for membership of the Australian Institute of Landscape Architects as a Registered Landscape Architect.
If demolition works to occur prior to the Construction Certificate being issued, tree protection measures must be installed prior to commencement of demolition.

C. Prior to Occupation/Occupation Certificate
The landscape works must be completed in accordance with the approved Landscape Plan and amendments required by ‘A’ above. A Final Landscape Inspection must be carried out and a certificate issued by Council's landscape officer prior to occupation or the issue of an occupation certificate (interim or final). This certificate is required to ensure that all landscaping works and the deep soil percentage requirements have been carried out in accordance with ‘A’ above, and that all new indigenous plants on the site and within the road reserve are the correct species.

To arrange a Final Landscape Inspection please phone 9710-0333 48 hours prior to the required inspection date. An inspection fee of $225 is required to be paid, prior to the inspection. Additional inspections will be charged at a rate of $150 each.

D. Ongoing
All landscaping works required by ‘A’ above must be maintained for 12 months following the final landscape inspection date.

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

Note: If difficulty is experienced sourcing suitable indigenous plants from other suppliers, plants grown from locally provenance seed may be available from:

Sutherland Shire Council Nursery
345 The Boulevarde, Gymea
Ph: 02 9524 5672

21. Car Wash Bays
To prevent contamination of the stormwater drainage system a car-wash bay must be provided on site:

A. Design
The wash-bay must be graded to an internal drainage point and connected to the sewer.

B. Before Construction
Details of the design satisfying ‘A’ above must accompany the application for a Construction Certificate.
C. Before Occupation
The Principal Certifying Authority must be satisfied that
i) ‘A’ above has been complied with and
ii) any discharge to the sewer from the premises is in accordance with the requirements of Sydney Water.

D. Ongoing
All car-wash, engine degreasing and steam cleaning must be conducted in the wash-bay detailed in ‘A’ above. Wastewater must be treated in accordance with the requirements of Sydney Water.

22. Garbage, Recycling and Green-waste Storage Area
To ensure the proper storage of waste from the premises:

A. Design
The garbage and recycling storage area must have a smooth impervious floor that is graded to a floor waste. A tap and hose must be provided to facilitate regular cleaning of the bins and all waste water must be discharged to the sewer in accordance with the requirements of Sydney Water. Garbage bins must be designed to prevent the escape of any liquid leachate and must be fitted with a lid to prevent the entry of vermin.

B. Before Construction
Details of compliance with ‘A’ above must form part of the documentation accompanying the applications for a Construction Certificate.

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

D. Ongoing
All waste and recycling bins must be stored wholly within the approved waste storage area.

23. External Lighting - (Amenity)
To ensure that any lighting on the site does not cause a nuisance to neighbours or motorists on nearby roads:

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

B. Ongoing
All lighting must be operated and maintained in accordance with the Standard above.
24. Noise Control - Residential Air Conditioning Unit / Heat Pump Water Heater
To minimise the noise impact on the surrounding environment:

A. Design
The unit must be designed and/or located so that noise generated does not cause an LAeq (15min) sound pressure level in excess of 5 dB(A) above the ambient background level when measured on or within any residential property.

B. Ongoing
i) The unit must be operated in accordance with ‘A’ above.
ii) Between the hours of 10.00pm and 8.00am on weekends and public holidays and 10.00pm and 7.00am any other day, noise emitted must not be heard within any residence with its windows and/or doors open or closed.

25. Noise Control - Design of Plant and Equipment (General Use)
To minimise the impact of noise from the development, all sound producing plant, equipment, machinery, mechanical ventilation system or refrigeration systems:

A. Design
All plant and equipment must be designed and / or located so that the noise emitted does not exceed an LAeq sound pressure level of 5dB above the ambient background level when measured at the most affected point on or within any residential property boundary.

Note: The method of measurement of sound must be carried out in accordance with Australian Standard 1055.1.

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

C. Ongoing
All plant and equipment must be operated and maintained in accordance with ‘A’ above.

26. Noise Control - Design of Plant and Equipment (Continual Operation)
To minimise the impact of noise from the development, all sound producing plant, equipment, machinery, mechanical ventilation systems and / or refrigeration systems:

A. Design
All plant and equipment must be designed and / or located so that the noise emitted does not exceed the Project Specific Noise level when measured at the most affected point on or within any residential property boundary.
The Project Specific Noise level must be the most stringent noise level of the Intrusive and Amenity criteria and be calculated in accordance with the provisions of the Department of Environment and Conservation’s Industrial Noise Policy.

**Note:** The method of measurement of sound must be carried out in accordance with Australian Standard 1055.1.

**B. Before Construction**
Details of the acoustic attenuation treatment required to comply with ‘A’ above, must be prepared by a qualified acoustic engineer. These details must accompany the application for a Construction Certificate.

**C. Before Occupation**
Certification must be provided by a qualified acoustic engineer that all work associated with the installation of the acoustic measures has been carried out in accordance with ‘A’ above.

**D. Ongoing**
All plant and equipment must be operated and maintained in accordance with the ‘A’ above.

27. **Noise and Vibration Control - Residential Car Park**
To minimise noise and vibration from use of the security door in the car park:

**A. Design**
The proposed security door fitted to the car parking area entrance must be independently mounted on rubber pads or otherwise installed to prevent vibration noise transmission through the concrete walls and / or columns.

**B. Before Occupation**
The Principal Certifying Authority must be satisfied that ‘A’ above has been complied with.

28. **Building Ventilation**
To ensure adequate ventilation for the building:

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

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

vii) AS 3666.2 - 2002; and

viii) AS 3666.3 - 2000.

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

C. Before Occupation
i) Certification must be provided by a qualified mechanical ventilation engineer that the installation of the ventilation system has been carried out in accordance with ‘A’ above.

ii) Occupation of the premises must not occur until a registration application has been submitted to Council’s Environment and Health Regulation Department for any cooling tower / warm water system

D. Ongoing
The ventilation system must be operated and maintained in accordance with ‘A’ above.

29. Car-Park Ventilation - Alternate System
To ensure adequate ventilation for the car park:

A. Design
If the basement car-park does not appear to comply with the natural ventilation requirements of Section 4 of Australian Standards AS1668.2 -1991, the car-park must be either mechanically ventilated by a system complying with AS1668.2 -1991 or alternatively, the natural ventilation system must be certified by a qualified mechanical ventilation engineer to the effect that the system is adequate. The certification shall confirm that the system will protect the health of occupants of the car park at anytime it is used and satisfies the atmospheric contaminate exposure rates specified in the Worksafe Australia document: Workplace Exposure Standards for Airborne Contaminants.

B. Before Construction
Details of compliance with ‘A’ above must form part of the application for a Construction Certificate.

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

D. Ongoing
The ventilation system must be operated and maintained in accordance with ‘A’ above.
30. **Demolition Work**

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

A. **Before Commencement**

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

B. **During Works**

i) The demolition of the existing building must be carried out strictly in accordance with Australian Standard 2601 - The Demolition of Structures.

ii) The applicant must ensure that the demolition contractor has a current public risk insurance coverage for a minimum of $5 million. A copy of the Policy must be submitted to the Council prior to demolition.

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

a) Work Health and Safety Act 2011;

b) Work Health and Safety Regulation 2011;

c) Safe Work Australia Code of Practice - How to Manage and Control Asbestos in the Workplace;


e) Workcover NSW ‘Working with Asbestos - Guide 2008’;

f) Protection of the Environment Operations Act 1997; and


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

31. **Design Requirements for Adaptable Housing**

A. **Design**

A report prepared by a suitably qualified Adaptable Housing Specialist must be submitted with the Construction Certificate, demonstrating that the development complies with the requirements of AS4299 - Adaptable Housing. The report must contain a completed checklist (Appendix A - AS4299) demonstrating compliance with the requirements of a Class C Adaptable House.
32. Verification of Design for Construction - SEPP 65
   A. Design
   Design verification must be provided by a registered Architect pursuant to SEPP 65 stating that
   the design intent approved by the Development Consent has been maintained in the building /
   architectural plans submitted with the Construction Certificate. This must accompany the
   application for a Construction Certificate.

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

33. BCA Assessment Report
   A. Before Construction
   The recommendations of the Building Code of Australia Assessment Report prepared by
   Blackett Maguire + Goldsmith 18th May 2016, and the Accessibility Design Review prepared by
   ABE Consulting job number 6104, 19th May 2016, must be complied with and must accompany
   the application for a Construction Certificate.

34. Certification Requirement of Levels
   A. During Construction
   At the following stages of construction:
   
   i) Prior to the pouring of each floor or roof slab,
   ii) Upon completion of the roof frame.
   iii) Prior to the pouring / installation of the swimming pool shell

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

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

35. Sydney Water Requirements & Section 73 Compliance Certificate
   A. Before Any Works
   Prior to the commencement of any works on site, including demolition or excavation, the plans
   approved as part of the Construction Certificate must also be approved by Sydney Water. This
   allows Sydney Water to determine if sewer, water or stormwater mains or easements will be
   affected by any part of your development. Customers will receive an approval receipt which
   must be included in the Construction Certificate documentation.

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

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

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

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

It is the individual’s responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before you dig service in advance of any construction or planning activities.

37. Noise Control and Permitted Hours for Building and Demolition Work
A. During Works
To minimise the noise impact on the surrounding environment:

i) The LAeq sound pressure level measured over a period of 15 minutes when the construction or demolition site is in operation, must not exceed the ambient background level (LA90 15min) by more than 10dB(A) when measured at the nearest affected premises.

ii) All building and demolition work must be carried out only between the hours of 7.00am and 6.00pm Monday to Friday inclusive, 8.00am and 3.00pm Saturdays. No work must be carried out on Sundays and Public Holidays.
38. **Noise Control and Permitted Hours for Building and Demolition Work**  
   **A. During Works**  
   To minimise the noise impact on the surrounding environment:  
   i) The LAeq sound pressure level measured over a period of 15 minutes when the construction or demolition site is in operation, must not exceed the ambient background level (LA90 15min) by more than 10dB(A) when measured at the nearest affected premises.  
   ii) All building and demolition work must be carried out only between the hours of 7.00am and 6.00pm Monday to Friday inclusive, 8.00am and 3.00pm Saturdays. No work must be carried out on Sundays and Public Holidays.  

Only for the purpose of pouring large floor or roof slabs, work may be carried out on the site from 7.00am to 8pm Monday to Friday, excluding Public Holidays on a week day.  

In order to activate the extended hours of operation both Council and affected neighbours must be notified a minimum of 48 hours prior to commencement. Affected neighbours include those in the immediate vicinity, adjacent or adjoining the development site. Notification must be by way of written advice including:  
   - Date/s the extended hours will be utilised.  
   - The purpose of the extended hours - pouring large slab.  
   - Address of the development works / site.  
   - Contact name and number of appropriate site officer (supervisor or manager) for enquiries.  

Notification to Council must include a copy of the letter and a map or list identifying those affected neighbours who have been notified.  

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

Each toilet must:  
   i) be a standard flushing toilet connected to a public sewer, or  
   ii) have an on-site effluent disposal system approved under the Local Government Act 1993, or  
   iii) be a temporary chemical closet approved under the Local Government Act 1993
40. Street Numbering and Provision of Letter Box Facilities
   A. Before Occupation
      i) Street / unit numbers must be clearly displayed.
      ii) Suitable letterbox facilities must be provided in accordance with Australia Post specifications.
      iii) The Stratum must have the following street address format: proposed stratum lot one shall be No.14 Wandella Road Miranda, proposed stratum lot two shall be No.1 Penprase Lane Miranda and proposed stratum lot three shall be No.3 Penprase Lane Miranda.

   Note: Stratum Lot one known as the Aldi Supermarket site, Stratum Lot two known as the RSL carpark and Stratum Lot three known as the Residential Flat Building site.

41. Car Parking Allocation
   A. Before Subdivision
      Car parking must be allocated to individual unit / commercial entitlement on the following basis:
      i) Each tandem parking bay must be allocated to a single dwelling.
      ii) One Bedroom / Studio dwellings must be allocated a single parking bay (total 31 bays).
      iii) Two and 3 Bedroom dwellings must be allocated 2 parking bays (total 52 bays).
      iv) To accommodate the required residential spaces in ii) and iii) above, 22 parking bays shall be provided on Level 2
      v) The gymnasium shall be allocated 24 parking bays.
      vi) All parking bays on the “Undercroft Level” shall be allocated to Stratum Lot 1 (ALDI Supermarket) comprising a total of 85 bays.
      vii) All other parking bays shall be allocated to the Miranda RSL Club (total 81 bays).

   B. Ongoing
      i) The car-parking provided must only be used in conjunction with the dwellings and commercial enterprise contained within the development and the Club facilities at No.615 Kingsway Miranda.
      ii) To ensure that the car parking area satisfies the demands of the development, the carpark must be made available on an unrestricted basis and free of charge at all times for employees’, tenants and owners vehicles pertinent to the development.

   Note 1: This condition will require the allocation of approximately 22 parking bays for the residential flat building, upon Level 2.
   Note 2: Stratum Lot 1 will be known as the Aldi Supermarket site. Stratum Lot 2 will be known as the RSL carpark and Stratum Lot 3 will be known as the Residential Flat Building site.
42. **Loading and Unloading**

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

A. **Ongoing**

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

**END OF CONDITIONS**

Attached are the prescribed conditions that must be complied with under the Environmental Planning and Assessment Regulations 2000.
PRESCRIBED CONDITIONS
Division 8A of the Environmental Planning and Assessment Regulation Prescribes the following conditions of development consent

S98  Compliance with Building Code of Australia and insurance requirements under the
Home Building Act 1989
(cf clauses 78 and 78A of EP&A Regulation 1994)

(1) For the purposes of section 80A (11) of the Act, the following conditions are prescribed in relation to a development consent for development that involves any building work:
(a) that the work must be carried out in accordance with the requirements of the Building Code of Australia,
(b) in the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

(1A) For the purposes of section 80A (11) of the Act, it is prescribed as a condition of a development consent for a temporary structure that is used as an entertainment venue, that the temporary structure must comply with Part B1 and NSW Part H102 of Volume One of the Building Code of Australia.

(2) This clause does not apply:
(a) to the extent to which an exemption is in force under clause 187 or 188, subject to the terms of any condition or requirement referred to in clause 187 (6) or 188 (4), or
(b) to the erection of a temporary building, other than a temporary structure to which subclause (1A) applies.

(3) In this clause, a reference to the Building Code of Australia is a reference to that Code as in force on the date the application is made for the relevant:
(a) development consent, in the case of a temporary structure that is an entertainment venue, or
(b) construction certificate, in every other case.

Note. There are no relevant provisions in the Building Code of Australia in respect of temporary structures that are not entertainment venues.
S98A Erection of signs

(1) For the purposes of section 80A (11) of the Act, the requirements of subclauses (2) and (3) are prescribed as conditions of a development consent for development that involves any building work, subdivision work or demolition work.

(2) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
   (a) showing the name, address and telephone number of the principal certifying authority for the work, and
   (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
   (c) stating that unauthorised entry to the work site is prohibited.

(3) Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

(4) This clause does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.

(5) This clause does not apply in relation to Crown building work that is certified, in accordance with section 109R of the Act, to comply with the technical provisions of the State’s building laws.

(6) This clause applies to a development consent granted before 1 July 2004 only if the building work, subdivision work or demolition work involved had not been commenced by that date.

Note. Principal certifying authorities and principal contractors must also ensure that signs required by this clause are erected and maintained (see clause 227A which currently imposes a maximum penalty of $1,100).

S98B Notification of Home Building Act 1989 requirements

(1) For the purposes of section 80A (11) of the Act, the requirements of this clause are prescribed as conditions of a development consent for development that involves any residential building work within the meaning of the Home Building Act 1989.

(2) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:
   (a) the case of work for which a principal contractor is required to be appointed:
      (i) the name and licence number of the principal contractor, and
      (ii) the name of the insurer by which the work is insured under Part 6 of that Act,
(b) in the case of work to be done by an owner-builder:
   (i) the name of the owner-builder, and
   (ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

(3) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (2) becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

(4) This clause does not apply in relation to Crown building work that is certified, in accordance with section 109R of the Act, to comply with the technical provisions of the State’s building laws.

S98E Condition relating to shoring and adequacy of adjoining property

(1) For the purposes of section 80A (11) of the Act, it is a prescribed condition of development consent that if the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person’s own expense:
   (a) protect and support the adjoining premises from possible damage from the excavation, and
   (b) where necessary, underpin the adjoining premises to prevent any such damage.

(2) The condition referred to in subclause (1) does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

Please be advised if this consent is for an entertainment venue, then there are further prescribed conditions that apply under clauses 98C and 98D of the Environmental Planning and Assessment Regulation.
Dear Sir/Madam

Pre-Application Discussion No.  PAD16/0027  
Proposal: Proposed extension to Aldi supermarket  
Property: 14 Wandella Road, Miranda, 16 Wandella Road, Miranda

Council refers to the pre-application meeting (PAD) held on 5 April 2016 regarding the above development proposal. Carine Elias (Team Leader), Amanda Treharne (development assessment officer), David Jarvis (Architect) and Stevie Medcalf (Landscape Architect) attended the meeting on behalf of Council. The following people attended on behalf of the applicant:

Kim Shmuel (planning consultant)  
Harry Quartermain (planning consultant)  
John Innes (applicant)  
Jonn Moss (applicant)  
Linda Huynh (Architect)  
Craig McClaren (traffic consultant)

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

Your DA will need to be supported by a Statement of Environmental Effects addressing all relevant Environmental Planning Instruments, and the detailed planning controls contained in Council's Draft Development Control Plan 2015 (DSSDCP 2015).

The Site and Proposal:

The site is located on the northern corner of Wandella Road and Penprase Lane, Miranda. The site is approximately 3,780m$^2$ and is legally described as Lots 1 and 2 in DP 1153094.
The site is currently developed by way of a part 2, part 3 storey building which comprises the following:

- ALDI supermarket and associated car parking with frontage to Wandella Road. The supermarket is at ground level, with undercroft car parking for 87 spaces below and to the north in an open air car park. Vehicle access to the ALDI car park is obtained via Wandella Road. Pedestrian access to the supermarket is obtained via a ramp from the car park below or via a set of stairs on the corner of Wandella Road and Penprase Lane.
- Car parking for the Miranda RSL Club approximating 135 spaces across 3 levels (including 80 spaces on the roof). The Miranda RSL Club itself is located on the southern side of Penprase Lane and fronts the Kingsway. Vehicle and pedestrian access to the car park is obtained via Penprase Lane.
- A gymnasium and associated car parking made available by Miranda RSL.

The site is centrally located within the Miranda commercial precinct and is surrounded to the north, south and east by a mix of commercial and retail outlets as well as numerous residential flat buildings. To the west on the opposite side of Wandella Road is Port Hacking High School.

The development proposal comprises three key components namely;

- Alterations and additions to the ALDI supermarket and car park area comprising approximately 80m\(^2\) of floorspace and the provision of 3 additional car spaces.
- The construction of a five storey residential flat building on the eastern part of the roof of the existing building. A total of 57 apartments are proposed.
- The construction of two additional levels of car parking on the western part of the roof of the existing building. This will provide the necessary car parking for the new apartments.

The resultant development in conjunction with the existing building will comprise approximately 6,770m\(^2\) of gross floor area (GFA) resulting in a total FSR of 1.8:1.

The proposed new upper levels of car parking and the residential apartments will be accessed via the existing RSL car park entry in Penprase Lane. The Wandella Road entry to the ALDI car park and supermarket will remain separate from the proposed residential development, with no access to the residential apartments from the eastern side of the building.

The property is within Zone B3 Commercial Core under the provisions of Sutherland Shire Local Environmental Plan 2015 (SSLEP 2015). The proposed alterations to the commercial premises and construction of a residential flat building are permissible forms of development within this zone.

As the proposal entails a residential flat building, the provisions of State Environmental Planning Policy No. 65 (SEPP 65) and the associated Apartment Design Guide (ADG) are applicable.
Comments on the Proposal:

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

1. Site Planning and Building Design

The siting of the proposed building on the roof of the existing car park is somewhat anomalous from an urban design point of view. It is understood that the reasons driving the current building location relate to structural stability of the existing building and the fact that ALDI wish to retain visual prominence on the Wandella Road frontage.

This is not sufficient reasoning for the siting of the new building and any DA submission should be accompanied by a thorough urban design analysis of the site with reference to the Design Quality Principles set out in SEPP 65. In this regard, it is recommended that the draft proposal be considered by Council’s Architectural Review Advisory Panel (ARAP) prior to DA lodgement. ARAP will want to see the design process and how it was developed to reach the subject proposal and whether any other built form alternatives were considered.

Other matters of concern which need to be raised with respect to the proposed new flat building relate to the height breach. Unless contextually appropriate and with minimal environmental effect, no consideration will be given to a breach of the 25m maximum height development standard.

The treatment of the proposed Wandella Road frontage of the building needs to be further considered. The proposed parking levels, whilst setback from the edge of the existing parapet, would still be widely viewed from across the road and the Port Hacking High School grounds.

Concern is also raised with respect to the proposed non-compliance with the ADG setback requirements on the northern side of the building. There are five levels and 10 apartments with windows in the northern elevation. Given the proximity of the existing flat building to the north, a detailed analysis of this building would need to be submitted with the DA showing how amenity concerns and privacy issues are addressed for those residents and future residents of the subject development.

Further analysis needs to be given to the Penprase Lane setback of the proposed flat building. Concern is raised as to the amenity of the units with bedroom windows on the boundary. The proposed bathrooms for these units should contain windows to enable natural light and ventilation.

Concern is raised with the location of the proposed new levels of car parking directly adjacent the balconies and private open space of the proposed apartments on Levels 3 and 4 in terms of the impact on residential amenity for future occupants (noise and fumes). This is exacerbated by the fact that these are single oriented apartments, with their only outlook towards the car park. As a minimum an Acoustic Report and an Air...
Quality Report should be submitted from suitably qualified professionals with respect to this aspect of the design.

In terms of the internal design of the proposed flat building, concern is raised with respect to the circulation space on each floor and the single orientation for all of the apartments. It is questionable that these apartments can meet the natural ventilation requirements of the ADG. The proposed non-compliance with the ADG solar access requirements (40% instead of the minimum 70%) is also not supported.

The means of pedestrian entry to the site at ground level (in Penprase Lane) and the treatment of this area is important not only from a pedestrian safety point of view but also in terms of the urban design treatment of the space. A CPTED Report will be required to be submitted with the application, addressing this aspect of the development, along with the other key principles.

Any future DA proposal will need to address the operational requirements of the site (both existing and proposed) given the mixed use nature of the proposal. This should address pedestrian and vehicle access; loading and unloading; hours of operation; waste storage and collection; maintenance of the building with respect to proposed landscaping.

Council will not grant approval for balconies to overhang the public way. The development should be contained entirely within the boundaries of the site.

2. Development Application Timing

As recommended at the Pre-DA meeting and in Point 1 above, you have lodged an application for a pre-DA ARAP Meeting. This meeting is to be held in May. Minutes from the ARAP meeting are usually provided to you a fortnight or so after the meeting. These Minutes should be used to inform your final DA proposal.

3. Landscape Matters

A conflict exists between the location of the private open spaces facing west and the car parking on levels 3-4. Noise pollution, fumes, odour and poor solar access have the potential to make the private open spaces undesirable. Perhaps locating the residential component to the western side of the building and using the communal open space as a buffer would be a more viable solution.

The montages provided to council during the PAD meeting depict lush green buffers directly between the car park and private open space to Levels 3-4. This would appear to be part of a solution to resolving amenity issues however on plan these planters do not exist and those that have been provided would not support anything substantial. The applicant must ensure all montages reflect the proposals present on plan.

Access to the communal open space located on the eastern side of the building is indirect and undesirable. It would be better if direct access was provided from a central hall/in close proximity to the lift.
Amenities such as an all-weather covered area, BBQ/ kitchen facilities, furniture and toilet as recommended in the Apartment Design Guide (Objective 3D-2), should be provided to make the space useful and sociable (Refer to ARAP16/0012 Landscape Drawings).

The proposed ‘greening’ of the walls of the existing car park and parts of the new additional levels of car parking on the roof is encouraged. Full details of the means of achieving this, including the on-going maintenance of the green walls must be submitted with any DA proposal.

Where planting is proposed on podium the planter boxes must be designed and constructed to contain a minimum soil depth of:

-450mm for grasses & groundcovers  
-600mm for shrubs  
-900mm for small trees  
-1200mm for large trees

A less rigid approach to landscape that reflects the local biodiversity and indigenous plant form and character of the Sutherland Shire is encouraged. This can be achieved through irregular spacing and intermixing of canopy trees and understorey species. Where possible the use of indigenous species that are suited to the microclimate are encouraged. Species can be selected online using SSC’s Native Plant Selector.

4. Engineering

A drainage plan prepared by a suitably qualified engineer must accompany any future DA.

No issue is raised with utilising the Roads and Maritime Services (RMS) Guide to Traffic Generating Development in terms of the number of parking spaces for the residential component as the site is within 800m distance of Miranda railway station.

The Traffic Report submitted with the application must address the overall provision of car parking for the RSL and gymnasium (if proposed to change as part of the proposal) and the access to parking for each of the different uses. As a minimum a parking allocation plan should be submitted with any DA proposal.

As raised above a key concern with the proposal is pedestrian access to the residential apartments from street level. There is a disconnect between Penprase Lane and the location of the residential apartments commencing on Level 3. This should be addressed in the Traffic Report. The proposed car park must also be designed to comply with AS2890.1.

The available queuing length into Pemprase Lane was an issue with the recent DA (15/0466) for the boom gates to the entrance to the RSL car park. This matter should be revisited as part of the DA given the additional vehicle movements for the residential component.
Another key aspect of the proposal which must be addressed is residential waste storage and collection. Please refer to draft SSDCP 2015 Chapter 21.17.2 for waste management requirements.

Utilities and Infrastructure

You are advised to make enquiry early with the various infrastructure and utility providers to ensure relevant considerations for the provision of services have been taken into account early in the building design. Urban infrastructure and utilities are reaching, or have reached maximum capacity in some localities. Electricity substations are required on occasion to ensure sufficient power to buildings and to meet flow requirements for sprinkler systems; NSW Fire has required substantial water tanks in other instances. Infrastructure to support these requirements will not be approved at the expense of landscaping or parking requirements.

Conclusion:

The existing site already comprises three different uses, each with its own allocated car parking. The proposal to construct a five storey residential flat building and two additional levels of car parking on top of the existing building introduces a further use, being that of residential apartments. A key aspect of the proposal will be the operational constraints of these existing uses in the context of ensuring a high level of residential amenity.

Concern is expressed at the siting of the new flat building, to the east of the site, rather than to the west, where it could present to Wandella Road and have an outlook over the grounds of Port Hacking High School, rather than across the roof of a new car park.

An urban design analysis as to the most appropriate location for the new flat building having regard to the most desirable built form outcomes, the location of neighbouring buildings, and future residential amenity for occupants of the new building must be submitted with any DA for the site.

The proposed design of the new flat building abutting two levels of car parking, along with the other design matters raised in this correspondence must be given further consideration to ensure residential amenity for future residents is not compromised.

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

For detailed information about how to prepare and lodge a development application, please refer to the "Development" section of Council's website (www.sutherlandshire.nsw.gov.au).

Please make an appointment with Council's Development Enquiry Officers on 9710 0520 when you are prepared to lodge your application. Requests for appointments can also be made via Council's website.
Please contact Council if you believe any of the above information to be incorrect or if you need clarification of the advice provided. Your initial point of contact should be Amanda Treharne (9710 0462) as this is Council’s development assessment officer who will most likely be responsible for the assessment of your DA.

Yours faithfully

Mark Adamson
Manager – Projects and Development Assessment
PLN037-17

PROPOSAL: IHAP014-17 - DEMOLITION OF EXISTING SHOPS AND DWELLING AND CONSTRUCTION OF A MIXED USE DEVELOPMENT CONTAINING 5 COMMERCIAL AND 19 RESIDENTIAL UNITS - PRINCES HIGHWAY, SYLVANIA

PROPERTY: LOT 11 DP 650961, LOT 12 DP 658248, LOT 9 DP 655700, LOT 1 DP 726419, (NOS. 222-228) PRINCES HIGHWAY, SYLVANIA

APPLICANT: NELSON FERREIRA

FILE NUMBER: DA16/0377

Attachments: Appendix A, Appendix B, Appendix C and Appendix D

EXECUTIVE SUMMARY

- This application was referred to the Independent Hearing and Assessment Panel (IHAP) as the proposal sits outside the limit of staff delegations.
- The application is for demolition of existing shops and dwelling and construction of a mixed use development containing five commercial tenancies, and three floors of residential units (16 dwellings) above. To the rear of the site there is a 6m wide right of carriageway and along this carriageway at the south-eastern part of the site three townhouses are proposed. The basement level of car parking will be accessed via this right of carriageway, from the Princes Highway.
- A central courtyard is proposed as common open space with areas for seating and landscaping.
- The subject site is located on the eastern side of the Princes Highway, Sylvania, and is zoned B1 Neighbourhood Centre pursuant to the Sutherland Shire Local Environment Plan 2015. It is set amongst an existing neighbourhood centre which faces the Princes Highway, and contains a variety of retail, commercial and services premises. The existing height of this centre varies from one to two storeys. To the rear of the site is low scale residential development, as is across the Princess Highway to the west.
- On the subject site is an existing restaurant (222 Princes Highway), a pool shop (224-226 Princess Highway) and a tile shop (228 Princes Highway).

ASSESSMENT OFFICER’S RECOMMENDATION

THAT:

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 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 Height of Buildings development standard be varied to 14 metres, in respect to this application.
2. Pursuant to the provisions of Section 80 of the Environmental Planning and Assessment Act, 1979, Development Application No. 16/0377 for demolition of existing shops and dwelling and construction of a mixed use development containing 5 commercial and 19 residential units at Lot 11 DP 650961, Lot 12 DP 658248, Lot 9 DP 655700, Lot 1 DP 726419 (Nos. 222 - 228) Princes Highway, Sylvania, is determined by the granting of development consent subject to the conditions contained in Appendix “A” of this report.
IHAP COMMENTARY

Extract from the Report of the Meeting of the Independent Hearing and Assessment Panel, held on Wednesday, 19 April 2017, commencing at 6:00pm, in the Council Chambers, Level 2, Administration Building, 4-20 Eton Street, Sutherland

PRESENT: Charles Hill (Chairperson/Expertise in Planning), Erica Marshall-McClelland (Expertise in Traffic & Transport, Planner & Registered Architect), Larissa Ozog (Expertise in Town Planning) and Craig McCallum (Community Representative with Expertise in Traffic).

Staff in attendance was the Acting Manager Major Development Assessment (Carine Elias).

*** Disclosures of Interest

File Number: 2016/260430

There were no disclosures of interest declared.

Ms Kypriotis; Messrs Mansour and Turner and a written submission in lieu of an apology from Mr Lawerence on behalf of the Objectors, and Mr Couvaras and Ms Perry, on behalf of the Applicant, addressed the Panel regarding this matter.

IHAP RECOMMENDATION:

THAT:

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 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 Height of Buildings development standard be varied to 14 metres, in respect to this application.

2. Pursuant to the provisions of Section 80 of the Environmental Planning and Assessment Act, 1979, Development Application No. 16/0377 for demolition of existing shops and dwelling and construction of a mixed use development containing 5 commercial and 19 residential units at Lot 11 DP 650961, Lot 12 DP 658248, Lot 9 DP 655700, Lot 1 DP 726419 (Nos. 222 - 228) Princes Highway, Sylvania, is determined by the granting of development consent subject to the conditions contained in Appendix “A” of the report with the following amendments:
a) Condition 4A(ii) to be deleted and amended as follows:

“Ground Level car parking Space 03 shall be deleted, and replaced with a 1.5m wide pedestrian walkway and new opening (adjacent to the stairs providing access to Townhouse No. 3) that will provide direct access from these two spaces through to the area of communal open space. Car parking spaces 04 and 05 shall be redesigned to be two larger car parking spaces.”

b) Condition 4A(iii) be amended as follows:

“Signage shall be erected on the internal wall above spaces G01 and G02 to ensure that persons parking in those spaces, park rear to the wall, to ensure that vehicles exit in a forward direction.”

c) Addition of the following condition at 18A (iv):

“Longitudinal Sections be provided along the car park ramp and gradients to comply with AS2890.1-2004.”

d) Condition 35C to be amended by deletion of the words Construction Certificate, and replaced with the words “Occupation Certificate”.

e) Addition of the following new condition:

“Preparation of a Construction Traffic Management Report and Construction Traffic Management Plan which is to be prepared by a suitably qualified person who holds RMS Accreditation-Prepare Work Zone Traffic Management Plan. The report is to consider the potential impacts of construction traffic and the parking of workers cars, the management of pedestrians across the footpath along Princess Highway and demonstrate the vehicle routes for heavy vehicles to and from the site during construction avoiding school zone times. The Plan needs to be comprehensive and ensure that there are suitable measures and methods that can be adopted to ensure that traffic from construction vehicles and parking is managed appropriately and reduces any potentially adverse impacts and conflicts to the residents along Sylvan Street.”

f) Addition of the following new condition:

“The balcony areas to the main bedroom of Units 3 and 4 be indented further to reduce the main bedroom size by 500mm in order to achieve a compliant window opening or to match the balconies above.”

PANEL COMMENTARY:

Site Visit

The Panel attended the subject site at 222 - 228 Princes Highway, Sylvania

Presentations to Panel at the Public Meeting

On behalf of the objectors, Ms Kypriotis; Messrs Mansour and Turner, discussed the main issues related to privacy, impact upon outlook, access, parking and traffic, over development, bulk scale and height, overshadowing, landscaping, height of the building and setback separation and permissibility.
The Applicants in a written submission, and as outlined in their presentation, accepted the design conditions 2, 4A I, and questioned conditions 4a.

**Consideration of Issues**

The Panel was satisfied that the Council’s assessment report had addressed all the issues that have been raised. In respect to permissibility, despite the planning report referring to residential apartments which could assume the proposal is an RFB and therefore prohibited in the zone, the Panel are satisfied that the development is classified as “shop top housing” and the townhouses at the rear classified as “multi-dwelling housing” which are both permissible uses in the zone.

In respect to height, the Panel are satisfied that the site presents a number of constraints, the main being the large dedication of land as a right of access at the rear. As the floor space complies with Council’s controls and given the large rear dedication, the most suitable location of the floor space is at the front of the site facing Princes Highway. The additional level is setback some distance from the lower levels and is also setback some distance from the rear. Additional height to a main arterial road is considered the appropriate placement for this floor space.

Concerns were however raised by the local residents in particular about construction traffic around Princess Highway and Sylvan Street.

The Panel were of the view that one way to address this issue is to request a Construction Traffic Management Report and Construction Traffic Management Plan which is to be prepared by a suitably qualified person who holds RMS Accreditation-Prepare Work Zone Traffic Management Plan. The report is to consider and suggest a number of measures that will reduce any potential conflicts and control the movement of traffic around the site. In particular, construction traffic and the parking of workers cars, management of pedestrians across the footpath along Princess Highway and the report should demonstrate and outline the vehicle routes for heavy vehicles to and from the site during construction avoiding school zone times. This has not been covered in the conditions but should be included.

Another issue raised at the meeting concerned the small bedroom window opening sizes to Unit 3 and Unit 4. The balcony to the main bedroom could be indented further to reduce the bedroom size by 500mm in order to achieve a compliant window opening or to match the balconies above.

The Panel also considered the need for Longitudinal Sections should be provided along the car park ramp and gradients to ensure compliance with AS2890.1-2004 to be included as part of condition 18.

**Reasons for Variation from Council Officer’s Recommendation**

The applicant had made a late submission seeking support for a number of minor changes. The Panel noted those in relation to Condition 4.A.i. and 4.A.iv related to changes in the design and which were in agreement with Council’s assessment.
In relation to Condition 4.A.ii. - the applicants noted that any changes to the car parking proposed in the planners report would require the building to be raised 200 mm. The Panel disagreed with this and has proposed that car parking space 03 be deleted and that the other two remaining car parks 04 and 05 be expanded to make two car spaces removing the necessity to increase the building height and to provide a pedestrian access next to the original parking space 03 to the community public open space.

The Panel believe it will not necessitate the raising of the building 200 mm as suggested by the applicant. The panel felt that the provision of disabled spaces along this part of the site at the rear is not convenient and ideal. These spaces should be provided in the basement directly adjacent to the lift. As such it was not considered the best solution to provide an additional disabled space in lieu of spaces 03, 04 and 05.

In relation to Condition 4.A.iii - the Panel agree that the site should be amended to ensure that cars parked rear to the wall to enable front facing egress from the site.

The applicant also questioned Condition 3 which required RMS approval and Condition 12 which required Council approval for public and associated roadworks. It was explained to the Panel as a matter of process, the detailed CC plans for these works will be forwarded to the RMS for their approval and subject to their approval, Council’s conditions in relation to this matter as indicated in Condition 12 will then be imposed. This is apparently standard practice.

In replacement of Condition 35, the applicant indicated that the requirement should refer to the occupation certificate rather than the construction certificate and the Panel has agreed to this matter.

One matter that the panel wanted to raise prior to the determination of the application was the legality of the right of access at the rear. The Panel had insufficient information in relation to this matter and therefore couldn’t confirm its status. The proposal has been designed to rely on the provision of a new rear accessway that runs the length of the site, some 5.8-6m in width. The intention is that in the future a laneway at the rear of most of these properties fronting Princes Highway is created and will provide secondary access for service vehicles for loading/unloading etc. The intention and purpose of this is reasonable as it will remove these activities from the primary road frontage (Princes Highway). The Panel didn’t understand why other properties had not activated this accessway even if they weren’t redeveloped. Many properties have fenced off all their rear yard area. The panel believe that if part of the rear of these properties is designated “right of carriageway” or “right of access” and this is acknowledged on their land titles this space needs to be made available for this purpose and cannot become privatised. It is suggested that prior to determination Council evaluates the legality of the situation and encourage activation of this space so that this development will initiate a formal accessway that can link onto the rear area of adjoining properties especially the rear of No. 220 Princes Highway.

**VOTES: 4:0**
ASSESSMENT OFFICER’S COMMENTARY

DESCRIPTION OF PROPOSAL

The application is for demolition of existing shops, dwelling, and structures and construction of a mixed use development containing five ground floor commercial suites and 16 units above the ground floor commercial space; and three townhouses at the rear of the site.

The proposal in detail is as follows:

- Four storey mixed used development (ground floor commercial and three levels of shop top housing) with a nil front setback along the Princes Highway frontage. This building contains the main residential entry and five commercial suites (total 308.5m² gross floor area) at ground level; and 16 units across levels 1-3 (4x3 bedroom and 12x2 bedroom).
- 2x2 bedroom and 1x3 bedroom townhouses at the rear of the site, setback 6 metres from the rear boundary, with five car spaces at ground level under the townhouses.
- A driveway off the Princes Highway provides vehicle access to a loading bay and one level of basement parking via the rear of the site. The basement car parking includes parking for 36 vehicles, storage for the residential and commercial uses, lift access to the ground level and the residential units.
- Communal open space at ground level.

A site plan is provided below.

Figure 1: Site Plan
SITE DESCRIPTION AND LOCALITY

The subject site has an approximate area of 2150m², is irregular in shape and has a curved combined
frontage of approximately 50m along the Princes Highway.

The site is located on the eastern side of the Princes Highway, Sylvania, and consists of four
allotments, 222, 224, 226 and 228 Princes Highway. All contain existing commercial/retail premises
and some parking at the rear. In addition to the commercial space at ground level, 228 Princes
Highway also contains a dwelling at the first floor level.

Adjacent to the rear of the site and across the Princes Highway to the west is low density residential
development. Further south along the Princes Highway the Zone B1 Neighbourhood Centre continues,
with various commercial premises, including an existing commercial and shop top housing
development on the corner of Holt Road and the Princes Highway.

The site also contains a right of carriageway, for the future dedication of land as a public road. The
right of way runs along the full width of the site along the rear boundary. This road is currently
unformed. This future road will service the mixed use developments and shop fronts from Holt Road to
No. 9 Sylvan Street for the purposes of loading and unloading of trucks, reducing the demand on the
Princes Highway.

An image of the right of way is provided below.

Figure 2: Right of Way
A locality plan and an aerial photo are provided below.

**Figure 3: Site Plan**

**Figure 4: Aerial**

**BACKGROUND**

A history of the development proposal is as follows:

- A pre-application discussion (PAD) was held on 5 August, 2015 regarding this development. As a result of this a formal letter of response was issued by Council dated 17 August, 2015. A full copy of the advice provided to the Applicant is contained within Appendix “C” of this report and the main points contained in this letter are as follows:
  - Permissibility;
  - Parking and access;
  - Activation of a rear laneway;
- Density and height;
- Solar access and Private open space; and
- Provision of Adaptable housing.

- The current application was submitted on 1 April 2016.
- The application was placed on exhibition, with the last date for public submissions being 27 April 2016.
- On 16 September, 2016 Council requested final amendments to the proposal.
- All amended plans were lodged by 21 October, 2016.

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 height development standard under clause 4.6 of Sutherland Shire Local Environmental Plan 2015.

PUBLIC PARTICIPATION
The application was advertised in accordance with the provisions of Chapter 41 of draft Sutherland Shire Development Control Plan 2015 (draft SSDCP 2015). Council formally notified 21 adjoining or affected owners of the proposal and 18 submissions were received.

As discussed above, Council contacted previous submitters on 24 October 2016 advising them of amended plans. An additional four submissions were lodged as a result.

A full list of the locations of those who made submissions, the dates of their letters and the issue/s raised is contained within Appendix “D” of this report.

MAJOR ISSUES
The main issues identified are as follows:

- Privacy
- Impact upon outlook
- Access, parking and traffic
- Overdevelopment/Bulk/scale/Height
- Impact on property prices
- Overshadowing
- Noise
- Landscaping
The issues raised in these submissions are as follows:

Issue 1: *Privacy – loss of privacy from the shop top housing and from the townhouses to the dwellings to the rear.*

Comment: This is discussed in detail below in the Assessment Section.

Issue 2: *Impact upon outlook.*

Comment: As a result of the amended plans, three townhouses have been deleted from the scheme in the north eastern portion of the site. Subsequently, a number of trees can now be retained on site, including the Tallowood tree in this part of the site, addressing this concern. The landscape plan identifies a number of trees to be planted on site; these plantings will also contribute to the vista of trees along the skyline to address this issue.

The objection regarding the general impact upon outlook due to the height of the proposed building, relates to a dwelling approximately 100 metres from the rear of the proposed shop top housing. Whilst the height of the buildings is approximately 14m in height the use of materials and distance to the objector’s property will reduce the visual impact from this dwelling.

Issue 3: *Alternate access from the rear of the site should be provided using the right of carriage way.*

Comment: This road has not yet been formalised. A right of way exists over the site, as can be seen in Figure 2 above. Once this road has been formalised the site will have alternative access to the proposed access from the Princes Highway.

Issue 4: *The basement should be accessed from the front of the site, not the rear.*

Comment: Access to the basement has been located at the rear of the site to allow for the future opening of the right of way, see issue 3 above.

Issue 5: *Insufficient Parking Onsite, impact upon on street parking in Sylvan Street.*

Comment: The number of proposed car parking spaces complies with the parking requirements as specified in Councils Draft Development Control Plan 2015. The entrance to the car park is adequate as assessed by Council’s Traffic Engineer. There is a dedicated parking/loading bay for vehicles on site.

Issue 6: *Overdevelopment/Bulk/scale.*

Comment: The applicant has submitted amended plans reducing the number of townhouses from six to three. The number of dwellings within the building facing the Princes Highway has also decreased (a number of the units were combined to make larger units). The applicant has located the bulk of the development towards the front of the site to minimise the impact upon dwellings to the rear. A detailed assessment of height has been undertaken below in the Assessment Section.
The proposal complies with Floor Space Ratio controls, see Section 9.0 below. The proposal is also consistent with the Principles of SEPP65 – see in the Assessment Section.

The common open space area is not compliant with the controls within the Apartment Design Guide (ADG), however the space provided is satisfactory, and is a practical and useable space. A detailed assessment has been undertaken in the Assessment Section.

Issue 7: Impact on property prices
Comment: Property values are not a matter which is typically taken into account in a planning assessment, and no evidence has been provided to support this claim. However, issues which are commonly understood to impact negatively on property prices, such as overshadowing, overlooking, architectural quality, building bulk and scale and residential amenity are all assessed in detail in the ‘Assessment’ section of this report.

Issue 8: Traffic – concern was raised regarding increased traffic in Sylvan Street including construction vehicles, safety of the exit and entrance from Princes Highway, and pedestrian safety along Holt Road and Sylvan Street due to the increased traffic.
Comment: Amended plans have moved the vehicular access further south to that originally proposed. Council’s Engineer has reviewed the access to the site and has deemed it acceptable. The Traffic Engineer has also advised that the existing traffic measures are adequate, and no additional measures are required either on Sylvan Street or the Princess Highway.

Issue 9: The proposal is inconsistent with Council’s LEP and DCP and the non-compliant height sets precedent.
Comment: A detailed assessment has been undertaken below regarding compliance with the LEP and Draft DCP (Assessment Section). There are a number of non compliances, including height, this has been discussed further in Section 11.1 below. The applicant has submitted Clause 4.6 request regarding height, an assessment has also been undertaken regarding this in the Assessment Section below.

Issue 10: Overshadowing
Comment: The proposed development casts shadows to a portion of the rear private open space of adjoining properties from 3pm in mid winter (15, 17, 19 and 21 Sylvan Street). The adjoining dwellings to the rear, themselves, are not overshadowed. This has been discussed in detail below in the Assessment Section

Issue 11: Noise – related to the increased number of dwellings and from the commercial use of the site, including delivery vehicles.
Comment: A condition of consent will restrict hours of waste collection, as well as maintenance of the site, including cleaning and landscaping.
In terms of noise from future residents of the proposed development, the proposed dwellings “turn their backs” on the existing dwellings at Sylvan Road. The private open space and living areas of the shop top housing and townhouses face west towards the Princes Highway, away from the dwellings to the rear.

Issue 12: Basement excavation will affect 21 Sylvan Street.
Comment: The basement will be setback a minimum of 6m from the rear boundary of 21 Sylvan Street with some excavation for the rear driveway/access along the boundary. A condition of consent will be imposed that where the Principal Certifying Authority deems any additional dilapidation report as necessary, one shall be submitted prior to the commencement of works on site.

Issue 13: Landscaping: There is an objection to the removal of a tree at 19 Sylvan Street, as well as objections to loss of vegetation on the site.
Comment: The tree at 19 Sylvan Street is identified to be retained as per the landscape plans. The Tallowood was identified for removal in the original plans submitted, this tree is now to be retained with additional landscaping to occur across the site.

Issue 14: Waste Collection - the waste should be collected from the basement, not the Princes Highway.
Comment: The original plans submitted with this application identified that waste was to be collected from the Princes Highway. However the amended plans identify a waste pick up bay located on the northern boundary within the site. Waste is no longer proposed to be collected from the Princes Highway.

Issue 15: Security of the site and the rear properties.
Comment: A secure pedestrian access from the Princes Highway will be provided with a locked gate. The driveway entrance at the Princes Highway frontage will have a secure gate/roller door. The rear of each of the commercial tenancies will be secured with fence and gate system to prevent the access from patrons to the remainder of the site. This will also provide a level of security to the dwellings at the rear on Sylvan Street, by minimising the number of persons able to access the rear of the site.

Issue 16: Increased stormwater runoff as a result of the development.
Comment: The proposal has been assessed by Council’s Engineer who has assessed a number of engineering matters, including stormwater. A number of conditions have been imposed to ensure that the site is suitably drained and stormwater adequately disposed of.

Information Session
An Information Session was held on 7 June 2016 and 18 people attended.

Revised Plans
The applicant lodged a final set of amended plans by 21 October 2016.
In accordance with the requirements of draft SSDCP2015 these plans were not publicly exhibited as, in the opinion of Council, the changes being sought did not intensify or change the external impact of the development. However, Council did contact the objectors to the original plans, advising them that the amended plans were available to view.

**STATUTORY CONSIDERATIONS**

The subject land is located within Zone B1 Neighbourhood Centre pursuant to the provisions of Sutherland Shire Local Environmental Plan 2015. The proposed development, being a *commercial premises with shop top housing; and multi dwelling housing*, are permissible land uses within the zone with development consent.

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

- Sutherland Shire Local Environmental Plan 2015 (SSLEP 2015).
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.
- Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment.
- Draft Sutherland Shire Development Control Plan 2015 (SSDCP 2015).
- State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (SEPP 65).

**Section 94 and Section 94A**

- 2005 Shire Wide Open Space & Recreation Facilities.

**COMPLIANCE**

The compliance table below contains a summary of applicable development standards and controls and a compliance checklist relative to these:

<table>
<thead>
<tr>
<th>Standard/Control</th>
<th>Required</th>
<th>Proposed</th>
<th>Complies? (% Variation)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sutherland Shire Local Environmental Plan 2015</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Building Height</td>
<td>9m</td>
<td>Commercial/ Shop top-14.0m to the lift overrun (highest point on the building)</td>
<td>No – 56%</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Townhouses &lt;9m</td>
<td>Yes</td>
</tr>
<tr>
<td>Floor Space Ratio</td>
<td>1:1</td>
<td>1:1</td>
<td>Yes</td>
</tr>
<tr>
<td>Apartment Design Guide</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>--------------------------</td>
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</tr>
<tr>
<td><strong>Building Separation: Up to 4 storeys (Levels 1-4)</strong></td>
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<td></td>
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<tr>
<td>Min. Separation from buildings to side and rear boundaries:</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Up to 12m (4 storeys)</td>
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<td></td>
</tr>
<tr>
<td>6m (habitable rooms/balconies)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3m (non habitable rooms)</td>
<td></td>
<td></td>
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<tr>
<td>No separation is required between blank walls.</td>
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<tr>
<td>If adjacent to a different zone that permits lower density residential development, the setback should be increased by 3m = 9m to the rear in this case.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Building Separation: Between building A &amp; B</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>L1-4</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>12m between buildings</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Min 9m</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Communal Open Space</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Communal open space has a minimum area equal to 25% of the site (537m²)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid winter)</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>370m²</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>No</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

| NA | NA |
| Nil side setback, blank walls to side. | Yes |
| 22m | Yes |

<p>| NA | 167m² or 31% variation |
| No – See Assessment below in Section 11.0 | No – See Assessment below in Section 11.0 |</p>
<table>
<thead>
<tr>
<th>Feature</th>
<th>Description</th>
<th>Percentage</th>
<th>Compliance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Solar access</td>
<td>Living rooms and private open spaces of at least 70% of apartments to receive a minimum of 2hrs direct sunlight between 9am and 3pm mid winter = 11 apartments</td>
<td>100%</td>
<td>Yes</td>
</tr>
<tr>
<td>Natural ventilation</td>
<td>At least 60% of apartments are naturally cross ventilated in the first nine storey’s of the building = 9.6 apartments.</td>
<td>100%</td>
<td>Yes</td>
</tr>
<tr>
<td>Ceiling heights</td>
<td>Habitable rooms 2.7m If located in a mixed use area, 3.3m for the ground and first floor</td>
<td>2.7m</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td></td>
<td>3.7m</td>
<td></td>
</tr>
<tr>
<td>Apartment Size</td>
<td>1br bedroom – 50m² 2br Bedroom – 70m² 3br Bedroom – 90m²</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>*Where there more than one bathroom the minimum internal area increases by 5m²</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Room Depth</td>
<td>In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Room Design</td>
<td>Master bedrooms = 10m² Other Bedrooms = 9m²</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Minimum Dimension = 3m</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Living rooms or combined living/dining to have a minimum width of</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>Requirement</td>
<td>Description</td>
<td>Complies</td>
<td>Note</td>
</tr>
<tr>
<td>-----------------------------------</td>
<td>-----------------------------------------------------------------------------</td>
<td>--------------</td>
<td>------</td>
</tr>
<tr>
<td>3.6m for studio and 1 bdr apartments</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4m for 2 and 3 bedroom apartments</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Primary Balconies</td>
<td>2br = 10m² / depth 2m</td>
<td>Complies</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>3br = 12m² / depth 2.4m</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Storage</td>
<td>2br apartment = 8m³</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td></td>
<td>3br apartment = 10m³</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>At least 50% of storage to be located within the apartments</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>Deep Soil Zones</td>
<td>7% with minimum dimension 3m.</td>
<td>Yes 163m²</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>(150.5m²)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Sutherland Shire Development Control Plan 2015 – Chapter 11: B1 Neighbourhood Centre**

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Description</th>
<th>Complies</th>
<th>Note</th>
</tr>
</thead>
<tbody>
<tr>
<td>4.2 Street setbacks</td>
<td>Nil setback to the ground floor commercial/retail</td>
<td>nil</td>
<td>Yes</td>
</tr>
<tr>
<td>4.2 Side Setbacks</td>
<td>Nil setback to side boundaries</td>
<td>nil</td>
<td>Yes</td>
</tr>
<tr>
<td>5.2 Building and site layout</td>
<td>All loading, unloading and manoeuvring of vehicles shall take place within the curtilage of the site, and vehicles are to enter and exit the site from a rear laneway wherever possible and in a forward direction at all times</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>6.2 Shop top housing</td>
<td>Comply with SEPP65 and ADG. Upper storey is required to have the minimum side and rear boundary setbacks.</td>
<td>See ADG compliance table above</td>
<td></td>
</tr>
<tr>
<td>6.2 Solar Access</td>
<td>Living rooms and private open spaces for at least 70% of residential units in a development should receive a minimum of 2 hours direct sunlight between 9am and 3pm in midwinter</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Section</td>
<td>Description</td>
<td>Details</td>
<td>Yes/No</td>
</tr>
<tr>
<td>---------</td>
<td>-------------</td>
<td>---------</td>
<td>--------</td>
</tr>
<tr>
<td>6.2 Primary balcony</td>
<td>Dwelling type Minimum area Minimum depth</td>
<td>2 bedroom -10m² – min 2m wide 3+ bdr apartments 12m², min 2.4m wide</td>
<td>Yes</td>
</tr>
<tr>
<td>6.2 Storage</td>
<td>Dwelling type /Storage size volume</td>
<td>2 bedroom apartments/ 8 m³ 3+ bedroom apartments/ 10m³</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td></td>
<td>At least 50% of the required storage is to be located within the dwelling and accessible from circulation or living spaces.</td>
<td></td>
</tr>
<tr>
<td>Communal Open Space</td>
<td>25% of the site – minimum dimension 3m (requirement 25%x 2150m²) = 537.5m²</td>
<td>370m² (as per the ADG above)</td>
<td>167m² or 31% variation</td>
</tr>
<tr>
<td>7.2 Visual and Acoustic Privacy</td>
<td>Residential development within Road and Rail Noise Buffer should include noise and vibration attenuation measures. Refer to SEPP (Infrastructure) 2007 and the NSW Department of Planning’s Development near Rail Corridors and Busy Roads –Interim Guideline</td>
<td>An acoustic report has been prepared for this proposal</td>
<td>A condition of consent will require that the proposal be constructed in accordance with the acoustic report.</td>
</tr>
</tbody>
</table>
### 8.2 Adaptable and Livable

- Developments of 6 or more dwellings – 20% adaptable (**4 required**)
  - Developments of 6 or more dwellings –10% of dwellings (**2 required**).

<table>
<thead>
<tr>
<th>Car Parking</th>
<th>4 Adaptable and 2 liveable</th>
<th>Yes</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Total minimum requirement</strong> = 32</td>
<td><strong>Total proposed</strong> = 41</td>
<td><strong>Note:</strong> the number of parking spaces will be reduced to 38 via a condition of consent in order to address vehicular movement along the rear lane. This is discussed below in section 11.0.</td>
</tr>
<tr>
<td><strong>Total Maximum Requirement</strong> = 48</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

| Motor Cycle Parking | 1 space per 25 car spaces = 2 | 0 | A condition of consent will require 2 motorcycle spaces |

### SPECIALIST COMMENTS AND EXTERNAL REFERRALS

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

**Roads and Maritime Services (RMS)**

The application was referred to the RMS who provided conditions to include in any consent.

**Architectural Review Advisory Panel (ARAP)**

The application was referred to ARAP who provided the following comments on the original plans submitted:

- Reduce the conflict between balconies and stairwells regarding the shop top housing.
- ARAP advised they are supportive of the height variation. ARAP consider it an acceptable scale for the width of the road, the design of the main building with a breezeway/ separation providing a visual separation.
- Secure communal open space to be provided for future residents.
- Remove courtyards to the townhouses and improve the entries to these dwellings.
- Reduce FSR (**note** - amended plans now show compliance with this control).
• Retention of the Tallowood Tree and increase plantings to the common open space area, including along the rear fence, to provide climbers to soften the appearance of the rear fence.

Traffic Engineer
The application was referred to Council’s Traffic Engineer who was in support of the proposal provided that the car parking spaces are marked for residential and commercial use.

Landscape Architect
The application was referred to Council’s Landscape Architect who recommended some amendments to the landscaping and provided conditions of consent.

Architect
The application was referred to Council’s Architect who advised that privacy screens should be provided to the western elevation of the balconies for each town house.

Environmental Health
The application was referred to Council’s Environmental Health Unit who provided several conditions of consent.

Engineering (Assessment Team)
The application was referred to Council’s Assessment Team Engineer who provided a number of conditions of consent, including the deletion of five car spaces below the townhouses.

See discussion on parking in the Assessment Section below.

ASSESSMENT
A detailed assessment of the application has been carried out having regard to the Heads of Consideration under Section 79C(1) of the Environmental Planning and Assessment Act.

Height of Buildings
Clause 4.3 of the SSLEP
The townhouses at the rear of the site comply with the height requirement of 9m.

The proposed commercial and shop top housing component of the development fails to comply with the development standard for height, as seen in the image below. Clause 4.3 (2) SSLEP 2015 stipulates a maximum height of 9 metres for this site. The proposed development has a height of 14 metres.
Figure 5: Height of the proposed building at the Princes Highway frontage.

The relevant 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 achieve transitions in building scale from higher intensity employment and retail centres to surrounding residential areas.**

The proposed development allows good daylight access to all buildings and the public domain. The proposed development casts shadows to a portion of the rear private open space of adjoining properties. However, adjoining dwellings to the rear, themselves, are not overshadowed by the proposal.

Whilst overall the development is not currently compatible with adjoining development (in particular with the dwellings to the rear), it represents the future desired character of this neighbourhood centre, with commercial tenancies at ground level and shop top housing above. The development transitions down in height and density with three townhouses and landscaping to the rear, adjacent to the low density residential area.

The retention of the Tallowood tree maintains the existing landscape setting and residential amenity to the residential properties to the rear, as well as minimising the visual intrusion to these properties. Any direct view of the non-complying component will be largely obstructed by either the proposed townhouses or the Tallowood.
While the non-compliant portion of the building is at least 40m from the closest single dwelling and is largely obstructed, in order to further address the visual impact from the rear, a condition of consent is recommended so that top floor of the shop top housing is treated in such a way to minimise the appearance through a design different to the levels below.

This has been achieved with the top level fronting the Princes Highway where the building has an additional setback and alternate material treatment which assists with minimising the visual impact of the additional height along the highway.

Overall the proposal is generally consistent with Clause 4.3 of the SSLEP 2015.

**Zone objectives of the SSLEP**

The proposed development is located within Zone B1 Neighbourhood Centre. The objectives of this zone are as follows:

Zone B1 Neighbourhood Centre
- To provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood.
- To allow small-scale office uses that provide local employment opportunities and services for residents.
- To allow residential accommodation while maintaining active retail, business or non-residential land uses at street level.
- To provide for pedestrian-friendly and safe shopping designed to cater for the needs of all ages and abilities.

The proposal provides an active street frontage through the provision of ground floor commercial space, with the desired residential development above. The commercial tenancies will provide employment opportunities to those in the local area; as well as access to new businesses and services. The site will be easily accessed directly from the existing Princes Highway frontage, including parking at basement level with lift access to the street.

The proposal is consistent with the zone objectives.

**Clause 4.6 justification – Building Height**

The applicant has lodged a written request in accordance with the requirements of clause 4.6 of SSLEP 2015m regarding the height of the building. The applicant provides the following justification that there are sufficient planning grounds to justify the additional height (a full copy of this request is on the file):
“The proposal is consistent with this objective [Objective (a) of Clause 4.3] as it will not create any adverse impacts on nearby properties...would likely improve the amenity of properties to the east though enhanced protection from acoustic impacts created by traffic noise the Princes Highway has a width that can easily accommodate a 4 storey building on the site. The building would not appear too large or have an overbearing impact on the street scene....”.

“[Objective F of Clause 4.3] seeks to ensure transition between zones is established. The proposed development concentrates the bulk of the development at the Princes Highway...the lower scale multi-dwelling housing development (positioned at the interface with the residential zone). The proposed development is therefore consistent with the objectives for maximum building height despite the numeric non-compliance.”

“On "planning grounds" and in order to satisfy that the proposal meets objective 1 (b) of Clause 4.6 in that allowing flexibility in the particular circumstances of this development will achieve "a better outcome for and from development", it is considered that the proposal represents a building scale which is compatible with the capacity of the site and the intended future character of the Sylvania Neighbourhood Centre.”

“The alternative would be to remove upper level of the shop top housing building, however, the benefit of amending the design in such a manner (no material built or natural environmental benefits) is much less than the burden that would be placed on the development through:

- reduced dwelling yield;
- failure to maximise attainment of objectives for development in the B1 zone and revitalise the Sylvania neighbourhood centre, namely, the provision of residential accommodation....;
- reduced dwelling yield would not maximise opportunities for the provision of housing in close proximity to public transport, employment and services; and
- reduced density would reduce economic viability of the neighbourhood centre which is a driving focus for the small area.”

The proposal directly responds to the housing needs of the community by providing a high quality residential flat development, encouraged by the provisions of SSLEP 2015. A mix of unit sizes is proposed, with two and three bedroom dwellings and the required percentage available for conversion to adaptable and liveable units. The architectural expression of the proposed development is of a high standard, which combined with the proposed landscaped setting, should ensure a quality urban design outcome for the site.

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 variation to height is considered acceptable in this case as the gross floor area has been redistributed to the front of site due to the encumbrance of the right of carriageway to the rear which would have otherwise been able to be developed. The width of the site and the width of the highway (being three lanes in each direction and up to 50m) visually accommodates the height of this building.

The development provides a transition in scale to the lower density zone to the rear and also enables a visual and physical separation between the development and existing single dwellings. This distribution of floor space provides for a better planning outcome and the proposal sets an acceptable precedence regarding the desired future character for the area with the height maximised along the Princes Highway and reduced adjacent to the low rise to the rear.

The proposed variation does not raise any matters of State or regional environmental planning significance. In addition there is no public benefit to maintain the height development standard in the circumstances of this case.

It is considered that the proposed development is in the public interest and provides a development responsive to the varied surrounding development. The variation to the height development standard satisfies all relevant parts of Clause 4.6 and therefore the variation can be supported.

State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development

State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (SEPP 65) and the accompanying Apartment Design Guide (ADG) seek to improve the design quality of residential flat development through the application of a series of nine design principles. A brief assessment of the proposal having regard to the design quality principles of SEPP 65 is set out below:

<table>
<thead>
<tr>
<th>Design Quality Principles</th>
<th>Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Principle 1: Context &amp; Neighbourhood Character</td>
<td>The proposal fits well within the context of the surrounding area, with its main frontage to the main arterial of the Princes Highway. The ground floor commercial tenancies relate well to existing retail and commercial uses along this section of the Princes Highway. The building will be appropriately acoustically treated given the location of the site on the Princes Highway. The shop top housing at level 1-3 provides a suitably articulated edge to the Princes Highway frontage, with the central common open space and the three townhouses to the rear of the site providing a transition down to the low density residential dwellings to the rear of the site.</td>
</tr>
<tr>
<td>Principle 2: Built Form &amp; Scale</td>
<td>The built form, whilst currently out of character with the existing streetscape is articulated through the use of a variety of materials, it also transitions down in height and density to the rear of the site with three townhouses and landscaping to the rear.</td>
</tr>
<tr>
<td>Principle 3: Density</td>
<td>The density achieves a high level of amenity for future residents of the building, with each apartment meeting the minimum internal area, and room dimension requirements as per the ADG. The site is in close proximity to jobs in the Sutherland Centre as well as other centre’s within the Sutherland LGA.</td>
</tr>
<tr>
<td>Principle 4: Sustainability</td>
<td>100% of the proposed units are naturally cross ventilated, and 100% of units achieve a minimum of two hours solar access at mid winter, this is consistent with the ADG.</td>
</tr>
</tbody>
</table>
| Principle 5: Landscape | The landscape design incorporates a central area of communal open space at ground level. This space incorporates paved areas, with a varied scale of plantings as well as a number of seating areas, providing a reasonable level of residential amenity to future residents.

There is also planting proposed in the vicinity of the loading bay and bin areas to soften the appearance of this part of the development. In the north eastern corner of the site there is additional planting around an existing *Eucalyptus microcorys* (Tallowood) which is proposed to be retained. A condition of consent will require its retention. |
| Principle 6: Amenity | The proposed apartments provide a good level of residential amenity by satisfying the natural ventilation and solar access controls as per the ADG see Principle 3 above. The apartments also have reasonable levels of privacy, and ease of access including adaptable and liveable apartments. |
| Principle 7: Safety | The entrance to the building, including the landscape treatment and location of a communal open space area, enables surveillance of both the street and the subject property. |
| Principle 8: Housing Diversity & Social Interaction | The proposed development is a mix of 2 and 3 bedroom apartments and townhouses, with a central communal open space, providing settings for social interaction. |
| Principle 9: Aesthetics | The proposed design and aesthetics of the building will suit the desired future character of this location along the Princes Highway. |
Urban Design (Residential Buildings)

Clauses 6.16 and 6.17 of SSLEP 2015 contain certain matters of consideration relating to urban design. A detailed assessment of the design and amenity of the building has been undertaken against the Principles of SEPP 65 (as discussed above).

The proposal has been amended to retain a significant Tallowood tree in the north eastern corner, and address the scale of low density residential development by providing townhouses to the rear. The proposed development is considered to enhance the existing character of this location, and positively contribute to the desired future character of this area.

A recommended condition of consent will require level three of the shop top housing to be amended to be more recessive, through the use of materials and finishes. This will further contribute to the character of this location, whilst addressing visual impact of the development when viewed from the low density residential areas in the vicinity of the site.

The units and townhouses have both been designed to be dual aspect (east and west facing). The shop top housing has been appropriately design to provide moveable screening to the balconies facing the Princes Highway, providing both an acoustic barrier to the individual dwellings and relief from the sun in the afternoon.

The proposal at ground level responds well to the Draft DCP by providing an active street front through five commercial tenancies along the Princes Highway, and contributing to the amenity of the Sylvania Heights neighbourhood centre. The proposed commercial/shop top housing is well articulated and is an appropriate response to the location and width of the site “the separation of the building into two, with pedestrian access between, makes a pair of buildings out of what would otherwise be an overly long frontage to a single building.”

The application and the proposal is considered to be acceptable in regards to urban design.

Parking

Councils Draft DCP imposes a minimum and maximum parking for the shop top housing. The proposed 41 parking spaces exceeds the minimum parking requirement of 32 spaces a without exceeding the maximum requirement of 48 spaces.

Parking is largely proposed on one basement level which will be accessed along an internal access way at the rear of the site from the highway. There are also five at grade car spaces below the townhouses. However, as there is potential for these spaces to conflict with the use of the rear lane, especially once the right of carriageway is formalised, a condition of consent is recommended to convert these five spaces to two disabled spaces. This will provide wider spaces to manoeuvre and reduce the number of vehicles using these spaces thus also reducing the number of vehicular movements. Despite the deletion of three spaces the development still complies with the parking provisions from the Draft DCP.
Communal Open Space

The proposal does not meet the minimum communal open space area requirement as per Council’s Draft DCP and as per the ADG – which both require a minimum of 25% of the total site area to be common open space. This space also does not receive a minimum of 50% direct sunlight for a minimum of two hours in midwinter as per the ADG. However, there is provision to vary these requirements in the ADG for business zones.

Whilst the communal open space does not meet the minimum area and solar access requirements, this space does meet the principles and criteria of the ADG. The proposed space provides a well consolidated and practical area for use, and is easily identified and usable. The location of the common open space provides equitable access from all dwellings. Furthermore, as all proposed dwellings face west, 100% of the private open space will receive solar access.

The proposed communal area is a secure space which contains soft landscaping and seating areas. The proposed common open space area also provides a visual and physical separation between the proposed buildings.

Therefore the amount of common open space and solar access is considered acceptable in this case.

Traffic

Council’s Traffic Engineer has advised that Sylvan Street, the Princes Highway and Holt Road have the capacity and suitable traffic measures to accommodate this development. No additional traffic measures are required.

Setbacks/Separation

The rear setback of the townhouses are compliant with the Council’s DDCP controls of 6m.

The minimum required setback from the rear boundary for the shop top housing is 9m. This comprises of the 6m minimum requirement with an additional 3m setback due to the residential zoning to the rear of the site. The purpose of this control is to ensure that development transitions in scale to lower density residential. The shop top housing is set back a minimum of 22m from the rear boundary and therefore complies.

The building separation between the shop top housing and townhouses does not meet the minimum separation requirement of 12m as per the ADG. As the private open spaces of the townhouses will be overlooked by the shop top housing to the west, a condition of consent will require the erection of sliding screens to be provided to the western elevation of the balcony for each townhouse. This will also assist with shading the harsh western sun in summer.
Privacy

Three townhouses in the north eastern corner of the site have been removed from the proposal minimising the impact upon privacy to the adjacent dwellings at the rear of the site. The remaining three townhouses are setback a compliant 6m from the rear boundary of 19 and 21 Sylvan Road.

Levels 1 and 2 of the townhouses are oriented to the west, facing onto the central common open space area. Windows on the rear façade at level 1 serving the dining and living areas are screened, while those windows at level 2 on the rear elevation are associated with bedrooms and are proposed to have a minimum sill height of 1.7m. These treatments will minimise overlooking to the properties to the rear of the subject site.

Each dwelling in the shop top housing has the main living areas facing the Princes Highway. However, the rear of this building comprises stair and lift access to the shop top dwellings as well as proposing balconies to east facing bedrooms. While each of these balconies includes full length fixed screens minimising impacts upon privacy to the dwellings to the rear, a number of conditions of consent are recommended to address privacy as follows:

a) Deletion of eastern balconies at levels 3 of the shop top housing.

b) Louvers to be erected to the eastern balconies at levels 1 and 2, at such an angle to prevent over looking to the dwellings to the rear, whilst maximising solar access. These louvers will be moveable in order to ensure that these balconies are not classified as internal spaces which would push the development to a non-compliant FSR.

c) Rear access stairs and landings facing east also have fixed louvers to minimise over looking to the rear.

The distances, window configurations and conditions regarding screening will minimise the impacts upon privacy to the dwellings and private open space of the properties to the rear of the site.

Earthworks

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

A dilapidation report will be required to be submitted as a condition of consent prior to the commencement of works regarding 220 Princes Highway, Sylvania. Further a general dilapidation condition will be required to regarding other adjacent properties where required.
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.

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.

Tree Removal
The proposed development involves the removal of four trees. Appropriate replacement trees species are proposed. Landscape plans and conditions of consent will identify the species required to be planted.

Access to the Site
Pedestrian access to the residential component of the development site is via a central access core at street level from the Princes Highway frontage. Each commercial tenancy will have its own separate pedestrian access from the Princes Highway frontage.

Access will also be available from the basement car parking via a number of lift coarse. The townhouses at the rear of the site will have their own individual access from the ground level common open space.

Storage
Of the total storage volume required for each of the dwellings (townhouses and shop top housing) 50% of the storage is required to be provided in each dwelling in accordance with the Draft DCP and ADG respectively.

The volume of storage within each dwelling has not been specified on plan. A condition of consent will be imposed requiring a minimum of 50% of storage to be contained within each unit.

Contaminated Land
A site inspection and search of Council records has revealed that the subject site is unlikely to be contaminated and is therefore fit for its intended use.
SECTION 94 CONTRIBUTIONS
The proposed development will introduce additional residents to the area and as such will generate Section 94 Contributions in accordance with Council’s adopted Contributions Plans. These contributions include:

Open Space: $108,068.39
Community Facilities: $18,424.62

These contributions are based upon the likelihood that this development will require or increase the demand for local and district facilities within the area. It has been calculated on the basis of 19 new residential units with a concession of four existing allotments and an existing dwelling.

DECLARATIONS OF AFFILIATION, GIFTS AND POLITICAL DONATIONS
Section 147 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.

CONCLUSION
The subject land is located within Zone B1 Neighbourhood Centre pursuant to the provisions of Sutherland Shire Local Environmental Plan 2015. The proposed development, being commercial premises with shop top housing; and multi dwelling housing, are permissible land uses within the zone with development consent.

The application was placed on public exhibition and submissions were received from 18 households. The matters raised in these submissions have been discussed in this report and include traffic, height, over development, privacy and overshadowing.

The proposal includes a variation to building height. This variation has been discussed and is considered acceptable subject due to the overall FSR, and location of the building in relation to adjoining neighbours to the rear.

The application has been assessed having regard to the Heads of Consideration under Section 79C(1) 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. 16/0377 may be supported for the reasons outlined in this report.

RESPONSIBLE OFFICER
The officer responsible for the preparation of this Report is the Manager, Major Development Assessment (LP)

File Number: DA16/0377
1. **Approved Plans and Documents**

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

<table>
<thead>
<tr>
<th>Plan number</th>
<th>Reference</th>
<th>Prepared by</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Site/Roof Plan - Issue E</td>
<td>Sheet 01</td>
<td>Couvaras Architects</td>
<td>1/2/17</td>
</tr>
<tr>
<td>Basement - Basement Car Parking Amendments Issue C</td>
<td>Sheet 02</td>
<td>Couvaras Architects</td>
<td>Amended 6/1/17</td>
</tr>
<tr>
<td>Ground Floor - Ground Floor Car Parking Amendments Issue D</td>
<td>Sheet 03</td>
<td>Couvaras Architects</td>
<td>Amended 6/1/17</td>
</tr>
<tr>
<td>Level 1 - Issue D</td>
<td>Sheet 04</td>
<td>Couvaras Architects</td>
<td>29/8/16</td>
</tr>
<tr>
<td>Level 2 - Issue D</td>
<td>Sheet 05</td>
<td>Couvaras Architects</td>
<td>29/8/16</td>
</tr>
<tr>
<td>Level 3 - Issue D</td>
<td>Sheet 06</td>
<td>Couvaras Architects</td>
<td>29/8/16</td>
</tr>
<tr>
<td>Elevations (West Street and East Internal) - Issue C</td>
<td>Sheet 07</td>
<td>Couvaras Architects</td>
<td>29/8/16</td>
</tr>
<tr>
<td>Elevations (East and West internal) - Issue D</td>
<td>Sheet 08</td>
<td>Couvaras Architects</td>
<td>29/8/16</td>
</tr>
<tr>
<td>Elevations (North and South) - Issue D</td>
<td>Sheet 09</td>
<td>Couvaras Architects</td>
<td>29/8/16</td>
</tr>
<tr>
<td>Sections - Issue D</td>
<td>Sheet 10</td>
<td>Couvaras Architects</td>
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and any details on the application form and on any supporting information received with the application except as amended by the following conditions.

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

i) A Construction Certificate.

ii) Notification of the appointment of a Principal Certifying Authority and a letter of acceptance from that Principal Certifying Authority.

iii) Notification of the commencement of building works with a minimum of 2 days notice of such commencement.

2. **Design Changes Required**

   A. **Design**

   i. In order to provide a more recessive top floor from the rear:

   - the eastern elevation of Level 3 shop top housing shall be amended so that the finishes reflect that of the western, northern and southern elevations of level three (being Dulux Domino);
   - The eastern facing balconies of Units 13, 14, 15 and 16 shall be deleted;
   - **Unit 13 and Unit 14 Dining Room:** provide a highlight window with a minimum sill of 1500mm measured from the finished floor level.
   - **Unit 14, Unit 15 and Unit 16 Eastern Bedrooms (x2):** provide vertical windows with a maximum width of 400mm or a highlight window with a minimum sill of 1200mm measured from the finished floor level.

   ii. The proposed privacy screening to the eastern elevation of all eastern balconies for the following units of levels 1 and 2 shall be constructed of a sliding screen with louvers fixed at such an angle that will prevent overlooking into the eastern adjoining properties, yet still provide solar access to these balconies.
iii. To prevent access by patrons to the central common open space:
   • A fence measuring a minimum height of 1.5 metres above finished floor level shall be erected adjacent to the planter boxes of Shop 4.
   • All fencing and lockable gates associated with each courtyard for each commercial ground floor tenancy (Shop 1 to 5) shall be of a minimum height of 1.5 metres above finished floor level.

iv. The balconies on the western elevation for units 13, 14, 15 and 16 shall have fixed awnings erected for the full width and depth of each balcony to provide adequate weather protection.

v. The western balconies for townhouse 1, 2 and 3 shall have sliding louver screens to be erected to a maximum height of 1.8 m above finished floor level. The louvers shall be fixed and at such an angle that will minimise overlooking from the commercial/shop top housing building to the townhouses, but will provide solar access balconies.

vi. A minimum of 50% of the required storage space as required by the Australian Design Guide shall be provided within all residential dwellings.

vii. Both blade walls adjacent to the basement ramp must be reduced by 2 m in length from the access lane to facilitate suitable pedestrian sight distance when entering and exiting the basement.

viii. Privacy screens shall be erected along stairwells, lift cores and breezeways as follows, to prevent overlooking:
   • for the full width of the eastern elevation of the all stairwells at all levels, aside from ground level;
   • for a length of two (2) metres along the southern elevation, measured from the eastern facade of the building, at level 1 and level 2 for Stairwell/Lift Core A and B.
   • for a length of 2 m, extending to the north, beyond the entry doors at level 2 and level 3 for Stairwell/Lift Core B.
   • along the south-western corner of the stairwell, for a length of one (1) metres along each elevation at level 1, level 2 and level 3 for Stairwell/Lift Core C.

The screens identified above shall be constructed of either a solid screen or fixed louvers at such an angle that will prevent overlooking into the eastern adjoining properties and the adjacent units 1, 3, 5, 7, 11 and 13, but will provide solar access to these stairwells and dwellings.

Details of these design changes must be included in documentation submitted with the application for a Construction Certificate.
3. Requirements of Authorities

A. Requirements from Other Authorities

The development must be undertaken in accordance with the requirements of the Roads and Maritime Services as follows:

i. The design and construction of gutter crossing on Princes Highway shall be in accordance Roads and Maritime requirements. Any redundant driveways on Princes Highway shall be removed and replaced with kerb and gutter to match existing. Details of these requirements should be obtained from Roads and Maritime Services, Manager Developer Works, Statewide Delivery, Parramatta (telephone 8849 2138).

Detailed design plans of the proposed gutter crossing are to be submitted to Roads and Maritime for approval prior to the issue of a Construction Certificate and commencement of any road works.

A plan checking fee (amount to be advised) and lodgment of a performance bond may be required from the applicant prior to the release of the approved road design plans by Roads and Maritime.

ii. All vehicles are to enter and leave the site in a forward direction.

iii. All vehicles are to be wholly contained on site before being required to stop.

iv. The developer is to submit design drawings and documents relating to the excavation of the site and support structures to Roads and Maritime for assessment, in accordance with Technical Direction GTD2012/001.

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

The report and any enquiries should be forwarded to:
Project Engineer, External Works
Sydney Asset Management
Roads and Maritime Services
PO Box 973 Parramatta CBD 2124.
Telephone 8849 2114
Fax 8849 2766
If it is necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owner/s of the roadway is/are given at least seven (7) days notice of the intention to excavate below the base of the footings. The notice is to include complete details of the work.

v. Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to Roads and Maritime for approval, prior to the commencement of any works.

Details should be forwarded to:
The Sydney Asset Management
Roads and Maritime Services
PO Box 973 Parramatta CBD 2124.

A plan checking fee will be payable and a performance bond may be required before Roads and Maritime approval is issued. With regard to the Civil Works requirement please contact the Roads and Maritime Project Engineer, External Works Ph: 8849 2114 or Fax: 8849 2766.

vi. All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping. A construction zone will not be permitted on Princes Highway.

vii. A Road Occupancy Licence should be obtained from Transport Management Centre for any works that may impact on traffic flows on Princes Highway during construction activities.

viii. The developer shall be responsible for all public utility adjustment/relocation works, necessitated by the above work and as required by the various public utility authorities and/or their agents.

These requirements must be incorporated in the application for Construction Certificate where required.

4. Car parking below townhouses 1-3

A. Design

As identified on Ground Floor plan: Ground Floor Plan amendments dated 6 January 2017:

i. Ground Level car parking spaces 01 and 02 shall be deleted and replaced with one disabled parking bay in accordance with AS2890.6 and shall be labelled as parking bay G01.
ii. Ground Level car parking Spaces 03, 04 and 05 shall be deleted and replaced with one
disabled parking bay in accordance with AS2890.6 and shall be labelled as parking bay
G02.
iii. Signage shall be erected regarding spaces G01 and G02 to ensure they leave in a
forward facing direction.
iv. Convex mirrors shall be erected to ensure that there are sufficient lines of sight regarding
spaces G01 and G02 along the rear carriageway.

These amendments shall be shown on plan and submitted with any construction certificate.

B. BEFORE CONSTRUCTION
Certification from an appropriately qualified engineer that the requirements of (i) to (iv) above
have been satisfied must accompany the application for a Construction Certificate.

5. Motorcycle and Bicycle Parking
Two motorcycle parking spaces and four bicycle parking spaces shall be provided in the
basement.

These spaces shall be identified on amended plans and submitted to the Principal Certifying
Authority prior to the issue of a construction certificate.

6. Plan of Management - Traffic
A Plan of Management shall be prepared regarding the treatment of the internal driveway
including the carriageway along the length of the rear of the site, including (but not restricted to)
traffic calming devices, management of the loading/ reversing area, speed limits and pedestrian
safety measures to ensure that the internal vehicular access areas do not impact upon
residential amenity of the subject and adjoining properties.

The Plan of Management shall be prepared by an appropriately qualified person, and shall be
submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

7. Parking Allocation - Commercial and Residential Use
A. Prior To Issue Of Construction Certificate
a) Parking allocated to the commercial tenancies at basement level (including staff and
customer parking) shall be clearly identified for each of the 11 car parking spaces for this
commercial floor space.

b) Parking allocated to the commercial tenancies at ground level (spaces G01 and G02)
shall be clearly identified to be used by the commercial tenancies only.

c) Parking allocated to the residential units and townhouses at basement level shall be
clearly identified for each of the car parking spaces for these dwellings.
d) The commercial and residential parking spaces at ground and basement level shall not be enclosed by a cage, garage or other type of enclosure.

Details of this shall be included on plans prior to the issue of the construction certificate.

8. Public Place Environmental, Damage & Performance Security Bond

A. Before Issuing of any Construction Certificate

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

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

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

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

The value of the bond is $100,200.00.

Note: Bond amount includes a non refundable administration fee which must be paid separately if security is provided by way of a deposit with Council or a bank guarantee.

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

B. After Occupation

A request for release of the bond may be made to Sutherland Shire Council after all works relating to this consent have been completed. Such a request must be submitted to Council on the ‘Bond Release Request Form’ signed by the owner or any person entitled to act on the consent and must be accompanied by a current dilapidation report including photographs.
Section 94 Contributions
The following dedication of land and/or monetary contributions have been levied in relation to the proposed development pursuant to Section 94 of the Environmental Planning and Assessment Act 1979.

The Contributions Plan may be viewed online on Council’s web page (search for S94 Contributions Plan). A copy may also be viewed or purchased at the Customer Service Counter in Council’s Administration Centre, Eton Street, Sutherland during office hours.

9. Monetary Contribution for Shire-Wide Open Space and Recreational Facilities
A. Before Construction
Pursuant to Section 94 of the Environmental Planning and Assessment Act 1979 and Sutherland Shire Council’s Contributions Plan - Shire Wide Open Space and Recreation Facilities 2005, a monetary contribution of $116,950.72 must be paid to Sutherland Shire Council toward the cost of land identified for acquisition and works contained in the Works Programme of the Contributions Plan.

This contribution has been assessed and calculated in accordance with the Shire Wide Open Space and Recreation Facilities 2005, Contribution Plan on the basis of 3 proposed Dual Occupancy, Townhouses, Villas etc 16 proposed Residential Flat Units, Apartments etc, with a concession for 4 existing allotments.

The contribution will be indexed on 1 July in each year in accordance with the Implicit Price Deflator for Gross Fixed Capital Expenditure - Private Dwellings, with amended rates being available from Council.

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

A. Before Construction
A monetary contribution of $19,892.87 must be made for the cost of providing community facilities.

This contribution has been assessed pursuant to s.94 of the Environmental Planning and Assessment Act, and the Sutherland Shire Contributions Plan - Community Facilities in the Sutherland Shire, after identifying the likelihood that this development will require or increase the demand for community facilities within the shire. It has been calculated on the basis of 3 proposed Dual Occupancy, Townhouses, Villas etc 16 proposed Residential Flat Units, Apartments etc, with a concession for 4 existing allotments.
The contribution will be indexed on 1 July in each year in accordance with the Implicit Price Deflator for Gross Fixed Capital Expenditure - Private Dwellings, with amended rates being available from Council.

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

11. Approvals Required under Roads Act or Local Government Act
   A. Before Construction
   No occupation or works are to be carried out on public land (including a road or footpath) or access provided over a public reserve adjacent to the development site without approval being obtained from Sutherland Shire Council and the necessary fee paid under the Roads Act 1993 and/or the Local Government Act 1993. These approvals must be to the satisfaction of Council for the required development works and may include but are not limited to the following:

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

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

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

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

   This design will generally comply with the approved architectural design drawings, except where amended and/or addressing the following;
i) Establish the property alignment levels and crossing profiles,
ii) Construct a vehicle crossing 7m wide at the kerb and 6m wide at the boundary,
iii) All redundant crossings and associated laybacks are to be removed and kerb and gutter reinstated,
iv) The entire frontage must be reconstructed in accordance with Council’s Public Domain Design Manual and any requirements set by the Public Domain Manager,
v) Construct a new stormwater pit over the existing drainage line within Princes Highway to facilitate the private connection
vi) Alter / install street signage where required,
vii) Regrade, topsoil, turf and landscape the footpath verge to final design levels,
viii) Adjust public services infrastructure where required,
ix) Ensure there are adequate transitions between newly constructed and existing infrastructure.

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

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

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

i) The supervising engineer must certify the road frontage works were constructed to their satisfaction and in accordance with the development consent and associated Roads Act consent.

ii) The supervising arborist, landscape designer or landscape architect must certify the street trees are the correct species and were installed in accordance with the development consent and associated Roads Act consent.

13. Site Management Plan
A. Before Commencement of Works including Demolition
An Environmental Site Management Plan must accompany the application for a Construction Certificate. If demolition is to commence prior to the issue of a Construction Certificate the applicant must submit to Sutherland Shire Council a separate Demolition Site Management Plan. These plans must satisfy the Objectives and Controls of Sutherland Shire Development Control Plan 2015 relating to environmental site management and must incorporate the following throughout demolition and construction:
i) Safe access to and from the site during construction and demolition.
ii) Safety and security of the site, road and footpath area including details of proposed fencing, hoarding and lighting.
iii) Method of loading and unloading excavation machines, building materials.
iv) How and where, construction materials, excavated and waste materials will be stored.
v) Methods to prevent material being tracked off the site onto surrounding roadways.
vi) Erosion and sediment control measures.

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

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

The purpose of the meeting is to:

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

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

15. Supervising Engineer
A. Before Construction
The applicant must engage an Accredited Certifier in civil engineering works or a Charter Civil Engineer to supervise construction of any:

i) Road frontage works.
ii) Construction / installation of stormwater drainage.
iii) Rainwater harvesting & reuse.
iv) All other works that form part of a subdivision.

B. During Construction
The engineer must supervise the works as listed above to ensure compliance with:

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

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

16. Internal Driveway Profile
A. Before Construction
An Access Application must be made to Council to obtain footpath crossing and boundary alignment levels before commencing the final design of internal driveways, paths and car park area.

B. Design
The internal driveway profile must be designed to:

i) Provide adequate sight distance for the safety of pedestrians using the footpath area.
ii) Provide a maximum grade of 5% for the first 3 metres inside the property boundary.
iii) Comply with AS2890.1(2004) in relation to the design of vehicular access, parking and general manoeuvring for the B85 vehicle.
iv) The maximum longitudinal grade of the driveway must not exceed 25%.

Certification by an appropriately qualified person to the effect that these design requirements have been met must accompany the application for a Construction Certificate.

17. Parking Areas and Access
A. Design
All vehicular access, parking and manoeuvring areas including loading areas must be designed and constructed to comply with AS2890.1 - 2004.

The following specific requirements must be incorporated into the design:

i) The proposed loading and delivery area must be clearly defined with suitable signposting and pavement markings.
ii) The proposed access lane from Princes Highway to the basement ramp must be constructed at grade and of a suitable all weather pavement consisting of asphalt or concrete.
iii) The section of access lane at the rear of the property must consist of kerb and gutter on both sides of the road pavement. The crossfall of the access lane must be directed in an easterly fashion to facilitate stormwater drainage.

iv) A geotechnical investigation and engineering design must be undertaken for the access lane from the Princes Highway to the basement ramp to determine the full depth asphalt/concrete pavement appropriate to the design loading in accordance with "Austroads - AGPT02/10: Guide to Pavement Technology - Part 2: Pavement Structural Design",

v) Bollards must be installed on the southern side of the internal pedestrian crossing from the blade wall to garden bed. The bollards must be offset 0.5m from the access lane pavement and separated by 2m.

B. Before Construction
i) Certification issued by a suitably qualified civil engineer to the effect that these design requirements have been met. This certification must accompany the application for a Construction Certificate.

ii) Approval shall be sought for the abovementioned design from Council's Public Domain Assets Manager prior to the issue of a Construction Certificate.

C. Before Occupation
Prior to the occupation of the building or the issue of an Occupation Certificate the suitably qualified civil engineer must certify that the access lane and loading and delivery area has been constructed to their satisfaction and is fit for purpose. A copy of this certification must accompany the application for a Occupation Certificate.

18. Basement Car Park Design
A. Design
The basement car park must be designed in accordance with AS 2890 and must incorporate the following:

i) A minimum headroom of 2.2m measured from the parking floor to the underside of any beam, ventilation duct or service conduit, or to the underside of any door including a security door and fittings when those doors are in an open position.

ii) The proposed security door fitted to the car parking area entrance must be independently mounted on rubber pads to prevent vibration noise transmission through the concrete walls and / or columns.

iii) The commercial spaces must have a width of 2.6m to comply with user class 3 of AS2890.1 for short term city and town centre parking.

B. Before Construction
Certification of the above must accompany the application for a Construction Certificate.
19. Drainage Design - Detailed Requirements

A. Design

The stormwater drainage system must be designed in accordance with the approved stormwater drainage design drawing, Australian Standard AS3500.3:2003 and the BASIX Certificate issued for this development. Except where modified by the following:

i. The approved stormwater plans prepared by Jones Nicolson Consulting Engineers (D001, D070 and D100- dated December 2015, and D200 and D210 dated as amended 3/2/17), shall be amended to reflect the approved building layout as per the Architectural Plans prepared by Couvaras Architects, the stormwater plans should be amended to be consistent with the following drawings, in particular noting the basement layout and amendments to the townhouses:

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ii. The OSD and rainwater tanks must be relocated to match in the new driveway access location,

iii. Construct a new stormwater pit over the existing drainage line within Princes Highway to facilitate the private connection

iv. A longitudinal section of the pipeline within the road reserve including existing natural surface levels, design surface levels, design invert levels of the proposed pipeline and the location, size and reduced level of all services to AHD where those services cross the proposed drainage line.

v. The rate of discharge of stormwater from the site to a drainage system under Council’s control must be controlled so that it does not exceed the pre-development rate of discharge.

vi. The rainwater tank must have a minimum capacity of 10m³

vii. All levels reduced to Australian Height Datum.

viii. Harvested rainwater must be used for irrigation

ix. The pipeline within the footpath verge must be a hot dipped galvanised steel hollow section with a minimum wall thickness of 4.0 millimetres or reinforced concrete pipe.

x. The stormwater drainage within the rear access lane must be relocated to the eastern boundary and located below the kerb and gutter. This pipeline must be Ø375mm RCP and have a minimum gradient of 1%.

xi. Two kerb inlet pits must be constructed over this pipeline at the most northern and southern extents of the lane in accordance with Council Standard Drawing DWG #10000.
B. Before Construction

i) Certification from an Accredited Certifier in Civil Engineering or a Chartered Civil Engineer, to the effect that the drainage design is to their satisfaction and satisfies the design requirements in “A” above must accompany the application for a Construction Certificate.

ii) Approval shall be sought for the abovementioned design from Council’s Public Domain Assets Manager prior to the issue of a Construction Certificate.

C. Before Occupation

Prior to the issue of an Occupation Certificate:

i) A Works-As-Executed drawing (WAED) of the stormwater drainage system and access lane pavement must be prepared by a Registered Surveyor. This drawing must detail the alignment of pipelines, pits, the rainwater tanks and the detention facilities. An original or a colour copy must be submitted to Sutherland Shire Council.

ii) The Supervising Engineer must certify the WAED of the stormwater drainage system that the stormwater drainage works, rainwater harvesting facility and rainwater reuse systems were constructed to their satisfaction and in accordance with the Development Consent. Prior to the occupation or use of the building the Applicant / Owner must submit to Council a copy of the aforementioned letter of certification.

D. Ongoing

i) The operation of all devices or appliances installed within the development approved by this consent as required by conditions pertinent to rainwater harvesting and rainwater reuse must be maintained in good operating order at all times.

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

Note: Upon submission of the Works-As-Executed drawing for the stormwater drainage system a notation will be added to the section 149(5) certificate advising future owners that their property is burdened by a stormwater detention facility.

20. Noise Control During Construction and Demolition

To minimise the impact on the surrounding environment:

A. During Works

The LAeq sound pressure level measured over a period of 15 minutes when the construction or demolition site is in operation, must not exceed the ambient background level (LA90 15min) by more than 10dB(A) when measured at the nearest affected premises.
21. Damage to Adjoining Properties
   A. Before Works
   To minimise vibration damage and loss of support to buildings / structures and properties in close proximity to the development site, a Geotechnical Engineers Report must be prepared detailing constraints to be placed on earth moving and building plant and equipment and the method of excavation, shoring, underpinning and support. This report must be provided to the person undertaking the excavation and the Principal Certifying Authority.

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

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

   A. Before Construction
   Suitable arrangements must be made with all relevant utility service providers to ensure the development is appropriately serviced by electricity, gas, telecommunications and the like, and any necessary underground conduits are provided.

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

23. Easements - Subdivision
   A. Before Subdivision
   Prior to the release of the Subdivision Certificate, easements must be created over:

   i) the right of carriageway 6.1m wide and variable along the full length of the eastern (rear) boundary of the site

   The right of carriageway and terms thereof must be created under the provisions of s.88B of the Conveyancing Act, 1919, benefitting Sutherland Shire Council. The s.88B instrument must be submitted to Sutherland Shire Council Legal Department for approval before the registration of any linen plan.

24. Approved Landscape Plan
   A. Design Changes
   The landscape works on the site must be carried out in accordance with the approved Landscape Plan except as amended by the following:
i) Regarding the *Eucalyptus microcorys* (Tallowood) near the north eastern corner of the site (identified as Tree 5 on the approved landscape plan by Zenith Landscape Designs):

   a. All reasonable steps shall be taken to protect the root zone and retain the Tallowood during the construction period, including the civil works associated with the construction of the vehicular access and turning circle. The protection of this tree shall be managed and supervised by an appropriately qualified Arborist and Landscape Designer.

   b. However, if the works substantially affect the root zone of the Tallowood, it shall be replaced with a *Eucalyptus microcorys* as per the approved amended landscape plan *Attachment A - Landscape Amendments dated 17/11/16*.

ii) Provide additional planter boxes to the areas highlighted in green on *Attachment A_Landscape Amendments* dated 17/11/16 and ensure soil depths are as specified.

iii) Ensure understorey planting within the planter boxes immediately south-west of the reversing bay are low lying and trees have clear trunks to maintain pedestrian site lines.

iv) Provide seating around the perimeter of the two planter boxes to the communal open space as shown on *Attachment A_Landscape Amendments* dated 17/11/16.

v) Delete one *Elaeocarpus reticulatus* (Blueberry Ash) to the north eastern corner and replace with one *Eucalyptus haemostoma* (Scribbly Gum) 1000mm off the eastern boundary line.

vi) Replace *Corymbia gummifera* (Bloodwood) to street with *Eucalyptus haemostoma* (Scribbly Gum).

vii) Tree Protection Zones (TPZ) must be shown on plan for all existing trees and/or natural site features to be retained and protected.

viii) The communal open space areas and all planter boxes on slab must be provided with a water-efficient irrigation system, connected to a pump and the rainwater/OSD tank, to enable effective landscape maintenance.

The applicant must engage a suitably qualified Landscape Designer or Landscape Architect to oversee any design changes to the approved Landscape Plan and amendments required above. Details of these design changes must be included in the documentation submitted with the application for a Construction Certificate.

**Notes:**

A Landscape Designer is a person eligible for membership of the Australian Landscape Designers and Managers and a Landscape Architect is a person eligible for membership of the Australian Institute of Landscape Architects as a Registered Landscape Architect.
If demolition works to occur prior to the Construction Certificate being issued, tree protection measures must be installed prior to commencement of demolition.

B. Prior to Occupation/Occupation Certificate
The landscape works must be completed in accordance with the approved Landscape Plan and amendments required by ‘A’ above. A Final Landscape Inspection must be carried out and a certificate issued by Council’s landscape officer prior to occupation or the issue of an occupation certificate (interim or final). This certificate is required to ensure that all landscaping works and the deep soil percentage requirements have been carried out in accordance with ‘A’ above, and that all new indigenous plants on the site and within the road reserve are the correct species.

To arrange a Final Landscape Inspection please phone 9710-0333 48 hours prior to the required inspection date. An inspection fee of $225 is required to be paid, prior to the inspection. Additional inspections will be charged at a rate of $150 each.

C. Ongoing
All landscaping works required by ‘A’ above must be maintained for 12 months following the final landscape inspection date.

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

Note: If difficulty is experienced sourcing suitable indigenous plants from other suppliers, plants grown from locally provenance seed may be available from:

Sutherland Shire Council Nursery
345 The Boulevarde, Gymea
Ph: 02 9524 5672

25. Trees on Private Land (Projects Dual Occupancies and Larger) (ENV2030)
A. Tree Removal
The removal of the following trees is approved:

i) Trees identified on the approved Landscape Plan as “existing tree to be removed” and/or as listed below:

<table>
<thead>
<tr>
<th>Tree No.</th>
<th>Tree Species (botanical and common name)</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td><em>Grevillea robusta</em> (Silky Oak) <strong>EXEMPT</strong></td>
<td>Refer to Existing Tree Plan prepared by Zenith Landscape Designs</td>
</tr>
<tr>
<td>No.</td>
<td>Species Name</td>
<td>Exempt Status</td>
</tr>
<tr>
<td>-----</td>
<td>-----------------------------------</td>
<td>---------------</td>
</tr>
<tr>
<td>3</td>
<td>Glochidion ferdinandi (Cheese Tree)</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Eucalypt sp. (Eucalypt)</td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>Ligustrum sp (Privet)</td>
<td>EXEMPT</td>
</tr>
</tbody>
</table>

ii) Trees growing within the 3 metres of the building footprint of the approved structures.

iii) Any declared noxious plant. The applicant is to ensure that all noxious plants are properly identified and controlled/removed.

iv) Any tree species exempted by the Sutherland Shire Local Environmental Plan 2015.

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

**B. Design**

i) Three (3) trees are approved for removal as part of this consent. Where trees are proposed to be removed Sutherland Shire Council’s Development Control Plan 2015 requires indigenous replacement canopy tree planting at a ratio of 8:1 on private land.

ii) Twenty four (24) replacement trees are required to be planted.

iii) A minimum number of eight (8) indigenous trees must be planted on the site as per approved landscape plans and associated conditions of consent.

iv) Trees must have a minimum container size of 5 litres.

An amended Landscape Plan/Tree Location Plan showing the location of all replacement trees on the site and/or in the street must be provided prior to the release of the Construction Certificate.


**C. Prior to Occupation/Occupation Certificate**

The replacement tree planting must be completed in accordance with the approved Landscape Plan/Tree Location Plan. A Final Landscape Inspection must be carried out and a certificate issued by Council's landscape officer prior to occupation or the issue of an occupation certificate (interim or final). This certificate is required to ensure that tree planting has been carried out in accordance with ‘B’ above, and that all new indigenous plants on the site and within the road reserve are the correct species.
To arrange a Final Landscape Inspection please phone 9710-0333 48 hours prior to the required inspection date. An inspection fee of $225 is required to be paid, prior to the inspection. Additional inspections will be charged at a rate of $150 each.

D. Ongoing
Trees required by this condition must be maintained and protected until they are covered by Council’s Controls for Preservation of Trees and Bushland Vegetation (SSCDCP 2015 Chapter 38). Any replacement trees found damaged, dying or dead must be replaced with the same species in the same container size within one month with all costs to be borne by the owner.

Note: If you have difficulty sourcing suitable indigenous plants from other suppliers, plants grown from local provenance seed may be available from:

Sutherland Shire Council Nursery
345 The Boulevarde, Gymea
Ph: 02 9524 5672
Opening hours - Monday to Friday 7.00am-3.00pm (excluding public holidays).

26. Tree Retention and Protection
A. Before Works
Prior to the commencement of any demolition, excavation or construction works on site the applicant shall engage a suitably qualified and experienced Arborist to oversee the measures for the protection of existing trees as listed below.

Note: An Arborist is a person with a current membership of the National Arborist’s Association of Australia at a grade of General Member, Affiliate Member or Life Member, or alternatively a person who has obtained an Australian Qualifications Framework AQF Level 5 in Arboriculture.

Prior to the commencement of any works, including demolition, the supervising Arborist must oversee the protection of the following tree/s as listed in the table below / as marked on the approved Landscape Plan No.15-3156LO1 prepared by Zenith Landscape Designs dated 19/10/16 to ensure the installation and adequacy of all tree protection measures.

<table>
<thead>
<tr>
<th>Tree No.</th>
<th>Tree Species (botanical and common name)</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td><em>Eucalyptus haemostoma</em> (Scribbly Gum)</td>
<td>Street</td>
</tr>
<tr>
<td>2</td>
<td><em>Eucalyptus microcorys</em> (Tallowood)</td>
<td>Refer to Existing Tree Plan prepared by Zenith Landscape Designs (Drawing No. 15-3156 LO2)</td>
</tr>
</tbody>
</table>
The trees identified for retention must be protected by the following measures:

i) Protective fencing constructed of 1.8m high chain wire mesh supported by robust posts must be installed in accordance with the on ‘Attachment A_Landscape Amendments’ dated 17/11/16. Signage must be erected on the fence with the following words clearly displayed “TREE PROTECTION ZONE, DO NOT ENTER”.

ii) The tree protection zone within the protective fencing must be mulched with a maximum depth 75mm of suitable organic mulch (woodchips or composted leaf chip mulch) and kept regularly watered for the duration of the works subject to this consent.

iii) No development or associated activity is permitted within the fenced tree protection zone for the duration of works subject to this consent. This includes vehicular or pedestrian access, sheds, washout areas, excavations, backfilling, installation of services (including stormwater), removal of top soil, stockpiling of soil or building materials.

iv) Where site access/egress is required over the roots of trees identified for retention and protection, provide hardwood rumble boards over a 200mm thick layer of wood chip.

B. During Construction

i) The tree protection measures detailed in ‘A’ above must be maintained during construction.

ii) The supervising Arborist must be present during any approved hand excavation or under boring works within the Tree Protection Zone (TPZ) of any tree identified for retention and protection and have the authority to direct works to ensure the trees long term preservation;

iii) The supervising Arborist must strictly supervise that there is no disturbance or severing of roots greater than 30mm diameter and to cleanly cut those roots between 10-30mm in diameter.

iv) If the tree/s identified for retention in ‘A’ above are damaged or destabilised during construction then works must cease and Council’s Tree Assessment Officer (ph. 9710 0333) must be contacted to assess the tree/s and recommend action to be taken.
27. General Odour Condition
   A. Ongoing
      The use and operation of the premises must not cause the emission of any odours that, by
      reason of its level, nature, character or quality is likely to be harmful to or interfere
      unreasonably with the comfort or repose of person who is outside the premises.

28. Car Wash Bays
   To prevent contamination of the stormwater drainage system a car-wash bay must be provided
   on site:
   
   A. Design
      The wash-bay must be graded to an internal drainage point and connected to the sewer.
   
   B. Before Construction
      Details of the design satisfying ‘A’ above must accompany the application for a Construction
      Certificate.
   
   C. Before Occupation
      The Principal Certifying Authority must be satisfied that
      i) ‘A’ above has been complied with and
      ii) any discharge to the sewer from the premises is in accordance with the requirements of
          Sydney Water.
   
   D. Ongoing
      All car-wash, engine degreasing and steam cleaning must be conducted in the wash-bay
      detailed in ‘A’ above. Wastewater must be treated in accordance with the requirements of
      Sydney Water.

29. Garbage, Recycling and Green-waste Storage Area
   To ensure the proper storage of waste from the premises:
   
   A. Design
      The garbage and recycling storage area must have a smooth impervious floor that is graded to
      a floor waste. A tap and hose must be provided to facilitate regular cleaning of the bins and all
      waste water must be discharged to the sewer in accordance with the requirements of Sydney
      Water. Garbage bins must be designed to prevent the escape of any liquid leachate and must
      be fitted with a lid to prevent the entry of vermin.
   
   B. Before Construction
      Details of compliance with ‘A’ above must form part of the documentation accompanying the
      applications for a Construction Certificate.
C. Before Occupation
The works must be completed prior to the issue of any Occupation Certificate.

D. Ongoing
All waste and recycling bins must be stored wholly within the approved waste storage area. The bins must only be put out for collection in the evening prior to pick-up and returned to the storage area as soon as possible after pick-up.

30. External Lighting - (Amenity)
To ensure that any lighting on the site does not cause a nuisance to neighbours or motorists on nearby roads:

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

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

31. Noise Control - Residential Air Conditioning Unit / Heat Pump Water Heater
To minimise the noise impact on the surrounding environment:

A. Design
The unit must be designed and/or located so that noise generated does not cause an LAeq (15min) sound pressure level in excess of 5 dB(A) above the ambient background level when measured on or within any residential property.

B. Ongoing
i) The unit must be operated in accordance with ‘A’ above.
ii) Between the hours of 10.00pm and 8.00am on weekends and public holidays and 10.00pm and 7.00am any other day, noise emitted must not be heard within any residence with its windows and/or doors open or closed.

32. Noise Control - Design of Plant and Equipment (General Use)
To minimise the impact of noise from the development, all sound producing plant, equipment, machinery, mechanical ventilation system or refrigeration systems:

A. Design
All plant and equipment must be designed and / or located so that the noise emitted does not exceed an LAeq sound pressure level of 5dB above the ambient background level when measured at the most affected point on or within any residential property boundary.
Note: The method of measurement of sound must be carried out in accordance with Australian Standard 1055.1.

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

C. Ongoing
All plant and equipment must be operated and maintained in accordance with ‘A’ above.

33. Noise Control - Design of Plant and Equipment (Continual Operation)
To minimise the impact of noise from the development, all sound producing plant, equipment, machinery, mechanical ventilation systems and / or refrigeration systems:

A. Design
All plant and equipment must be designed and / or located so that the noise emitted does not exceed the Project Specific Noise level when measured at the most affected point on or within any residential property boundary.

The Project Specific Noise level must be the most stringent noise level of the Intrusive and Amenity criteria and be calculated in accordance with the provisions of the Department of Environment and Conservation’s Industrial Noise Policy.

Note: The method of measurement of sound must be carried out in accordance with Australian Standard 1055.1.

B. Before Construction
Details of the acoustic attenuation treatment required to comply with ‘A’ above, must be prepared by a qualified acoustic engineer. These details must accompany the application for a Construction Certificate.

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

D. Ongoing
All plant and equipment must be operated and maintained in accordance with the ‘A’ above.

34. Noise Control - Communal Open Space
To minimise the impact on the surrounding residents:
A. Ongoing
1) A Plan of Management regarding management of noise associated with commercial tenancies and the communal open space shall be prepared and submitted with the Construction Certificate.

35. Noise from Road
To minimise the impact of noise from the adjoining major road and / or rail corridor on the occupants:

A. Design
The building design must be in accordance with the recommendations of the acoustic report by Acoustic Logic dated 11 December 2015 approved as part of this application.

B. Before Construction
Details of the acoustic attenuation treatment must accompany the documentation forming part of the Construction Certificate.

C. Before Occupation
Details of the acoustic attenuation treatment must accompany the application for a Construction Certificate in accordance with ‘A’ above and must include all post construction validation test results.

36. Noise and Vibration Control - Residential Car Park
To minimise noise and vibration from use of the security door in the car park:

A. Design
The proposed security door fitted to the car parking area entrance must be independently mounted on rubber pads or otherwise installed to prevent vibration noise transmission through the concrete walls and / or columns.

B. Before Occupation
The Principal Certifying Authority must be satisfied that ‘A’ above has been complied with.

37. Building Ventilation
To ensure adequate ventilation for the building:

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

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

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

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

D. Ongoing
The ventilation system must be operated and maintained in accordance with ‘A’ above.

38. Car-Park Ventilation - Alternate System
To ensure adequate ventilation for the car park:

A. Design
As the basement car-park does not appear to comply with the natural ventilation requirements of Section 4 of Australian Standards AS1668.2 -1991, the car-park must be either mechanically ventilated by a system complying with AS1668.2 -1991 or alternatively, the natural ventilation system must be certified by a qualified mechanical ventilation engineer to the effect that the system is adequate. The certification shall confirm that the system will protect the health of occupants of the car park at anytime it is used and satisfies the atmospheric contaminate exposure rates specified in the Worksafe Australia document: Workplace Exposure Standards for Airborne Contaminants.

B. Before Construction
Details of compliance with ‘A’ above must form part of the application for a Construction Certificate.

C. Before Occupation
Certification must be provided by a qualified mechanical ventilation engineer that the installation of the ventilation system has been carried out in accordance with ‘A’ above.
D. **Ongoing**

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

39. **Demolition Work**

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

A. **Before Commencement**

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

B. **During Works**

i) The demolition of the existing building must be carried out strictly in accordance with Australian Standard 2601 - The Demolition of Structures.

ii) The applicant must ensure that the demolition contractor has a current public risk insurance coverage for a minimum of $5 million. A copy of the Policy must be submitted to the Council prior to demolition.

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

a) Work Health and Safety Act 2011;

b) Work Health and Safety Regulation 2011;

c) Safe Work Australia Code of Practice - How to Manage and Control Asbestos in the Workplace;


e) Workcover NSW ‘Working with Asbestos - Guide 2008’;

f) Protection of the Environment Operations Act 1997; and


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

40. **Dilapidation Report - Adjoining Properties**

A. **Before Works**

To assist in the resolution of any future disputes about damage to properties adjoining the development site, prior to commencement of any work on site the Applicant or principal contractor must provide dilapidation reports on the adjacent buildings at No.s 220 and 232.
Princess Highway Sylvania, including any basements and ancillary structures. The Principal Certifying Authority shall determine the need for any additional dilapidation reports for any other adjoining properties. The reports must be provided to the Principal Certifying Authority and to the owners of the properties that are the subject of the report.

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

41. Design Requirements for Disabled Access
   A. Design
   A report prepared by a suitably qualified Access Consultant must be submitted with the Construction Certificate, demonstrating that the development complies with the requirements of AS1428 - Design for Access and Mobility.

42. Design Requirements for Adaptable Housing
   A. Design
   A report prepared by a suitably qualified Adaptable Housing Specialist must be submitted with the Construction Certificate, demonstrating that the development complies with the requirements of AS4299 - Adaptable Housing. The report must contain a completed checklist (Appendix A - AS4299) demonstrating compliance with the requirements of a Class C Adaptable House.

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

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

44. Certification Requirement of Levels
   A. During Construction
   At the following stages of construction:

   i) Prior to the pouring of each floor or roof slab,
   ii) Upon completion of the roof frame.

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

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

45. Sydney Water Requirements & Section 73 Compliance Certificate

A. Before Any Works

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


B. Before Occupation / Subdivision Certificate

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

Sydney Water Advice on Compliance Certificates:

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

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

46. Dial Before You Dig

A. Before Construction

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

It is the individual’s responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before you dig service in advance of any construction or planning activities.
47. **Noise Control and Permitted Hours for Building and Demolition Work**

A. **During Works**

To minimise the noise impact on the surrounding environment:

i) The LAeq sound pressure level measured over a period of 15 minutes when the construction or demolition site is in operation, must not exceed the ambient background level (LA90 15min) by more than 10dB(A) when measured at the nearest affected premises.

ii) All building and demolition work must be carried out only between the hours of 7.00am and 6.00pm Monday to Friday inclusive, 8.00am and 3.00pm Saturdays. No work must be carried out on Sundays and Public Holidays.

On 3 occasions, only for the purpose of pouring large floor or roof slabs, work may be carried out on the site from 7.00am to 8pm Monday to Friday, excluding Public Holidays on a week day.

In order to activate the extended hours of operation both Council and affected neighbours must be notified a minimum of 48 hours prior to commencement. Affected neighbours include those in the immediate vicinity, adjacent or adjoining the development site. Notification must be by way of written advice including:

- Date/s the extended hours will be utilised.
- The purpose of the extended hours - pouring large slab.
- Address of the development works / site.
- Contact name and number of appropriate site officer (supervisor or manager) for enquiries.

Notification to Council must include a copy of the letter and a map or list identifying those affected neighbours who have been notified.

48. **Toilet Facilities**

A. **During Works**

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

Each toilet must:

i) be a standard flushing toilet connected to a public sewer, or

ii) have an on-site effluent disposal system approved under the Local Government Act 1993, or

iii) be a temporary chemical closet approved under the Local Government Act 1993
49. Street Numbering and Provision of Letter Box Facilities
   A. Before Occupation
      i) Street / unit / shop numbers must be clearly displayed.
      ii) Suitable letterbox facilities must be provided in accordance with Australia Post
          specifications.
      iii) The dwellings must have the following street address format:

          The development must be known as 222 Princes Highway Sylvania,

          The units must be number in the hotel style format eg
          Ground Floor G01/222 Princes Highway Sylvania,
          First Floor 101/222 Princes Highway Sylvania
          and Second Floor - 201/222 Princes Highway Sylvania

50. Car parking Areas
   A. Ongoing
      To ensure that the car parking area satisfies the demands of the development:

      i) it must be made available on an unrestricted basis and free of charge at all times for
         employees' and visitors' vehicles
      ii) any parking nominated as visitor parking or common property must be continually
          available as common property.

51. Car Parking Allocation
   A. Before Subdivision
      Car parking must be allocated to individual strata lots as part of their unit entitlement.

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

      Parking must be allocated on the following basis:
      • Residential dwellings: minimum 24 spaces
      • Retail/commercial: 15 spaces
      • Loading/servicing: 1 “SRV” space

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

52. Loading and Unloading
   To preserve the amenity and ensure the safety of the public:
A. Ongoing
All loading and unloading of vehicles must be carried out within the site and not from the public roadway. All service/delivery vehicles must enter and leave the site in a forward direction.

53. Noise - waste and deliveries
To minimise the impact of the development on the surrounding environment:

A. Ongoing
i) Waste
To minimise the noise impact of the development on the surrounding environment, the collection of goods including garbage and recycling waste from the premises must not take place between the hours of 10pm and 8am Monday to Saturday or before 9am Sunday and Public Holidays.

All tenancies must at all times display at all staff exits and in the garbage storage area clearly visible and legible signs in the form of or like “Bottles and cans are NOT to be collected by waste operators after 10pm or before 8am (9am Sunday / Public Holiday). Movement of other waste from inside to outside the premises, after 10pm must occur quietly.

ii) Delivery / Collection of Goods
To minimise the noise impact of the development on the surrounding environment, loading or unloading of goods and materials from the premises must not take place between the hours of 7pm and 8am Monday to Saturday or before 9am on Sunday and Public Holidays.

iv) Maintenance Operations
To minimise the noise impact of the development on the surrounding environment no maintenance contractors (including cleaning and landscaping) must commence work prior to 8.00am on any day.

54. Registration of Plan of Consolidation
A. Prior to Construction
Prior to the issue of any Construction Certificate a Plan of Subdivision for the Consolidation of Lot 9 DP 65570, Lot 1 DP 726419, Lot 11 & 12 DP 658248 including a 6.1m wide and variable Right of Carriageway for public use must be registered with NSW Land and Property Information.

The 6.1m wide and variable right of carriageway must be located along the eastern (rear) boundary.

Attached are the prescribed conditions that must be complied with under the Environmental Planning and Assessment Regulations 2000.
S98 Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989

(1) For the purposes of section 80A (11) of the Act, the following conditions are prescribed in relation to a development consent for development that involves any building work:
   (a) that the work must be carried out in accordance with the requirements of the Building Code of Australia,
   (b) in the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

(1A) For the purposes of section 80A (11) of the Act, it is prescribed as a condition of a development consent for a temporary structure that is used as an entertainment venue, that the temporary structure must comply with Part B1 and NSW Part H102 of Volume One of the Building Code of Australia.

(2) This clause does not apply:
   (a) to the extent to which an exemption is in force under clause 187 or 188, subject to the terms of any condition or requirement referred to in clause 187 (6) or 188 (4), or
   (b) to the erection of a temporary building, other than a temporary structure to which subclause (1A) applies.

(3) In this clause, a reference to the Building Code of Australia is a reference to that Code as in force on the date the application is made for the relevant:
   (a) development consent, in the case of a temporary structure that is an entertainment venue, or
   (b) construction certificate, in every other case.

Note. There are no relevant provisions in the Building Code of Australia in respect of temporary structures that are not entertainment venues.

S98A Erection of signs

(1) For the purposes of section 80A (11) of the Act, the requirements of subclauses (2) and (3) are prescribed as conditions of a development consent for development that involves any building work, subdivision work or demolition work.
(2) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
   (a) showing the name, address and telephone number of the principal certifying authority for the work, and
   (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
   (c) stating that unauthorised entry to the work site is prohibited.

(3) Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

(4) This clause does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.

(5) This clause does not apply in relation to Crown building work that is certified, in accordance with section 109R of the Act, to comply with the technical provisions of the State’s building laws.

(6) This clause applies to a development consent granted before 1 July 2004 only if the building work, subdivision work or demolition work involved had not been commenced by that date.

Note. Principal certifying authorities and principal contractors must also ensure that signs required by this clause are erected and maintained (see clause 227A which currently imposes a maximum penalty of $1,100).

S98B Notification of Home Building Act 1989 requirements
(1) For the purposes of section 80A (11) of the Act, the requirements of this clause are prescribed as conditions of a development consent for development that involves any residential building work within the meaning of the Home Building Act 1989.

(2) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:
   (a) the case of work for which a principal contractor is required to be appointed:
      (i) the name and licence number of the principal contractor, and
      (ii) the name of the insurer by which the work is insured under Part 6 of that Act,
   (b) in the case of work to be done by an owner-builder:
      (i) the name of the owner-builder, and
      (ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.
(3) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (2) becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

(4) This clause does not apply in relation to Crown building work that is certified, in accordance with section 109R of the Act, to comply with the technical provisions of the State’s building laws.

S98E Condition relating to shoring and adequacy of adjoining property

(1) For the purposes of section 80A (11) of the Act, it is a prescribed condition of development consent that if the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

(a) protect and support the adjoining premises from possible damage from the excavation, and

(b) where necessary, underpin the adjoining premises to prevent any such damage.

(2) The condition referred to in subclause (1) does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

Please be advised if this consent is for an entertainment venue, then there are further prescribed conditions that apply under clauses 98C and 98D of the Environmental Planning and Assessment Regulation.
Dear Sir

Pre-Application Discussion regarding construction of a mixed use development comprising 7 retail and 12 units and parking at No. 222 - 228 Princes Highway, Sylvania.

Council refers to the pre-application meeting (PAD) held on Meeting on 5 August 2015 regarding the above development proposal. Team Leader Luke Murtas, Gurinder Walia (development assessment officer) and Peter Brooker (Architect) attended the meeting on behalf of Council and Nelson Ferreira and Murray Naylor attended on behalf of the applicant.

This letter is not a complete assessment of the application but is intended to address the major issues likely to arise if an application is submitted. All development applications are required to be accompanied by a Statement of Environmental Effects that must address all relevant Environmental Planning Instruments, Development Control Plans and relevant controls. The contents of this letter do not bind Council to granting consent for the development if an application is made for such a proposal.

The Site and Proposal:
The site is located on the eastern side of Prices Highway, Sylvania. The site is irregular in shape and has curved combined frontage of approximately 50m to Princes Highway. Existing on the site is a dated "shop top housing" style development.

Adjoining to the site to the south and east are 1 & 2 storey residence, whilst to the north are shops. To the west across the Prices Highway are low density dwellings.

The proposal is to demolish the existing structures and to construct 7 retail units with 4 two storey dwelling on top fronting Princes Highway. Eight, 3 storey Multi dwelling units are proposed at the rear
The primary access to dwellings is proposed from the first floor podium level. The proposal is preliminary in its concept for exploring development potential of the site. The application proposes 12 car parking spaces behind the retail units and 16 spaces within the double garages. The land is zoned B1- Neighbourhood Centre under the provisions of Sutherland Shire Local Environmental Plan 2015.

**Comments on the Proposal:**

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

1. **Permissibility**
   
   SSLEP 2015 provides that 'shop top housing' and 'multi dwelling housing', are permissible uses of the subject land. The configuration presented to Council could be interpreted as being a residential flat building given the unified nature of the building caused by the podium link.

   During the course of the meeting, it was pointed out that the having first floor podium slab is construed as a residential flat building which is a prohibited development under SSLEP 2015. An option of breaking up the built form should be explored so that the development can fit into the definition of shop top housing / multi dwelling housing to satisfy its permissibility under the provisions of SSLEP 2015.

2. **Activation of rear laneway**

   The site is currently accessible from the Princes Highway. A possibility to provide access and to extend a laneway to the rear of the site was discussed during the meeting. The applicant could explore the possibility of extension of their access way between adjoining properties to provide access from rear to the site with Public Assets Engineers. Currently, there is no proposal at Council to acquire land to provide laneway access to the site.

3. **Parking and access**

   A critical element of the application will be the provision of all required parking to be on site and ensuring that parking and manoeuvring allows for the safe entry / exit from the site in a forward direction.

   Council’s Development Control Plan requires a minimum 24 car parking spaces for townhouse development (@ 2 spaces per 3 bedroom unit) and 13 spaces for retail area (@ 1 per 30m²) ie 27 spaces in total. The application proposes a total of 28 parking spaces (16 spaces in garage + 12 car spaces) for the proposed development, thereby presenting a shortfall of 9 spaces. Nothing has been presented to Council at this stage demonstrating that a compliant scheme cannot be achieved or that
local conditions justify non-compliance. Council would expect that full compliance be achieved in any future application.

The access to the site is proposed from the Prices Highway. In this regard an input from the Roads and Maritime Services is required in relation to the road works and entry location. Early consultation with this authority is highly recommended. It is advised that the driveway be relocated to the northern extremity to allow for improved sightlines and road safety.

It is noted that no loading / unloading facility has been proposed. Any future application should incorporate details of loading / unloading facility for the proposed development. The parking and loading / unloading areas must be designed to comply Australian Standard AS 2890.1 & 2890.2 as amended. It is advised that before finalising a DA, you must confirm the driveway location, access and alignment with Council’s Public Assets Engineers and Roads and Maritime Services.

4. Density and height controls
During the course of the meeting an issue was raised in relation to the potential for increased building density and height controls. In this regard, it is advised that the recently gazetted development standards applicable under SSLEP 2015 prescribed a maximum Floor space ratio of 1:1, maximum height of 9m and minimum landscape area of 10% for the subject site. Council would expect full compliance with these controls. Any substantial variations to these development standards may be considered for a site specific Planning Proposal that would require consultation with Council’s Strategic Planning Division. In this regard, you may contact Council’s Manager, Strategic Planning.

5. Solar access and Private Open Spaces
Perusal of the plans submitted indicates that the private open spaces are oriented along the eastern side of the development. During the meeting, an option of flipping over of garages and open spaces were discussed in order to benefit future development; balancing this requirement with parking and other site demands.

6. Adaptable Housing
The proposal as submitted does not make provisions for ‘adaptable dwellings’ in accordance with the applicable development control plan to allow for 'aging in place'. Council's DCP requires 30% of the dwellings to be proposed as adaptable housing. The adaptable dwelling must be designed in accordance with Australian Standard AS4299 – Adaptable Housing. Any future application must nominate a minimum of 4 dwellings as capable of Adaptable housing and any parking relating to those dwellings must be designed accordingly.

7. Architectural Review Advisory Panel (ARAP)
The proposal may be subject to review and evaluation of its quality in terms of architectural design and input from Council’s Architectural Review Advisory Panel (ARAP) A pre-application discussion
with ARAP is strongly recommended before refining your proposal any further. You are advised to contact Colleen Baker, Council’s Architectural Review Advisory Panel Co-ordinator on 97100551 for further information.

Conclusion:

The proposed land use, so long as it is a multi dwelling development or shop top housing, appears to be reasonable in principle subject to addressing the issues raised in this letter in the detailed design. The proposal needs to satisfy the permissibility issue as raised earlier in this letter. There are significant issues in relation to vehicle access and building massing which need to be resolved.

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

For detailed information about how to prepare and lodge a development application, please refer to the "Development" section of Council’s website (www.sutherlandshire.nsw.gov.au).

On the web page a “DA Guide” is available and an online tool called “Development Enquirer” which searches the applicable planning instruments for the planning controls relevant to your site and development.

Council’s Development Enquiry Officers are also available to assist you with the lodgement requirements for your application (9710 0520).

Please contact Council if you believe any of the above information to be incorrect or if you need clarification of the advice provided. Your initial point of contact should be Gurinder Walia (9710 0362) as this is Council’s development assessment officer who will most likely be responsible for the assessment of your DA.

Yours faithfully

Mark Adamson
Manager – Projects and Development Assessment
for J W Rayner
General Manager
### APPENDIX "D"

**SUBMISSION SUMMARY (from original formal notification period)**

<table>
<thead>
<tr>
<th>Address</th>
<th>Date</th>
<th>Issue</th>
</tr>
</thead>
</table>
| 1 267 Princess Hwy, Sylvania | 27/4/16 | • Height – out of character  
• Traffic safety existing entering the site – visibility (blind spot)  
• Insufficient parking                                                                                                           |
| 2 45 Sylvan St, Sylvania  | 21/4/16 | • Increased truck and car parking on Sylvan St due to increased residents and business patronage including across driveways.                                                                             |
| 3 14 Sylvan St, Sylvania  | 21/4/16 | • Bulk /scale/ height – reduce the number of dwellings  
• Increased traffic  
• Impacts of construction traffic  
• Traffic safety due to the entry and exit from Princes Hwy  
• Increased car parking on Sylvan St due to increased residents and business patronage.  
• Alternate access from the rear of the site should be provided.                                                                 |
| 4 21 Sylvan St, Sylvania  | 22/4/16 | • Non compliance with LEP and DCP.  
• Increased car parking on Sylvan St due to increased residents and business patronage.  
• Privacy  
• Overshadowing  
• Noise  
• Height  
• Excavation of basement may affect 21 Sylvan St  
• Property depreciation                                                                                                           |
| 5 40 Sylvan St, Sylvania  | 23/4/16 | • Increased car parking on Sylvan St due to increased residents and business patronage, impacting upon Sylvan Road which is a narrow width once cars are parked on both sides.  
• Turning from Sylvan Road to Princes Highway (left) is already very difficult.  
• Height  
• Increased traffic from future resident using Sylvan St.                                                                                          |
<table>
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<tr>
<th></th>
<th>Description</th>
<th>Date</th>
<th>Concerns</th>
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| 6 | 19 Sylvan St, Sylvania                           | 23/4/16 and 5/5/16 | - Impact upon residential amenity, out of character with surrounding residential area  
- Overdevelopment: Density/ Bulk and scale/FSR/Site coverage/height  
- Access  
- Landscaping – removal of tree without landowners consent of 19 Sylvan St.  
- Privacy  
- Noise  
- Open space  
- Inadequate parking  
- Traffic and parking impact (Sylvan Road as a thoroughfare for cars heading north) and car parking. |
| 7 | 27 Sylvan St, Sylvania                           | 23/4/16 | - Overdevelopment.  
- Solar access.  
- Noise.  
- Increased traffic in Sylvan St.  
- Privacy.  
- Entry and exit to the site is in a dangerous location (increased traffic accidents).  
- Parking impacts on Princess Highway due to shops.  
- Sets precedent for other development similar to that proposed.  
- Height.  
- Impact on property value |
| 8 | 17 Sylvan St, Sylvania (three submissions the same- two includes the declaration of gifts and donations) | 24/4/16, and 25/4/16 | - Does not comply with the LEP and DCP  
- Traffic (Sylvan Road as a thoroughfare for cars heading north) and car parking.  
- Loss of vegetation  
- Over development (site too small for this scale of development) – (shortfall on communal and open space, height, FSR, rear setback)  
- Privacy  
- Overshadowing  
- Safety (entry/exit from the site to the Princes Highway) |
|   | 9 26 Sylvan St, Sylvania   | 24/4/16 | Waste collection from Princess Highway – problematic – should have basement collection.
|   |                           |         | Noise from loading and delivery.
|   |                           |         | Security (driveway and basement being accessible at all times)
|   |                           |         | Decrease property value
|   |                           |         | Increase storm water runoff
|   |                           |         | Damage from excavation at boundary
|   |                           |         | Remove driveway along rear to basement
| 10 | 13 Sylvan St, Sylvania    | 25/4/16 | Safety (entry/exit from the site to the Princes Highway)
|   |                           |         | Traffic (Sylvan Road as a thoroughfare for cars heading north) and car parking.
|   |                           |         | Height
|   |                           |         | Height of the building will impact upon outlook.
| 11 | 18 Sylvan Rd, Sylvania    | 25/4/16 | Privacy
|   | Heights                  |         | Vista to the skyline and trees currently viewed from backyard this will be impacted
|   |                           |         | Loss of vegetation
|   |                           |         | Traffic (Sylvan Road as a thoroughfare for cars heading north) and car parking.
|   |                           |         | Noise from the proposed basement entry and vehicular movements
|   |                           |         | Noise from increased number of residents
| 12 | 33 Sylvan St, Sylvania    | 26/4/16 | Traffic (Sylvan Road as a thoroughfare for cars heading north) and car parking.
|   |                           |         | Safety (entry/exit from the site to the Princes Highway as well as turning from Sylvan St to the Princess Highway
|   |                           |         | Height
|   |                           |         | Vista to the skyline and trees currently viewed from backyard this will be impacted
|   |                           |         | Bulk
|   |                           |         | Privacy
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<thead>
<tr>
<th>No.</th>
<th>Address</th>
<th>Date</th>
<th>Concerns</th>
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<tbody>
<tr>
<td>13</td>
<td>25 Sylvan St, Sylvania</td>
<td>26/4/16</td>
<td>• Privacy&lt;br&gt;• Solar Access&lt;br&gt;• Height&lt;br&gt;• Traffic/pedestrian safety (Sylvan Road as a thoroughfare for cars heading north) and car parking.&lt;br&gt;• Safety (entry/exit from the site to the Princes Highway as well as turning from Sylvan St to the Princess Highway&lt;br&gt;• Waste Management – on street garbage pickup an issue.&lt;br&gt;• Impact on property value</td>
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<tr>
<td>14</td>
<td>(no address provided)</td>
<td>26/4/16</td>
<td>• Traffic (Sylvan Road as a thoroughfare for cars heading north) and car parking.&lt;br&gt;• Safety (entry/exit from the site to the Princes Highway as well as turning from Sylvan St to the Princess Highway</td>
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<tr>
<td>15</td>
<td>38 Sylvan St, Sylvania</td>
<td>27/4/16</td>
<td>• Traffic/pedestrian safety (Sylvan Road as a thoroughfare for cars heading north) and car parking.&lt;br&gt;• Safety (entry/exit from the site to the Princes Highway as well as turning from Sylvan St to the Princess Highway&lt;br&gt;• Height</td>
</tr>
<tr>
<td>16</td>
<td>Sylvan St, Sylvania, no street number provided (two emails, one written one with photo)</td>
<td>27/4/16 and 28/4/16</td>
<td>• Traffic (Sylvan Road as a thoroughfare for cars heading north) and car parking.&lt;br&gt;• Safety (entry/exit from the site to the Princes Highway as well as turning from Sylvan St to the Princess Highway</td>
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<tr>
<td>17</td>
<td>23 Sylvan St, Sylvania</td>
<td>27/4/16</td>
<td>• Privacy&lt;br&gt;• Height&lt;br&gt;• Traffic (Sylvan Road as a thoroughfare for cars heading north) and car parking.&lt;br&gt;• Safety (entry/exit from the site to the Princes Highway as well as turning from Sylvan St to the Princess Highway&lt;br&gt;• Property value</td>
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<tr>
<td>18</td>
<td>Anonymous</td>
<td>6/5/16</td>
<td>Overall objection</td>
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Page 199
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<thead>
<tr>
<th>Address</th>
<th>Date</th>
<th>Issue</th>
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</table>
| 1 19 Sylvan St, Sylvania | 6/12/16  | • Impact upon residential amenity, out of character with surrounding residential area  
• Overdevelopment: Density/ Bulk and scale/FSR/Site coverage/height  
• Access  
• Landscaping – removal of tree without landowners consent of 19 Sylvan St.  
• Privacy  
• Open space  
• Noise  
• Inadequate parking  
• Traffic and parking impact (Sylvan Road as a thoroughfare for cars heading north) and car parking. |
| 2 27 Sylvan St, Sylvania | 26/10/16 | • Overdevelopment.  
• Solar access.  
• Noise.  
• Increased traffic in Sylvan St.  
• Privacy.  
• Entry and exit to the site is in a dangerous location (increased traffic accidents).  
• Parking impacts on Princess Highway due to shops.  
• Sets precedent for other development similar to that proposed.  
• Height, currently on two storeys now proposing three storey height.  
• Impact on property value |
| 3 17 Sylvan St, Sylvania (three submissions the same- two includes the declaration of gifts and donations) | 31/10/16 | • Does not comply with the LEP and DCP (height) – should only be 12 units.  
• Traffic and car parking(Sylvan Road as a thoroughfare for cars heading north) and car parking.  
• Loss of vegetation  
• Over development (site too small for this scale of development) – (shortfall on communal and open space, height, FSR, rear setback)  
• Privacy |
<p>| | | |</p>
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<tbody>
<tr>
<td>4</td>
<td>23 Sylvan St, Sylvania</td>
<td>5/12/16</td>
</tr>
</tbody>
</table>

- Overshadowing
- Safety (entry/exit from the site to the Princes Highway)
- Waste collection from Princess Highway – problematic – should have basement collection.
- Noise from loading and delivery.
- Security (driveway and basement being accessible at all times)
- Decrease property value
- Increase storm water runoff
- Onsite parking
- Damage from excavation at boundary
- Remove driveway along rear to basement, access to the basement should be from the front of the site

- Privacy
- Height
- Traffic (Sylvan Road as a thoroughfare for cars heading north) and car parking.
- Safety (entry/exit from the site to the Princes Highway as well as turning from Sylvan St to the Princess Highway
- Property value
EXECUTIVE SUMMARY

- Capital Bluestone (the developer) has submitted an application to the NSW Department of Planning and Environment to modify the preserved Part 3A approval to the approved Cronulla Sharks Retail Development.
- The proposal includes the addition of 222 apartments, a 125 room hotel, 308 parking spaces, an envelope for a future Sharks Centre of Excellence, and other consequential changes.
- The proposal has been placed on public exhibition, with Council receiving a briefing on the proposal by the proponent.
- Council officers have made a draft submission and the matter is now reported to Council to provide the opportunity for Council to alter or add to the submission.

REPORT RECOMMENDATION

The submission on the proposed modification of the Sharks Retail Development attached as Appendix A, be endorsed.
PURPOSE
The purpose of this report is to provide the opportunity for Council to consider the draft submission made in regard to the modification application to the Cronulla Sharks Retail Development, a copy of which is attached as Appendix A.

BACKGROUND
The modification application includes the proposal to amend the Sharks Retail Development by adding 222 apartments and a 125 room hotel with additional parking. This will be assessed by the NSW Department of Planning and Environment and determined by a State Government Panel or delegate.

Council has the opportunity to make comment in the same way as other stakeholders and members of the community. As the deadline for submissions has passed, Council officers have made a draft submission and are seeking Council’s comment, with the opportunity for a further submission.

DISCUSSION
The modification applies to the eastern end of the site where the stadium is located and a shopping centre has already been approved. The modifications comprise of:

- 222 apartments located above the shopping centre up to a height of 16 stories including the podium, which is marginally higher than the residential development under construction to the west;
- Inclusion of a 125 room hotel for short stay visitor and tourist accommodation in a separate building near the shopping centre entry;
- An additional 308 car spaces to serve the new uses, located above the shopping centre forming a podium for the residential towers;
- A building envelope at the western side of the stadium south of the ET Stand up four storeys in height to accommodate a future Sharks Centre of Excellence;
- Changes to access, circulation, building design and the like to accommodate the modification application and refine the proposal, with the addition of a community room;
- A total additional floor area of approximately 40,000sqm.

Images of the proposal are attached as Appendix B. Detailed information is available on the Department of Planning and Environment’s website at:


The themes of the draft submission are that the additional development will help support the vitality of the new centre and that the short stay accommodation is most welcome, consistent with the unmet demand identified in Council’s Destination Management Plan.
The challenges presented relate to traffic management, parking provision and management, the scale of the development relative to the context of the local area, and integrating the development into the immediate surrounds so that it is not insular.

Given the very considerable uplift being sought, there is also an opportunity for the broader community to enjoy a benefit to offset the impacts of the development.

The response to the challenges ought to be ways to ameliorate impacts. For example, in relation to traffic, provision of alternate means of travel would help reduce trip generation. These could include a direct shuttle bus to Woolooware Train Station for shopping centre visitors, hotel guests and new residents, provision of a car share facility (such as ‘GoGet’), and provision of bicycle hire/exchange at this location and other nearby destinations.

The attached draft submission explores all of these issues in greater detail.

**BUDGET AND RESOURCES**

Additional development will generate additional rate income, though create additional costs to Council in supporting new residents and visitors. There is potential for Council to secure a positive outcome by seeking a share of the financial windfall from the proposed additional development for the community.

**POLICY**

The Concept Plan and Project Approval for Woolooware Bay Town Centre were approved under Part 3A of the Environmental Planning and Assessment Act 1979 (EP&A Act) by the Planning Assessment Commission under. Part 3A of the EP&A Act was repealed in October 2011, however, transitional provisions were enacted that provide for the continuation of the Part 3A assessment and approval mechanisms for designated transitional projects, including Woolooware Bay Town Centre.

**CONCLUSION**

The attached draft submission has been made on Council’s behalf to the exhibition of the Shark’s proposal to expand development on the retail component of the new centre. Council now has an opportunity to alter or add to the submission to bring issues to the attention of NSW Planning and Environment in its assessment of the application.

**RESPONSIBLE OFFICER**

The officer responsible for the preparation of this Report is the Director Shire Planning, Peter Barber, who can be contacted on 9710 0373.

File Number: 2017/268425
Dear Sir/Madam,

Proposal: Modification to the Concept Plan and Project Approval for Woolooware Bay Town Centre (MP 10_0229 MOD 2 & MP 10_0230 MOD 6)

Property: 455 Captain Cook Drive, Woolooware

Thank you for the opportunity to comment on the above development proposal. Prior to finalising the comments below, I have taken the opportunity to meet and discuss them with Matt Crews of Capital Bluestone.

1. Nature of the modification

The proposed modification represents a significant increase in the scope of the approved development (approximately + 40,000m² GFA) and significantly increased building heights compared to the Concept Plan and Project Approval. This raises the question as to whether a modification under s.75W is the appropriate mechanism for assessment of the proposal.

2. Project justification

The Draft South District Plan’s five year housing target is 23,500 dwellings. The portion assigned to Sutherland Shire is 5,200 dwellings. This target will easily be delivered under the provisions of SSLEP2015, based on the rate of dwelling approvals since the LEP came into place.

The proponent’s justification for the tourism and visitor accommodation (Section 4.2) is based on a widely accepted need for short-stay accommodation. Council strongly supports the provision of short stay accommodation and requests that, if approved, there be conditions requiring it to be used as such in perpetuity.

3. Planning and Design matters

Bulk and Scale
The proposed buildings sit on a heavy podium of retail and parking, and the buildings appear to be more tightly clustered together. They appear bulkier than the approved...
earlier stages. The proposed development will further change the character of the locality and is inconsistent with the site's broader context.

**Amenity**
The building forms generally appear to have separation compliant with the Apartment Design Guide (ADG) minimum requirements, with the exception of the interface between Buildings A and B. This should be increased to 18m by reducing the length of Building B or the applicant advised that it will need to be addressed by defensive façade design at DA stage.

**Street level activation**
Condition 2 of the Concept Plan Future Environmental Assessment Requirements — requires that design of the retail and club precinct activates the ground level and sufficiently articulates the elevations. Council has consistently raised this issue and continues to believe that a positive, active interaction with the public domain is critical.

The provision of residential development at the upper levels is seen as an opportunity to activate areas on the ground floor that currently provide an inactive interface with the public domain. For example, the ground level residential foyer midway along Captain Cook Drive should be generous and prominent. The applicant advised that this will be a prominent entry with a high ceiling, and this should be reflected in a condition of the concept approval.

There is also an opportunity to make use of the 'garbage lift' at the western end of Building C to both activate the space at ground level and provide residents with direct access to the foreshore area. Residents would otherwise need to navigate through the car park or shopping centre and use multiple vertical circulation points. The applicant indicated that they were willing to pursue this, and this enhancement should be required in amended plans or by condition.

The same applies with respect to the proposed hotel. The current proposal makes no provision for a clear street entry, with a single lift proposed from street level shared with the club and retail patrons. It would be ideal if the hotel had its own presence at ground level, however, with the current design there is a commercial space and loading dock beneath it.

If the proposal was designed from the beginning as a mixed use development, it is likely that a better solution could have been arrived at. It is understood that the main and ceremonial entry to the hotel is from the elevated street shared with the club. At the very least there needs to be a clear strategy of signage or other way-finding cues to direct visitors.

**Way-finding**
In terms of the proposed residential entries, way finding for the buildings will be difficult. No separate street entry is provided for the individual buildings (A – D) with access from street level obtained via one central lobby area. This lobby provides access via two lifts to the upper levels. At Level 7 a map of the individual buildings would be required to assist visitors in finding the apartment they wish to visit.
Each building has separate lift access to the various car park levels, but there are only two lifts that access the street level lobby and mail boxes directly from the residential podium level. The applicant explained that mail will be delivered to a central location and distributed by the site manager in the same way that currently occurs in Stage 1 by arrangement with Australia Post. This arrangement should be a requirement of any approval to avoid congestion in the lifts and street level lobby.

**Materials and finishes**
The proposal includes a large extent of carpark, elevated above the retail centre, and visible from the surrounding area. Ideally the carpark would be wrapped with residential units, reducing the overall height of the buildings and providing a more active facade. This would provide more casual surveillance and increase the architectural interest, particularly to the foreshore elevation.

Failing the above, Council requests that more detailed information (sections and materials board) be provided in order to ensure the quality of the car park facades.

**Design principles**
A number of the issues raised above and below point to a fundamental question about the planning and design of the building. The proposal is to add residential apartments and a hotel to an approved retail building, when what is actually contemplated is a mixed used development. If the outcome is to be a successful, integrated mixed use building, it ought to be designed that way from the beginning.

It is unlikely that a purpose designed mixed use development would take the form that is now proposed in terms of how the various uses relate and interact with each other and the public domain. The opportunity to achieve an optimal outcome is now, before construction commences. It is acknowledged that actions taken based on the current approval may present a challenge to major design changes.

4. Parking and Traffic

**Context**
The subject site is isolated from other existing centres and key transport nodes within the Sutherland Shire. The only means of public transport readily proximate to the site is the recently established bus service.

With the residential stage 1 now occupied, there is already an acute parking problem on site and in the local area. New residents are experiencing difficulty finding sufficient parking and are impacting the users of adjacent sporting facilities. Council has had to gate off nearby public parking areas and is contemplating installing signs to time limit public parking, which will further frustrate new residents. Stages 2 and 3 of the residential development are yet to be completed and will inevitably worsen the problem once occupied.

If supported, the parking rates applied to the additional residential apartments need to be carefully considered in response to the outcomes of stage 1 being occupied.

The traffic analysis submitted with the modification and Council's own observations show that major existing intersections in the vicinity of the subject site are already at...
capacity, or experience significant delays on some approaches during peak periods (Taren Point Road and Captain Cook Drive; Gannons Road and Captain Cook Drive; Gannons Road and Kingsway).

The information available indicates that the proposed substantial uplift in development will exacerbate the effects on the local community in terms of traffic, as well as placing further pressure on limited on street parking.

**Options**

The local population has a documented high car ownership rates and usage, which has been confirmed now that stage 1 is occupied. The area is not well serviced by public transport. Alternative means of transporting people to and from the site need to be considered to reduce traffic generation rates.

The applicant is seeking to rely on the existing bus service as the key means of alternate transport, stating that the increased density will lead to increased usage of the service and potentially improve the frequency of buses (currently half hourly). Additional cycle measures are also proposed to be put in place to encourage alternative means to private car usage.

The Green Travel Plan (GTP) submitted by the proponent is generally reasonable and realistic with regard to how it intends to motivate / encourage tenants and residents to use alternative transport options and minimise car dependence. However, in light of the significant increase in development proposed and the pressure this will place on local infrastructure and the community, Council believes that additional options should be considered.

**Car share scheme**

One option is a requirement for the provision of a car share scheme. Correspondence from a car-share provider ("Go-Get") is submitted with the application but does not appear to have been included as an option in the GTP. The car-share arrangement may assist to off-set the 'second car' demand typical of the Shire resident. The number of cars and dedicated vehicle spaces for the car-share can be resolved as part of the modification process. The applicant advised Council that they have progressed consideration of this option and would be willing to add it to the list of commitments.

**Shuttle bus**

The second measure which the Council would like to see implemented to assist with management of the impacts of vehicle movements to and from the site, is the provision of a shuttle bus. The modification introduces two further landuse activities to the site – namely a hotel and more residential accommodation. This adds to the approved retail and commercial activities, child care centre, gymnasium, and sports club. The site adjoins a very popular rugby league playing field.

The ideology behind the shuttle bus is not new as it formed part of the Terms of Approval required to be met by the proponent as part of the original Concept Plan (MP 10_0229). It preceded the public bus service and was provided on the basis of the need for alternative means of transport (other than private car usage) to enable access to and from the otherwise isolated site.
While the shuttle bus was considered redundant with the provision of the public bus service, there may be a need for both transport options to ameliorate the impacts of the additional development proposed. The current bus service does not go to Woolooware station (the station closest to the site), instead providing a circuitous route to Cronulla station, then on to Caringbah and Miranda. This route is evidently needed by the broader community, but in terms of facilitating the Woolooware Bay Town Centre, a more direct service to Woolooware station is considered necessary.

The distance to walk to Woolooware station from the subject site is 1km to 1.4km. This is too great a distance to encourage future residents (particularly commuters) or hotel patrons to walk. A half hourly bus service to a station further afield is not practical.

The way in which it is envisaged that the shuttle bus would work is as a general purpose, all-encompassing service offered by the management of the Woolooware Bay Town Centre. It would be located on Level 3 in the central roadway, outside the club and hotel area and would be available to all residents, club patrons, hotel guests or shoppers. It would specifically facilitate short trips to Woolooware station and back, with other destinations potentially included in the future if / or as required.

The key benefit of the shuttle bus would be to reduce car trips to and from the site, particularly for commuters. Parking in the streets surrounding Woolooware station is already difficult and the proposed modification will exacerbate this. The shuttle bus service would also offer a transport alternative on club game days when traffic is extreme and on-street parking is severely limited.

**Traffic Generation and Impact**

Aside from the proposed intersection works to facilitate traffic movements onto the site, the conditions of the current Project Approval do not require the proponent to undertake or make any contribution to works on the wider road network to ameliorate the impact of the traffic that will be generated from the approved development.

The proposed increased development will generate additional traffic, which will result in further delays in the surrounding road network and is not supported from a capacity point of view unless alternative transport means are provided.

It should also be noted that the State government has no major transport infrastructure planned and funded for the Sutherland Shire. Apart from road ‘pinch-point’ improvements, there are no new rail lines, metro lines, bus ways, tunnels, motorways or the like proposed to ease current road traffic problems or provide additional primary or secondary road capacity for future development.

**Parking Management**

Given the scale and complexity of allocation of allocating parking for the different user groups, in the event that the MOD is approved, a condition should be imposed requiring the provision of an electronic dynamic parking guidance system as recommended in Section 5.3 of the TMAP.

There may also be value in the hotel having access to its own parking spaces within the hotel building footprint accessed from the upper level internal road as a means of
potentially increasing parking numbers, but more importantly making the arrival sequence simpler for visitors.

Vehicle Access / Internal Layout
The increased vehicle numbers and movements as a result of the modification will likely require redesign of the exit driveway on Woolooware Road North as insufficient queuing distance is available.

5. Landscaping

Green Walls
The proposed 'Green Wall' on the southern boundary intended to screen the car park on Levels 3 - 6 is extensive and highly visible when looking north along Gannons Road, Woolooware Road and Captain Cook Drive. The wall presents well in plan and in the rendered images provided, however, vegetation is temperamental on a southern elevation and difficult to maintain in the long term. Planting should not be relied upon to hide otherwise unsatisfactory architecture.

An improved outcome would be residential development wrapped around the parking levels to assist in activating these frontages. If this option is not feasible, a more decorative facade treatment of a permanent nature should be explored in combination with the planting.

Level 3 Elevated Street
Plans approved under the original proposal indicate extensive landscaping / associated tree planting within the elevated street on Level 3. Unfortunately this appears to have been significantly reduced to support more sky lights and pedestrian paths. Ideally opportunities should be sought to increase canopy cover where possible to offset the bulk and scale of the development, to provide shade, and to improve the entry sequence into the Club from the car park.

Level 7 Rooftop Communal Open Space
Planting areas to support trees on the Level 7 rooftop area should be achieved through a combination of setting planting down within the floor slab, raised planter boxes and raised paths. Mounding alone is not supported. More detailed information (in the form of cross sections and elevations) should be provided to show how and where this will be achieved.

Species Selection
In addition to being located within close proximity to an Endangered Ecological Community (Estuarine Swamp Oak Forest) - the subject site is located within a Greenweb Support Area. All new tree plantings and 80% of understorey plants should ideally be indigenous species.

Species such as Liriope muscari/spicata, Raphiolepis indica, Lomandra hystrix and Pennisetum alopecuroides are weeds (Sydney Weeds Committee, 2012) and must not be included.
6. Contamination

General Condition B1 Remediation of the Project Approval for the retail development (MP 10_0230) required remediation of the site. The condition specifies that the remediation be undertaken in accordance with the Remediation Action Plan (RAP) prepared by DLA Environmental and required that a site audit statement be prepared by an accredited site auditor verifying that the land is suitable for the proposed uses, in accordance with the requirements of State Environmental Planning Policy No.55 - Remediation of Land.

The subject modification introduces new land uses to the site (residential and visitor accommodation). This is not addressed in the MOD submission, particularly with respect to the contaminated land and soil gas management. Council requests that the proponent be required to obtain interim site audit advice from a NSW EPA site auditor to address the suitability of the site for the proposed new land uses.

7. Biodiversity

The proponent’s submission includes a report prepared by Ecological Australia titled Review of Noise, Light and Bird Strike. The report is too generic, failing to adequately address the proposed increase in building height from 4 to a maximum 16 storeys and the potential impacts that the built form may have on bird strike or in terms of lightspill on the adjacent fauna. This report is not adequate to enable a complete assessment of the impacts of the proposal.

The adjacent mangroves, Woolooware Bay and Towra Point provide habitat for microbats and other fauna that rely on natural ambient light conditions for their lifecycle. The field surveys on which the report is based are at least 5 years old. A new fauna survey should be carried out which can assess the impacts that have already occurred through construction of Stages 1 & 2.

All fauna potentially using the adjacent habitats should be surveyed. A report showing the available habitat, the species that might occupy that habitat, a survey showing if those species are using the habitat, the likely impact the new level of development would have on those species and recommendations to reduce these impacts should be provided.

Council is aware that microbat surveys have been done more recently for other stages of the proponent’s development. The data from the microbat surveys should be reviewed to determine if it is sufficient for the proposed modification.

The report describes the work put into monitoring local fauna, specifically Green & Golden Bell Frog, Bats and Birds in the past, but it does not actually provide the results of those surveys. It also fails to include recommendations for the proposal in relation to these field surveys and if those recommendations are still valid given the significant built form changes under the proposed modification.

It is questionable as to whether the government decision (17/5/2011) with respect to the original Concept Plan is applicable to the proposed modification in terms of the...
Commonwealth Environment Protection and Biodiversity Conservation Act, 1999. The nature of the subject modification is such that a referral may be required to confirm that the development is not a controlled action under this Act.

In summary, the biodiversity assessment submitted in support of the proposed modification is inadequate. A new report should be prepared addressing the specifics of the proposal, with current survey data and incorporating mitigation measures to ensure the impacts for the local fauna are minimised and acceptable.

8. Community benefit

As there is an approval in place that is reflected in the planning controls applying to the site, the proposed additional development effectively has no land cost component. The return on the additional residential units in particular is therefore much higher than typical development, delivering a potential profit windfall of tens of millions of dollars.

Given that the community will experience some detrimental impact (as described above) as a consequence of the additional development, it would seem fair that the existing community shares in the financial windfall. This ought to over and above the facilities and services needed to support the new population that comes with the development, which are typically covered by consent conditions requiring works and by s.94 contributions.

The development site is located on a regional cycleway and now includes provision for a bike share scheme. To capitalise on this, as an example, further work could be done to improve or extend cycle links to the new Greenhills sporting complex. Council is also contemplating renewing the nearby Caringbah aquatic centre, as a further example.

It is acknowledged that Capital Bluestone has taken an interest in the local community and continues to sponsor and support local events and community groups. The opportunity here is to share in a significant one-off uplift benefit that approval of this proposal would generate.

Council would be willing to work with the Department and the proponent to explore community benefits that could be realised in conjunction with the development, which could be by way of capital works or an additional monetary contribution toward a larger project.

9. Summary

In developing this proposal an approach has been taken to simply keep adding more built form to the top of the approved (but not constructed) development. For a development of this scale and complexity, this strategy may not provide the best outcome for the site and locality. Large areas of the above ground car park are exposed and most of the foreshore at the lower levels and a large portion of the Captain Cook Drive frontage is inactive.
The development must be thought of as an integrated mixed use proposal, and the site planned, access arranged, and buildings designed accordingly. One approach would be to wrap the car park with residential building and provide more ground level entrances to the residential towers.

Local intersections within the vicinity of the site are already operating at capacity and proposed increase in development on the site will worsen the situation, with no works proposed to ameliorate the impact. To off-set the likely traffic and parking congestion alternative transport options to private car usage need to be explored, especially a direct bus to Woolooware Station and a car-share scheme.

Concern is raised with respect to the scope of the modification and the extent of variation from the approved Concept Plan and Project Approval. The applicant stands to benefit substantially from the proposed uplift in development on the site. It is reasonable that the community in which the development sits shares in the uplift windfall as an off-set for the likely impacts.

If you need any clarification of the above comments, please contact Council's Development Assessment Officer Amanda Treharne on 9710 0462 or email atreharne@ssc.nsw.gov.au and quote the application number in the subject.

Yours faithfully

Peter Barber
Director, Shire Planning
Photomontage looking toward the retail precinct showing residential towers (to the left) and hotel (to the right) above the approved shopping centre.

Photomontage looking east on Captain Cook Drive - retail entry in the centre, with hotel tower to the left and residential towers to the right above a podium on top of the retail centre.
THE OWNER OF THE PROPERTY AT 66 ALEXANDER AVENUE, TAREN POINT (LOT 8 DP 12509) IS PROPOSING TO ESTABLISH A WASTE RECYCLING AND MANAGEMENT CENTRE ON THE PROPERTY.

THE PROPERTY IS AFFECTED BY OVERLAND FLOODING IN THE 1% ANNUAL EXCEEDANCE PROBABILITY (AEP) EVENT AS INDICATED IN THE 2013 GWAWLEY BAY CATCHMENT FLOOD STUDY.

GIVEN THIS LEVEL OF FLOOD AFFECTATION, THE PROPOSED DEVELOPMENT WOULD BE CLASSIFIED AS DESIGNATED DEVELOPMENT UNDER THE ENVIRONMENTAL PLANNING AND ASSESSMENT REGULATION 2000, AND WOULD THEREFORE REQUIRE AN ENVIRONMENTAL IMPACT STATEMENT (EIS) TO BE PREPARED. THE APPLICANT IS NOW PROPOSING MINOR WORKS AT THE PROPERTY DRIVEWAY AND SITE FRONTAGE TO ELIMINATE FLOODING ON THE SITE IN THE 1% AEP EVENT AND SO AVOID THE NEED TO PREPARE AN EIS.

ONCE FLOOD MITIGATION WORKS ARE APPROVED AND UNDERTAKEN TO COUNCIL’S SATISFACTION THE FLOOD NOTATION ON THE SECTION 149 PLANNING CERTIFICATE CAN BE AMENDED TO INCLUDE THAT THE LAND IS NO LONGER WITHIN THE 1% AEP FLOODPLAIN.

REPORT RECOMMENDATION

THAT:

1. The flooding notation on the Section 149(2) Certificate for 66 Alexander Avenue (Lot 8 DP 12509) Taren Point be amended to indicate that the land is no longer within the 1% AEP floodplain, following approval and construction of the required site frontage and driveway works and receipt of an appropriate 'Works as Executed' drawing.

2. The updated Section 149(2) notation be amended to state:

The land has been identified as being within the low flood risk precinct based on the 2015 Gwawley Bay Catchment Floodplain Risk Management Study and Plan. The property is affected by flooding in events above the 1% AEP flood up to the probable maximum flood (PMF).

Council has by resolution adopted a policy to restrict the development of the land because of the likelihood of flooding as the land is classified as flood liable under the NSW State Government Flood Prone Land Policy. The Draft Sutherland Shire Development Control Plan 2015 contains flood risk management maps and controls. The term flood risk relates to the potential danger to personal safety and property. Refer to the NSW State Government Floodplain Management Manual 2005 for further details. Further information on flood levels may be obtained from Council’s Stormwater and Waterway Assets Branch.
3. Following completion of the required works, an amendment be made to the Draft Sutherland Shire Development Control Plan (SSDCP) 2015 - Flood Risk Management Maps, following the making of SSDCP2015 and as part of the next round of DCP amendments.

4. The General Manager, the Director of Shire Infrastructure and the Director Shire Planning be granted delegation to make amendments to Council policy with respect to road widening and alignment, hazard risk restrictions, and flood related development controls.
PURPOSE
The purpose of this report is to recommend that, following the satisfactory completion of approved works to reduce the risk of flooding in the 1% AEP event, the existing flooding notation, pursuant to Section 149(2), for 66 Alexander Avenue, Taren Point (Lot 8 DP12509), be amended to reflect a revised flood status.

BACKGROUND
The property at 66 Alexander Avenue, Taren Point has been identified as flood prone since July 2008. At that time, Council resolved to adopt Development Control Plan provisions for "initial assessment of major flooding" properties when there is a known risk of flooding on these properties (PLN010-09):

5. **That flooding notations to be added to the S149(2) Certificates for the additional properties that have been identified in the flood risk maps as being subject to risk of flooding or potentially subject to flooding.**

On 21 September 2015, Council resolved to adopt the amended draft Development Control Plan 2015 for the purposes of assessing any development applications lodged under SSLEP2015 (DAP030-16). Council's current Draft SSDCP2015 flood mapping also lists the land at 66 Alexander Avenue, Taren Point as being subject to “Initial Assessment Potential Flood Risk” and the site is also identified in SSDCP2006 as being subject to “Initial Assessment 1% AEP”. Therefore, the site is subject to flood related development controls and Section 149(2) flooding notations remain unchanged.

The site is currently subject to the following S149(2) notation:

> The land has been identified as potentially flood prone based on Council's initial assessment of major flooding. Council has by resolution (PLN010-09) adopted a policy to restrict the development of flood prone land in accordance with NSW State Government Flood Prone Land Policy. Further investigation will be required and possibly a flood study, to determine the level of flood risk on this land. Draft Sutherland Shire Development Control Plan 2015 contains flood risk management controls.

DISCUSSION
Pre-Application Discussion
A Pre-Application discussion (PAD14/0100) was held with the property owner in December 2014 regarding the proposed use of the property at 66 Alexander Avenue, Taren Point for a development deemed as waste management facilities or works.

The applicant was subsequently advised that the proposed use constituted designated development, as the land is within a floodplain, pursuant to Clause 32 of Schedule 3 of the Environmental Planning & Assessment Regulation (EP&A Regulation) 2000.
The Schedule defines a floodplain as the floodplain level nominated in a local environmental plan or those areas inundated as a result of a 1 in 100 flood event if no level has been nominated. The draft SSDCP2015 identifies the land as being subject to ‘Initial Assessment Potential Flood Risk’, being within the 1% AEP. Further, as per the Gwawley Bay Catchment Flood Study adopted by Council in February 2013, the land is identified as being affected by the 1% AEP flood.

Designated development requires the preparation and submission of an Environmental Impact Statement (EIS). The applicant was advised to provide a site-specific flood study and site management plan. Furthermore, for the proposal not to be determined as designated development the applicant must demonstrate that the development will not significantly affect the amenity of the neighbourhood with respect to noise, visual impacts, air pollution (including odour, smoke, fumes or dust), vermin or traffic (Clause 32 of Schedule 3), as the use was within 250m of a residential development (Woolooware Shores).

**Lodgement and Determination of Development Application**

A development application (DA15/0002) was lodged on 5 January 2015 requesting the fit out and use of an existing industrial site as a waste recycling and management centre. On 15 January 2015, the applicant was advised to withdraw the application due to the issues raised in the previous PAD. The application was subsequently refused on 8 May 2015 because the application was not submitted as designated development with an EIS and flooding impacts were not adequately addressed.

**Consultation Post DA Refusal**

Following refusal of the DA, Council’s officers advised the applicant to engage a qualified engineer to investigate and provide an assessment of flood impacts for the site. The applicant was advised to look at possible mitigation works that could remove the 1% AEP flood affectation from the site and so remove the need for the development to be considered as designated development. The applicant was advised to demonstrate that the proposed mitigation works could be achieved without significantly increasing off-site flood impacts. It would then be feasible to seek a Council resolution to amend the Section 149(2) notation on the site. The mitigation works would need to be satisfactorily completed prior to amending the notation. Any future approval for the use of the site would also be limited to 25 years.

On 21 December 2016, the applicant provided a Flood Impact Assessment Report from the consultant, Jones Nicholson Consulting Engineers. Following an initial assessment and feedback from Council, an updated flood report was received on 8 February 2017. The updated report addressed the concerns raised, and concluded that minor works to the site frontage and driveway entrance would prevent flooding of the site in the 1% AEP event without adversely affecting flooding of neighbouring properties. The report concluded that following completion of works, the site could be classified as being within the low flood risk precinct i.e. the land between the 1% AEP flood level and the probable maximum flood (PMF). Flood related development controls, as specified in Chapter 39 of the SSDCP 2015 for areas within the low flood risk precinct, would continue to apply to the proposed development.
In order to remove the current flood notations (and DCP mapping identifying the land as flood prone), the works must be approved by Council and undertaken. The property owner has consequently lodged a DA to undertake these works which is currently being assessed.

It is recommended that the flooding notation on the Section149(2) Certificate for 66 Alexander Avenue, Taren Point be amended following construction of the approved works and receipt of an appropriate 'Works as Executed' drawing to indicate that the property is no longer affected by the 1% AEP flood event, to state:

The land has been identified as being within the low flood risk precinct based on the 2015 Gwawley Bay Catchment Floodplain Risk Management Study and Plan. That is the property is affected by flooding in events above the 1% AEP flood up to the probable maximum flood (PMF).

Council has by resolution adopted a policy to restrict the development of the land because of the likelihood of flooding as the land is classified as flood liable under the NSW State Government Flood Prone Land Policy. The Draft Sutherland Shire Development Control Plan 2015 contains flood risk management maps and controls. The term flood risk relates to the potential danger to personal safety and property. Refer to the NSW State Government Floodplain Management Manual 2005 for further details. Further information on flood levels may be obtained from Council's Stormwater and Waterway Assets Branch.

POLICY
Schedule 4 Planning Certificates of the EP&A Regulations 2000 specifies what must be included in a 149(2) Planning Certificate, including adopted Council policy restrictions. Specifically, the Regulations require that 149(2) Certificates advise whether the land is subject to a number of Council policy restrictions, including adopted Council policy restrictions due to road widening, hazard risk (land slip, tidal inundation, subsidence, acid sulphate soils, ANSTO etc) and flooding. Flood related development controls are located in Council’s draft SSDCP2015 which was adopted as policy.

In order to make such minor changes to the content of Section 149 certificates in the future, it is recommended that the General Manager, the Director of Shire Planning and the Director of Shire Infrastructure be delegated the authority to make amendments to Council policy with respect to road widening and alignment, hazard risk restrictions, and flood related development controls.

BUDGET AND RESOURCES
There are no budget or resource implications resulting from the recommendations of this report.
CONCLUSION
Council is satisfied with the updated Flood Impact Assessment Report dated 8 February 2017, and that the proposed mitigation works at 66 Alexander Avenue, Taren Point would eliminate flooding of the property in the 1% AEP event. Following the satisfactory completion of approved works, it is recommended that the flooding notation on the Section 149 (2) Certificate be amended and that the Draft Sutherland Shire Development Control Plan 2015 - Flood Risk Management Maps be amended, following the making of SSDCP2015 and as part of the next round of DCP amendments.

It is appropriate the General Manager, the Director of Shire Planning and the Director of Shire Infrastructure be given delegation to make such changes to the content of Section 149 certificates to enable changes to be made to reflect current restrictions on the development of land.

RESPONSIBLE OFFICER
The officer responsible for the preparation of this Report is the Stormwater and Waterway Assets Manager, Mr Erin Sellers, who can be contacted on 9710 0857.

File Number: 2016/237821