

18 April 2018

NSW Independent Planning Commission Determination Report Woollooware Bay Town Centre Concept Plan (MP10_0229 MOD2)

1. INTRODUCTION

On 6 March 2018, the Independent Planning Commission (the Commission) received from the Department of Planning and Environment (the Department) a modification application from Bluestone Property Solutions Pty Ltd (the proponent) to amend the Woollooware Bay Town Centre Concept Plan MP 10_0229 MOD 2.

The Department referred the modification application to the Commission for determination in accordance with the Minister for Planning's delegations of 14 September 2011 and 11 October 2017 due to an objection to the modification from Sutherland Shire Council and more than 25 public submissions objecting to the modification received during the exhibition period.

Professor Mary O'Kane AC, Chair of the Commission, nominated Mr Peter Duncan AM (chair), Mr Paul Forward and Dr Maurice Evans to constitute the Commission to determine the modification application.

1.1 Summary of the modification application

The modification application seeks to amend the existing Concept Plan to provide additional building envelopes for buildings A to E for residential and hotel in the eastern part of the site known as Stage 1, and for a Centre of Excellence in the centre of the site known as Stage 3. Details of the modification are listed in Tables 1 and 2, and Figure 1 below.

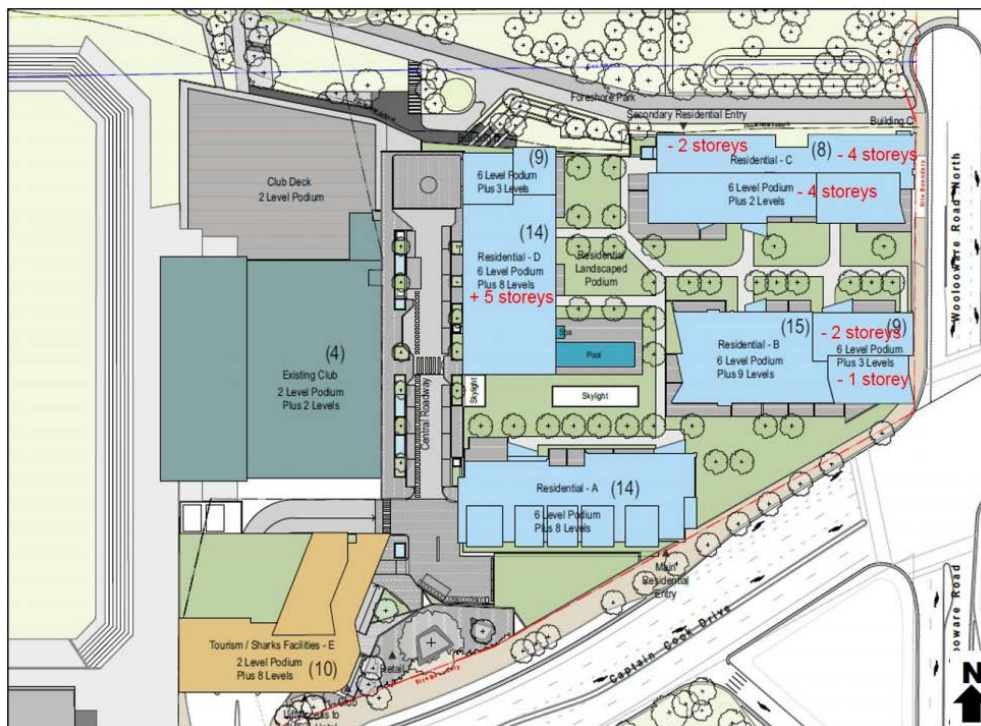
Table 1 Key components of the modification request to the Concept Plan Approval

CONCEPT APPROVAL MODIFICATION (MP 10_0229 MOD 2)	
Aspect	Description
Building Envelopes	<ul style="list-style-type: none"> • Amend the Stage 1 building envelope to: <ul style="list-style-type: none"> ○ increase the maximum height of the podium by two storeys (from four to six storeys) up to RL 27.465 ○ establish the following new building envelopes above the podium (heights include the podium): <ul style="list-style-type: none"> – Building A: maximum 14 storeys and plant (RL 56.665) – Building B: maximum 15 storeys and plant (RL 59.815) – Building C: maximum 12 storeys and plant (RL 46.365) – Building D: maximum nine storeys (RL 37.50) – Building E: maximum 10 storeys and plant (RL 47.815) – Communal facilities building: maximum eights storeys and plant (RL 36.20) • Amend Stage 3 to establish a building envelope for a new Centre of Excellence attached to the stadium western grandstand with a maximum height of four storeys and plant (RL 21.73).
GFA and GBA	<ul style="list-style-type: none"> • Increase the total GFA in Stage 1 and 3 by 37,894 m² (from 27,412 m² to 65,306 m²), comprising: <ul style="list-style-type: none"> ○ an additional 590 m² of retail/club GFA (total 28,002 m²) ○ 25,552 m² new residential GFA (indicative 244 apartments) ○ 4,452 m² new hotel GFA (indicative 75 hotel rooms) ○ 7,300 m² new Centre of Excellence GFA

CONCEPT APPROVAL MODIFICATION (MP 10_0229 MOD 2)	
Aspect	Description
	<ul style="list-style-type: none"> • Increase the total Stage 1 and 3 GBA by 76,125 m² (from 60,732 m² to 136,857 m²). • Allow for residential storey within the car parking levels within the podium to be excluded from the overall GFA permitted across the Concept Plan.
Car Parking	<ul style="list-style-type: none"> • Indicative increase of 400 car parking spaces (from 770 to 1,170 spaces), comprising: <ul style="list-style-type: none"> ○ 91 hotel car parking spaces, including 22 visitor spaces ○ 259 residential car parking spaces, subject to the following car parking rates: <ul style="list-style-type: none"> – 1 space per 1 bedroom apartment – 1 space per 2 bedroom apartments – 2 spaces per 3 bedroom apartment – 1 visitor space per 5 apartments ○ 50 Centre of Excellence car parking spaces.
Bicycle Parking	<ul style="list-style-type: none"> • Increase of 77 bicycle parking spaces (from 49 to 126 spaces)
Landscaping	<ul style="list-style-type: none"> • Landscaping to podium levels, including planted ledges, green walls and hard and soft landscaping to the elevated roadway, residential communal open space and hotel courtyard.
Public Benefits / Contributions	<ul style="list-style-type: none"> • Financial contribution of \$1.4 million to Council for bicycle infrastructure / links • 22 apartments within the top two storeys of Building E comprising: <ul style="list-style-type: none"> ○ 10-12 affordable housing apartments ○ 11 apartments reserved for first home buyers • a community room (minimum GFA of 200 m²) in Stage 1.

Source: Department of Planning and Environment - Environmental Assessment Report.

Figure 1 Layout of the modification request to the Concept Plan Approval



Source: Department of Planning and Environment - Environmental Assessment Report.

1.2 Approvals history of the Concept Plan

The Concept Plan has been modified on five occasions since its approval in August 2012. The tables below show a history of the modifications to the Concept Plan.

Table 2 Summary of modifications to the Concept Approval

MOD no.	Summary of Modifications	Approval Date
MOD 1	Increase the height of building envelopes D, E1, F and G, increase Club Building outdoor deck area and administrative changes to the approval	14 July 2014
MOD 3	Increase of GFA and GBA and amendment of building envelopes B and C	14 March 2016
MOD 4	Amendment to allow the sharing of 50 per cent of commercial parking in Stage 2 with residential visitors	26 October 2015
MOD 5	Amendments to the concept landscape plans and the riparian setback	26 March 2018
MOD 6	Internal and external changes to the design of the retail precinct, increase of building height, GFA and GBA	2 August 2016
MOD 7	Building design changes and amendment of construction sequencing	Under assessment

Source: Department of Planning and Environment - Environmental Assessment Report.

2 THE DEPARTMENT'S ASSESSMENT REPORT

The Department conducted an assessment of the proposed modification and identified what the Department considered to be the key issues for the proposal. This included:

- density;
- built form and urban design;
- car parking and traffic impacts; and
- public benefits.

The Department states that the proposal has strategic merit as it:

- seeks to increase the housing supply with a variety of housing typologies;
- will be served by new public transport and forms part of a new town centre; and
- is consistent with directions and actions in the NSW Government's *A Plan for Growing Sydney* and the draft *Greater Sydney Region Plan and South District Plan*.

Consequently, the Department's report considers that the project is approvable subject to conditions.

2.1 Legislative Context – section 75W

On 1 March 2018, the EP&A Act was amended. The project is a transitional Part 3A project under Schedule 2 of the EP&A (Savings, Transitional and Other Provisions) Regulation 2017.

The Commission notes the proposed modification does not fundamentally change the essential nature of the development and considers that the proposed changes are within the scope of section 75W.

The ability to modify transitional Part 3A projects under section 75W of the EP&A Act is being discontinued, however as the request for this modification was made before 1 March 2018, the provisions of Schedule 2 continue to apply.

3 COMMISSION'S MEETINGS AND SITE VISIT

As part of its assessment and determination of the proposal, the Commission met with the Department, the proponent, and visited the site and the surrounding area. Notes from these meetings and the site inspection are provided in **Appendix 1**. The Commission offered to meet with Sutherland Shire Council but this offer was declined.

3.1 Briefing with proponent

On 19 March 2018, the proponent briefed the Commission on the proposed modification. The Commission also visited the site on 19 March 2018.

3.2 Briefing with the Department of Planning and Environment

On 9 April 2018, the Department briefed the Commission on the modification application.

3.3 Public Meeting

On 9 April 2018, the Commission held a public meeting at Event House, Cronulla to hear the public's views on the proposal. A summary of the matters raised are attached in **Appendix 2**.

4 COMMISSION'S CONSIDERATION

In this determination, the Commission has considered carefully:

- all information provided by the proponent;
- the Department's assessment report;
- advice and recommendations from government agencies including Council;
- all oral and written submissions and comments from the public; and
- section 75W of the *Environmental Planning and Assessment Act 1979* and relevant matters for consideration.

The Commission, on review of the information provided considers that the key matters pertaining to the proposal are traffic and parking impacts due to the increase in total proposed gross floor (GFA) area to the site.

The Commission has reviewed, considered and accepts the Department's assessment in respect to all other matters, including, but not limited to, density, built form and urban design, public benefits, and contributions. The Commission is satisfied and accepts the Department's assessment and conclusions regarding these matters. These matters are not elaborated on in this report.

4.1 Traffic and parking impacts due to increase in GFA

Sutherland Shire Council and members of the public expressed concerns in relation to the potential traffic and parking impacts as a result of the modification.

Additional Gross Floor Area and car parking

The original Concept Plan was approved with a total GFA of 27,412m² which would allow for the development of a Retail Neighbourhood Centre with 770 car parking spaces.

The modification proposes to increase GFA to 65,306 m² that would support the development of a Centre of Excellence and 244 indicative additional residential dwellings. The modification also seeks to permit the provision of 400 indicative additional parking spaces in addition to the existing 770 retail car parking spaces. Car parking is proposed to be allocated in the following manner:

- 259 residential parking spaces;
- 91 hotel car parking spaces, including 22 visitor spaces; and
- 50 spaces for the Centre of Excellence.

The proponent provided an addendum letter of their Traffic and Parking Impact Assessment to the Department dated 1 August 2017 outlining the use of Stage 2 rates for the modification. The proponent provided an additional addendum to the Department, dated 29 November 2017, that compared the parking provision between the approved parking rates and the parking demand, demonstrating a surplus in parking spaces.

Council and members of the public raised concerns that the modification would place additional pressure on street parking, and in the surrounding playing fields' car parks and that new tenants or owners would park nearby for long periods and that this would impact street parking availability during weekends, amateur sport or family day events. This concern stems from the proponent seeking to apply the same parking rates from Stage 2, to Stage 1.

The Department's report noted that the proposed parking rates are generally similar to what would be required under the Sutherland Development Control Plan 2015 except for 2-bedroom apartments and visitor parking.

The Department's report provided a comparison table that showed the indicative parking spaces applying the proposed rates against the Roads and Maritime Services (RMS) – *Traffic Generating Developments* Rates and Sutherland Development Control Plan 2015 rates. The Department's report concluded that the proposed rates are acceptable as they provide sufficient car parking spaces and are appropriate for the propose Stage 1 development.

The Commission notes that the number of parking spaces that would be provided for Stage 1 using the approved Stage 2 rates are similar to what would be provided if the RMS 2013 Rates were applied and that RMS did not raise concerns resulting from the modification. The Commission also notes that Condition A4 in the proposed modifying consent establishes the maximum parking allowance and that future developments applications for Stage 1 and 3 must demonstrate parking allowance within the approved rates.

The Commission has reviewed the information provided and considered the issues and concerns raised in agency and public submissions. Accordingly, the Commission finds that the provision of parking for Stage 1 is appropriate as the provision is in line with contemporary legislation and it would not result in an undersupply of parking spaces.

Traffic

Council and members of the public raised concerns that the increase in GFA/dwellings would worsen the existing traffic conditions as intersections within the area were already operating at capacity. Concerns were also raised that questioned the proponent's and the Department's conclusions that traffic would be similar or less than originally approved.

The original Concept Plan modification was accompanied by a Traffic and Parking Impact Assessment prepared by McLaren Traffic Engineering in accordance with the *RMS Guide to Traffic Generating Development 2002* (RMS 2002 Rates). The assessment concluded that impacts on the intersections surrounding the site were acceptable, with a Level of Service of B or C in the Friday PM and Saturday midday peak hours.

Subsequently, as part of the modification, the proponent prepared an addendum letter dated 1 August 2017 that responded to concerns raised by Council in relation to traffic impacts and parking provisions resulting from the additional GFA. A second addendum letter dated 29 November 2017 was prepared that responded to the Department's comments for the proponent to assess the traffic impacts from the additional GFA using the RMS 2013 Rates.

The assessment updated the original SIDRA intersection modelling with the 2013 Rates which included the Western Retail Signals, Captain Cook Drive/Woollooware Road intersection and Captain Cook Drive/Gannons Road intersection. The assessment indicated that impacts would be lower than originally assessed on all local intersections and that traffic would continue to operate at a Level of Service of A or B during critical peak periods.

The Department's report noted that the original Concept Plan was not required to apply the 2013 Rates and concluded that if applied, traffic would be less or generally consistent with what was approved. The report also detailed road improvements that would be undertaken as part of this application that would mitigate traffic impacts during weekday and Saturday peaks.

The Commission notes that the RMS 2001 Rates were updated in August 2013 (RMS 2013 Rates) and indicate a modelled reduction in traffic generation in the past ten years. The Commission also notes that the applicant has updated its traffic impact assessment to reflect the RMS 2013 Rates. Although there is an increase in GFA for Stage 1 that would result in an additional 400 parking spaces, the updated assessment concluded the additional vehicles per hour will be less than originally proposed. Table 14 of the Department's assessment report clearly indicates this. RMS did not raise concerns resulting from the modification and the updated traffic impact assessment.

The Commission has reviewed the information provided and considered the issues and concerns raised in agency and public submissions in relation to traffic impacts. Accordingly, the Commission finds that the traffic impacts resulting from the increase in GFA would not be greater than those originally approved and that traffic impacts would be managed through road improvements that would be undertaken to mitigate the traffic impacts.

4.2 Other matters raised in the public submissions

The Commission received verbal and written comments which raised concerns on a number of additional matters which the Commission seeks to respond to.

Accuracy of the Department's report on the site's distance to the nearest station and from Sydney CBD.
It was raised that the Department's report inaccurately indicated that the project site is located approximately 900 metres from the nearest train station rather than 1.5 kilometres; and 20 kilometres from the Sydney CBD rather than 28 kilometres. The Commission notes that the distance of 900 metres and 20 kilometres is obtained when measuring in a straight line, and the 1.5 and 28 kilometres distances are obtained when measuring walking or driving distance.

Flooding

It was raised that flooding risks had not been considered by the modification. The Commission notes that the original Concept Plan approval and the original modification application considered flooding risks. The Commission notes that the increase in GFA is for an area on top of the approved on-ground building envelope for the retail precinct. The modification for Stage 1 does not propose any changes outside of the approved ground floor area of the building envelopes, and therefore changes to flood behaviour would remain unaltered.

Sewer Capacity

It was raised that current sewer infrastructure does not have capacity to accommodate the proposed modification. The Commission notes that Sydney Water's submission dated 26 April 2017 indicated that trunk water and waste water services are available and capable of servicing the proposed development. The Commission notes that Sydney Water has not raised any concerns in their submission.

RAMSAR Wetlands

It was raised by speakers during the Public Meeting that impacts related to the riparian zone and RAMSAR wetlands had not been addressed.

The Commission notes that impacts to wetlands have been addressed in the original Concept Plan approval and that this modification does not propose any additional encroachment between the project site and the riparian corridor. The Commission also notes that modification application MP 10_0229 MOD 5 related to works within the riparian corridor. This modification was determined by a separate panel and is publicly available on the Commission's website.

The Commission notes that the Office of Environment and Heritage did not raise concerns in relation to the RAMSAR wetlands.

5 COMMISSION'S FINDINGS AND DETERMINATION

The Commission has considered carefully Bluestone Property Solutions' proposal, the Department's assessment report and relevant matters for consideration under section 75W of the *Environmental Planning and Assessment Act 1979*. The Commission has also considered the advice and recommendations from the relevant government agencies, including Sutherland Shire Council. The Commission also heard from members of the community about their concerns for the proposal during the public meeting and has undertaken an inspection of the site and its surroundings.

The Commission supports the Department's assessment of the key issues and is satisfied with the conclusions, which in summary include:

- sufficient capacity of the site to accommodate the increase in housing without causing adverse impacts on the immediate surrounding area;
- provision of an increase in housing supply, including a variety of housing typologies and a new town centre;
- the site is serviced by public transport;
- provision of parking for Stage 1 is in line with the objectives of *A Plan for Growing Sydney, draft Greater Sydney Region Plan* which encourages the reduction for car parking provisions within urban areas; and
- the proposed development is in the public interest as it will provide a public benefit of 12 affordable housing and 10 first time owners units.


In summary, the Commission finds that the proposed modification to the Stage 1 is approvable as:

- the adoption of Stage 2 car parking rates will provide sufficient car parking spaces for Stage 1 and it will not result in an undersupply of parking;
- car parking rates for Stage 1 exceed RMS 2013 Rates;
- due to the adoption of the RMS 2013 Rates, traffic impacts resulting from the increase in GFA would not be greater than those originally assessed and approved and would be managed through road upgrades and improvements that would be undertaken to mitigate the traffic impacts; and
- the proposed modification does not fundamentally change the essential nature of the development and considers that the proposed changes are within the scope of section 75W.

On balance, and for the reasons set out above, the Commission has determined to grant consent to the modification application subject to the conditions set out in the instrument of approval.



Mr Peter Duncan AM
Chair of the Commission



Mr Paul Forward
Member of the Commission



Dr Maurice Evans
Member of the Commission

**APPENDIX 1
RECORDS OF COMMISSION MEETINGS FOR THE DETERMINATION PROCESS**

Notes of meeting with the proponent

This meeting is part of the determination process.				
Date: Monday 19 March 2018	Time: 08:00 am			
Project: Woollooware Bay Town Centre Concept Plan MP10_0229 MOD2				
Meeting place: Proponent's Model House Site Office				
<p>Attendees: Commission Members: Mr Peter Duncan AM (chair), Mr Paul Forward and Dr Maurice Evans. Commission Secretariat: David Koppers (Team Leader) and Jorge Van Den Brande (Planning Officer)</p> <p>Proponent Bluestone Capital Pty Ltd: Matt Crews Matt Loader</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 33%; vertical-align: top;">Ethos Urban Michael Oliver Frances Mehrrens</td> <td style="width: 33%; vertical-align: top;">Turner Studios James McCarthy</td> <td style="width: 33%; vertical-align: top;">McLaren Traffic Engineering Tom Heal</td> </tr> </table>		Ethos Urban Michael Oliver Frances Mehrrens	Turner Studios James McCarthy	McLaren Traffic Engineering Tom Heal
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The purpose of the meeting was for the proponent to explain the proposal and comment on the Department's assessment report.				
The briefing commenced with a site walk, including: inspection of the western precinct, view perspective of the height change and traffic management from Captain Cook Drive.				
<p>The proponent then briefed the Commission in the Woollooware Bay Display Suite. The following matters were discussed:</p> <ul style="list-style-type: none"> • The modification and the whole project have had extensive public consultation. • Although Sutherland Shire Council is objecting to the modification, it has accepted the Voluntary Planning Agreement with the applicant. • The modification mainly seeks to provide additional height of building envelopes for residential, hotel and Centre of Excellence uses. • The hotel will include service apartments as the site has been identified with tourism potential. • The modification will increase traffic by approximately 10%, however it will not cause additional impacts than those already approved. • Within the 244 new apartments, 12 are destined for affordable housing. The initial suggestion is that they form part of the service apartment. However, distribution of these apartments has not been fully defined. 				
Documents tabled: NA				
Documents to be provided: NA				
Meeting closed at: 10:20am				

Notes from meeting with the Department of Planning and Environment

This meeting is part of the determination process.	
Date: Monday 9 April 2018	Time: 10:30am
Project: Woollooware Bay Town Centre Concept Plan MP10_0229 MOD2	
Meeting place: Commission Office	
<p>Attendees: Commission Members: Mr Peter Duncan AM (chair), Mr Paul Forward and Dr Maurice Evans. Commission Secretariat: David Koppers (Team Leader), Alana Jelfs (Senior Planning Officer) and Jorge Van Den Brande (Planning Officer)</p> <p>Department of Planning and Environment Ben Lusher (Director Key Sites Assessments); Amy Watson (Team Leader), and Matthew Rosel (Planning Officer)</p>	
The purpose of the meeting was for the Department to explain the proposal and comment on the Department’s assessment report.	
<p>The Department briefed the Commission in the Woollooware Bay Display Suite. The following matters were discussed:</p> <ul style="list-style-type: none"> • Brief history of the project and its various modifications. • The proposed Stage 1 modification does not change the width of the building envelope. • The site has merit for the density increase as it includes a new town centre and is close to public transport. • The project has been a catalyst for the creation of a new public transport bus route that will service the area. • Public submissions raised concerns on the potential traffic impacts that the additional apartments would have on the local road network. • Council’s objections to the proposal relates to various aspects but mainly traffic and overflow parking into nearby public streets. Council and proponent are still working to resolve outstanding matters. • The project proposes a public benefit of affordable housing units which it didn’t originally proposed. These units will have parking spaces. 	
Documents tabled at meeting: NA	
Meeting closed at: 11.30am	

Appendix 2
Public Meeting Final List of Speaker

Date: Monday, 9 April 2018

Time: 2:00pm

Place: The Event House Cronulla, 20-26 Kingsway Cronulla NSW 2230

1. Helen Taylor
 2. Warwick Kent
 3. Kerry Coomes
 4. Paul Eriksson
 5. Annette Hogan (Cronulla Dunes and Wetlands Protection Alliance)
 6. Tim McAleer
 7. Barry Russell
 8. Keith Ward (Sutherland Shire Football Association)
 9. James MacLachlan
 10. Alan Taylor (Did not speak)
 11. Bryce Ellis
 12. Marilyn Urch (North Cronulla Precinct)
 13. Dino Mezzatesta
 14. Greg Taylor - (Did not speak)
 15. Darren McConnell - (Did not speak)
 16. George Capsis
 17. Jason Stanton
- END

Summary of matters raised at the Public Meeting

Traffic and Parking

- 30 Castlewood Avenue will be badly impacted by these buildings by traffic.
- Discouraging the use of vehicle is not a viable solution for this sort of development.
- Traffic assessment for other intersections in Woollooware North should be presented.
- Cronulla is a difficult site and the development should provide more parking per unit and more parking for the project's retail component.
- Street parking should be allowed free for everyone.
- There is no disable parking on the outside of the building.

Sewage and Flooding

- Sewage capacity cannot handle the increase in the number of apartments.
- Impacts to the RAMSAR wetland have not been addressed.
- Area is a natural floodplain and Captain Cook Drive can be subject to flash flooding which is highly hazardous.

Scope of Section 75W

- The development has had various modifications and is no longer within the scope of Section 75W.
- The Commission's original decision should have been final and not allow additional modifications to come forward.

Other matters

- There are other sites more suitable for this type of development.
- Distances of the site to nearest train station in the Department's assessment report are inaccurate and misleading.
- Federal, State and Local Governments are conspiring to destroy the quality of life of the people of Sydney with overdevelopment projects and people have lost faith in the planning system.
- The height of the buildings poses unacceptable visual impacts and would cause bird strikes.
- Project has created a new community with a sense of belonging and family friendly environment.
- Affordable housing is a great benefit for the community and apartments for first time buyers is beneficial for the younger demographics.
- Support for the hotel due to the current lack of hotel accommodation in the Cronulla area.