

22 February 2009

Mr Sam Haddad
Director General
Department of Planning
GPO Box 39
SYDNEY NSW 2001

Dear Sir,

Re: Request for formal determination that a proposed Mixed Use Development is a Major Project under Part 3A of the EP and A Act 1979, 25-29 Tonkin St, Cronulla

Lainson Holdings Pty Ltd are proposing to construct a mixed use development at the above property and are seeking to have the project assessed as a Major Project under Part 3A of the Environmental Planning and Assessment Act 1979. The purpose of this letter is therefore to:

- provide a brief overview of the scale and nature of the proposed development including the capital investment value and direct employment ;
- Briefly overview the relevant planning controls (a more formal assessment will be undertaken as part of the formal project application)
- explain the reasons why we believe it can be considered to be a Major Project under Part 3A of the Environmental Planning and Assessment Act 1979; and
- request that the Minister declare the project to be a Major Project so that a formal detailed application can be made to the Department of Planning.

1. Brief Project Description

Also refer preliminary 3Ds and plans in Attachments A and B.

Proposal Description	Mixed Use development comprising 20 residential dwellings (1,2 3 and 4 bedroom) and 50 m2 café. The development comprises 3 x 4 storey towers to Tonkin St with 2 level basement carparking under (6 storey development). The proposal is to be staged - Stage 1 will comprise lots 1 & 2 and stage 2 will comprise SP 884.
Property details	25 - 29 Tonkin St, Cronulla NSW 2230, Lots 1 & 2, DP 306878, SP 884. Total site area of 2101.5 m2. Frontage of 57.815m to Tonkin St. Depth varies - approx. 34.925m
Zoning	Zone 8 Urban Centre SSLEP2006
Capital Investment Value and Direct Employment	Approx. \$12 million(excluding land value and GST). The construction phase of the development has been estimated to provide employment for approximately 20-30 people during construction, and 5-10 ongoing jobs once the project is completed.
Key Development Statistics	FSR = 1.57:1. Maximum height = 21m (and 6 storeys) Site located 20m from MHWL

This site is located in the commercial area of the Cronulla Centre in the southern suburbs of Sydney as shown on the following maps.

Figure 1: Regional Site Location

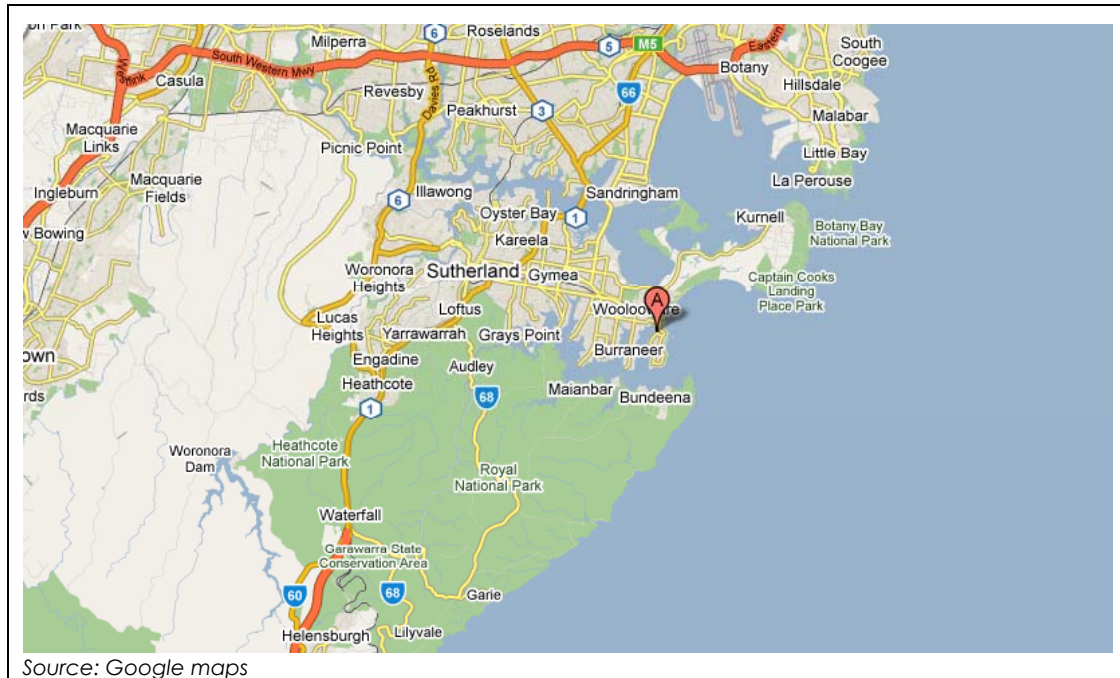
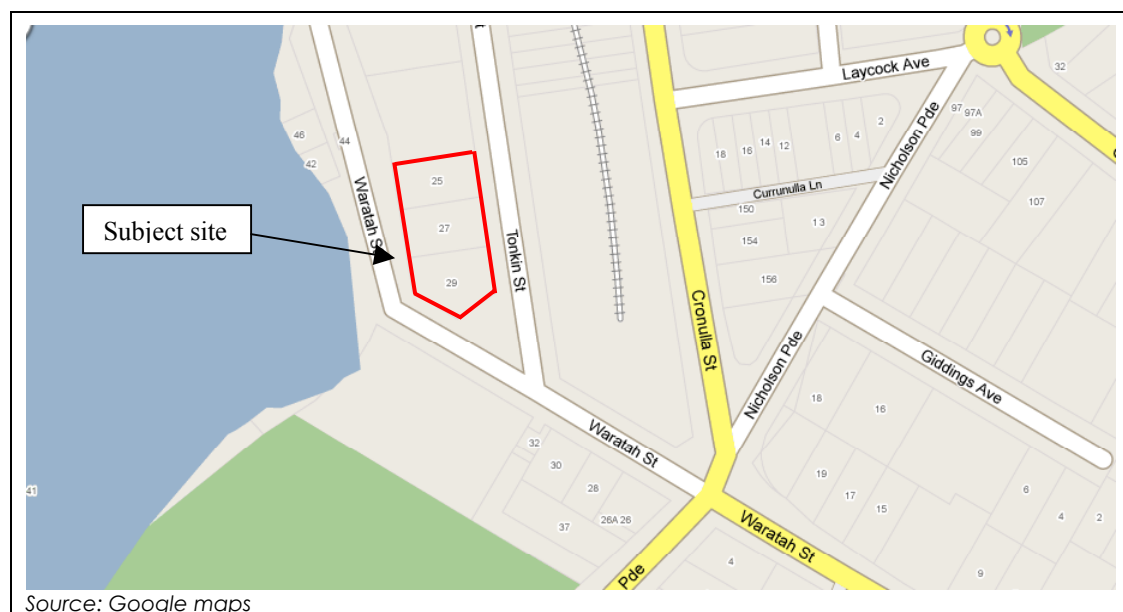


Figure 2: Subject Site Location – Aerial



Figure 3: Subject Site Location



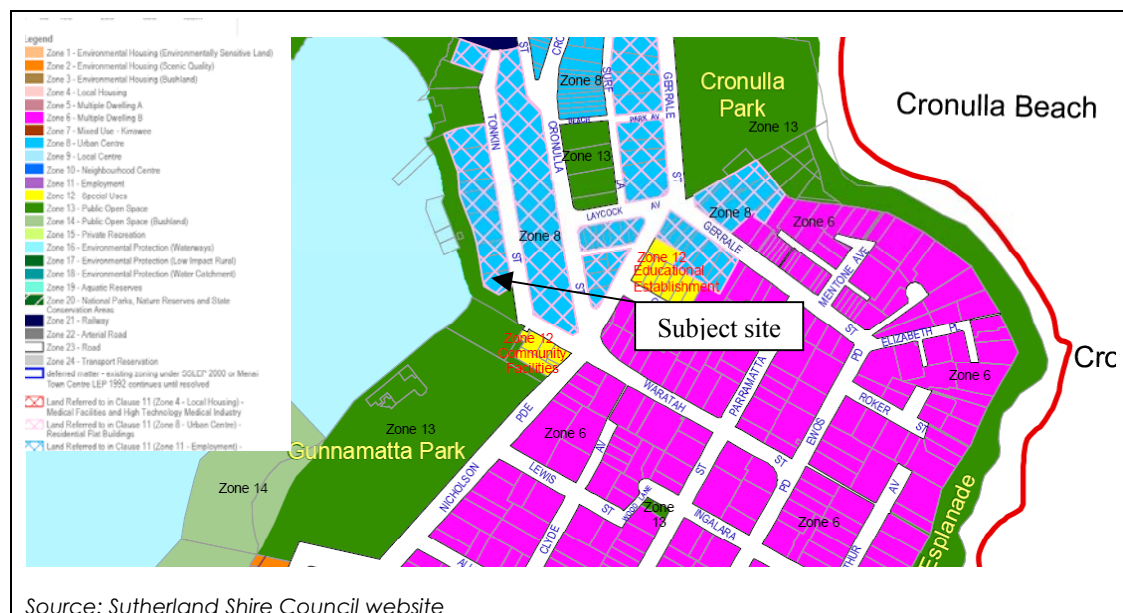
2. Permissibility and Key Planning Controls under SSLEP 2006 and SSDCP 2006

Key controls are discussed in the following paragraphs:

Clause 11 – Permissibility under Zone 8

The subject site is within Zone 8 – Urban Centre under Sutherland Shire LEP 2006. The proposed use is best described as a “Mixed use premises”¹ which are permissible with development consent. The proposed development compares favourably with the objectives of the zone.

Figure 4: Zoning Under SSLEP 2006

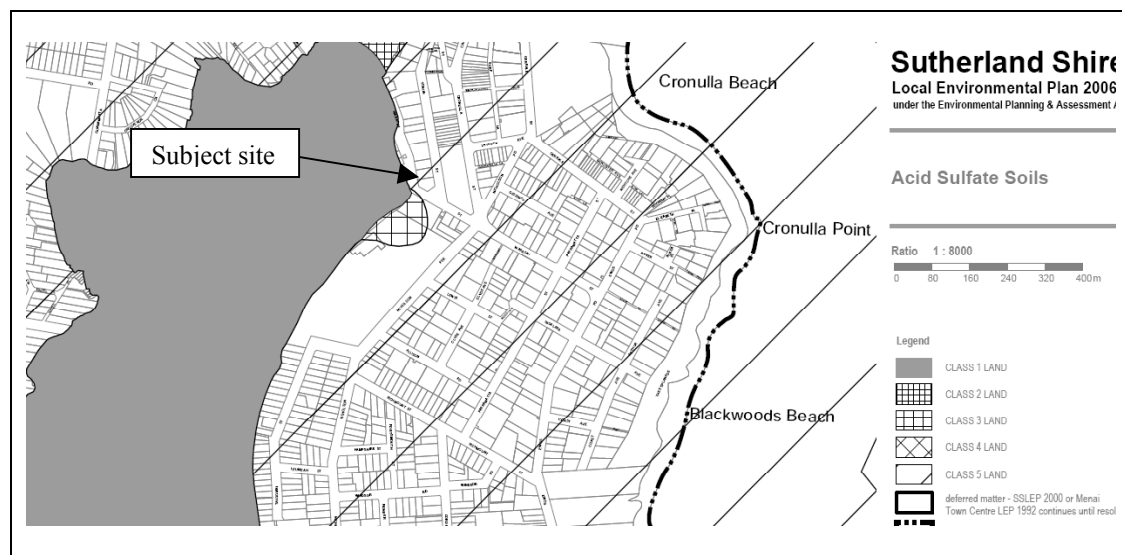


¹ Mixed use premises are defined in the LEP as follows: “a building that is used both for a land use having a residential purpose and for another non-residential land use that is permissible with or without consent.”

Clause 23 – Environmental Risk – Acid Sulfate Soils

The subject property is shown as “class 5 land” on the acid sulfate soils maps held by Council.

Figure 5: Acid Sulfate Soils Under SSLEP 2006



Clause 23 requires development consent for the carrying out of works on class 5 land where those works are “within 500 metres of adjacent Class 1, 2, 3 or 4 land that are likely to lower the watertable below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.”

As excavation for basement parking is proposed the relevant provisions of clause 23 would apply.

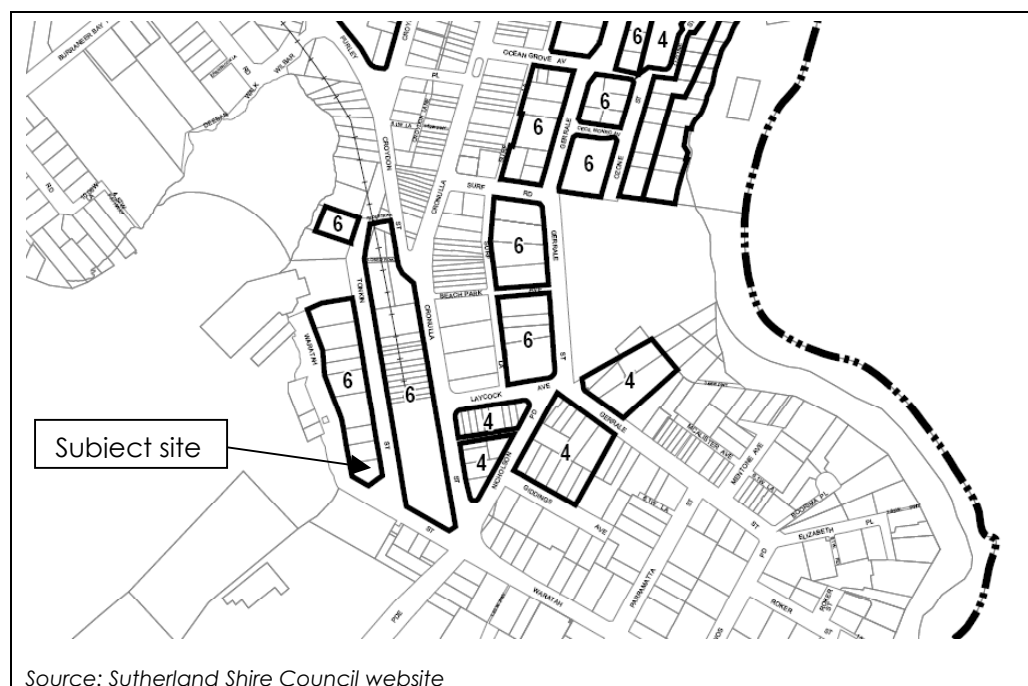
Clause 33 – Building Height

Under clause 33(8) - buildings in Zone 8, 9 or 10:

“A building on land in Zone 8—Urban Centre, Zone 9—Local Centre or Zone 10—Neighbourhood Centre must not comprise more than:

- (a) the maximum number of storeys specified on the Height and Density Controls Map in relation to the land concerned, or
 - (b) if that map does not specify a maximum number of storeys in relation to the land concerned:
 - (i) 2 storeys in the case of a building located on land in Zone 10—Neighbourhood Centre, or
 - (ii) 3 storeys in any other case.
- (9) A building on land in Zone 8—Urban Centre, Zone 9—Local Centre or Zone 10—Neighbourhood Centre must not exceed any maximum height specified on the Height and Density Controls Map in relation to the land concerned.”

Figure 6 below indicates that the subject site has a maximum permissible height of 6 storeys. The proposed development will have a maximum height of 6 storeys (and 21m) which is compliant with the maximum height control.



Under clause 35 (11) "The maximum floor space ratio applying to development for the purpose of a building on a site in Zone 8—Urban Centre or Zone 9—Local Centre is:

Figure 7 on the following page indicates that the subject site has a maximum permissible FSR of 1.4:1. The proposed development will have a FSR of 1.57:1 which exceeds the maximum FSR control and would therefore require a formal objection under SEPP 1. There is however a strong merit argument for such a variation given that virtually all of the adjoining and nearby developments exceed the proposed FSR on the subject site.

Figure 7: Maximum FSR Under SSLEP 2006



Clause 36 – Landscaped Area

No minimum landscaped area applies to the mixed use developments development on the subject site under SSLEP 2006.

Clause 48 – Urban Design – General and Clause 49 – Urban Design Residential Buildings

The proposed development has considered the relevant matters under clauses 48 and 49 in that:

- it is compatible with the intended future scale and character of development in the local area;
- it has been appropriately designed in response to the topography of the site
- demographic trends indicate that there is a growing demographic group of people seeking to move into units in convenient, attractive locations such as Cronulla
- The facades of the proposed building will help provide visual interest and reduce visual bulk. Refer 3D's in Attachment A.
- The apartments have been designed to minimise any adverse impacts on adjoining properties in terms of overshadowing, overlooking, views, privacy and visual intrusion.
- The quality of the streetscape concerned will be improved by the development
- There will be sufficient private open space for the future residents

- Potential impacts of the proposed development on adjoining land in terms of size, bulk, height, scale and siting will be minimised

Each of the relevant matters would be addressed in detail in the project application.

Clause 51 – Ecologically Sustainable Development and Clause 52 – Energy Efficiency and Sustainable Building Techniques

The proposed development has been designed to be ecologically sustainable. It provides functionally efficient floor plan, car parking layouts and pedestrian and vehicular access for users.

The proposed development has been appropriately designed with energy efficiency and sustainable building principles in mind. A BASIX assessment would be submitted under separate cover with the formal application.

Clause 53 – Transport Accessibility, Traffic Impacts and Carparking

The proposed development will address the relevant matters under Clause 53 satisfactorily in that:

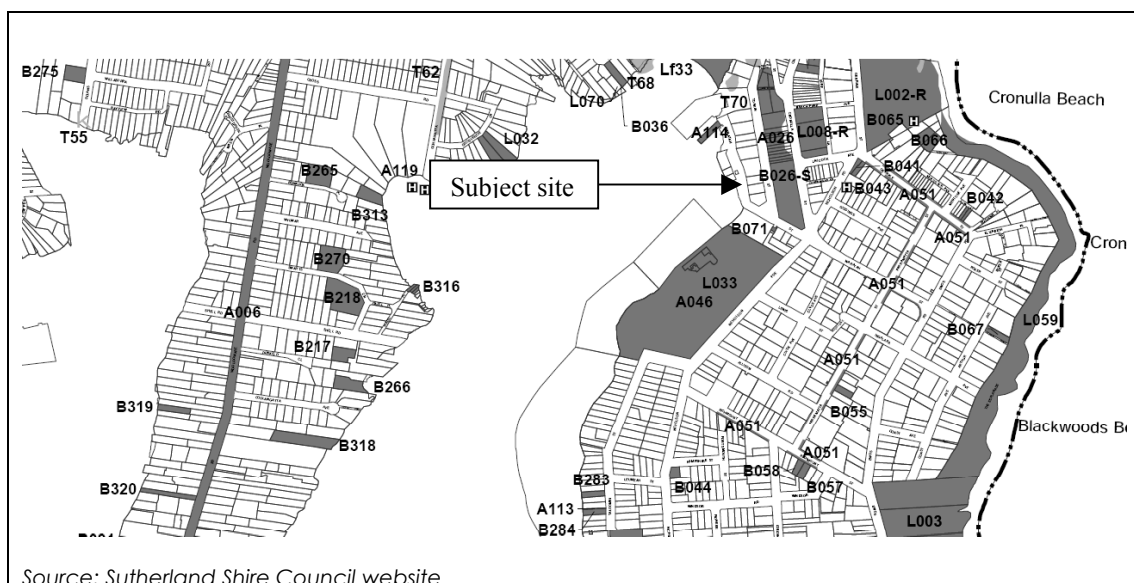
- The site is accessible to both train and bus services and provides efficient pedestrian links via local footpaths to both transport options;
- The development will provide an appropriate level of carparking
- The design of the carparking spaces and the proposed access and circulation will be adequate
- The development will not result in traffic movements that will have any unacceptable implications.

Clause 54 – Heritage

The subject site is not identified as a heritage item although it is within close proximity of heritage items as shown on Figure 8 on the following page. The items are described in the heritage schedule to SSLEP 2006 as follows:

- "Cronulla Street
Between Tonkin Street and Cronulla Street—Cronulla Railway Station—A026, B026–S; and
- Waratah Street
Abutting Gunnamatta Park, substation (Electric Light Department)—B071"

Figure 8: Heritage Items Under SSLEP 2006



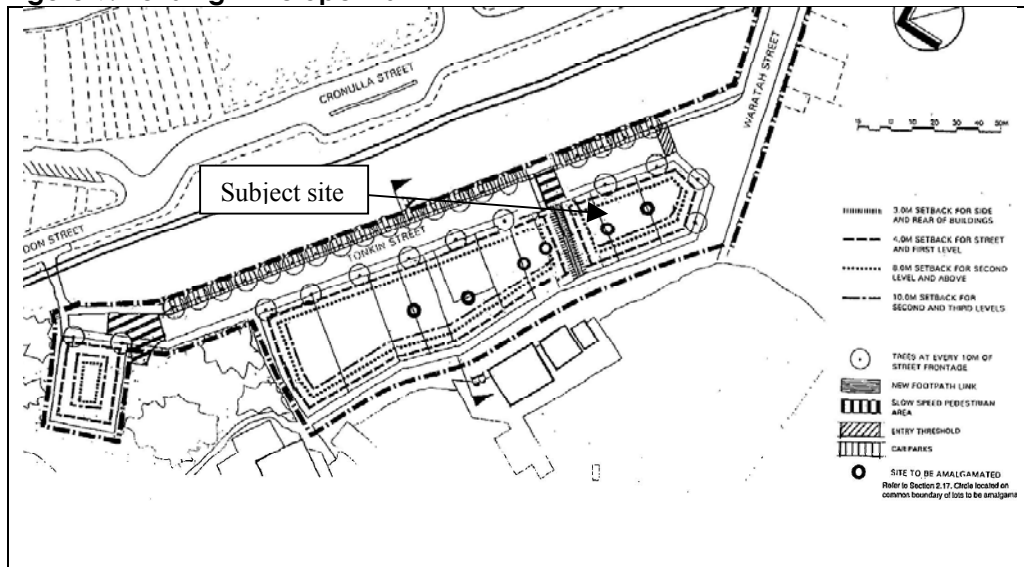
Clause 55 – Significant Trees or Natural Landforms

There are no “significant trees” (as defined in the LEP) within the site requiring retention.

SSDCP 2006 Matters

- Chapter 2 – Locality Statements – the proposal will be consistent with the aim for Precinct 11: Tonkin Street Residential Area (within which the subject site sits) to “significantly improve the pedestrian linkages, landscape and enhance the amenity of the area.” This matter would be discussed in detail in later planning documents submitted with the application.
- Chapter 3 – Urban Design – The site is subject to a building envelope plan that relates to the whole precinct. Refer Figure 9 on the following page. Some of the requirements of that plan are not considered to be strictly relevant to the site now due the previous decisions Council has made in relation to the development of adjoining sites which have set a precedent for development in the Street. Accordingly there is a strong case for a merit argument to be applied in some situations to the required building envelope presented in Figure 9 (to be discussed in more detail in later planning documents submitted with the formal application). It is noted that typically proposed rear setbacks for the subject development will be 4m to ground and first floors increasing to 8-10m for second level and above which is consistent with the building envelope plan. However, as with the 3 recent adjoining developments in Tonkin St, a 4m setback variation it is proposed for all 4 floors to Tonkin St. This will also be maintained to the pathway to side as is typical of the adjoining building.

Figure 9: Building Envelope Plan



- Car parking Basement parking - car parking is proposed in accordance with the Council requirements although the client would prefer to exceed the DCP maximum as would reasonably be expected with an upmarket development of this nature. Under SSDCP2006 the project would be penalised for exceedance of the car parking requirement by counting the additional spaces as floor space. It is possible that the final proposal submitted to DOP will include a complying basement parking solution and an optional (but preferred) non complying car parking solution.
- Drainage - To rear/bay as is typical of adjoining proposals. Fall to rear of site approx. 6m max.
- Sunlight - As site is at the southern end of the street with Waratah St along the southern side with Gunnamatta Park across it. The only adjoining building is to the north and as such there will be no overshadowing of it between 8am to 6pm.
- Privacy - Existing 4-6 story residential flat building 10m to the north. There will be overlooking from both buildings as would be considered typical for this location and 6 story height limits.
- View impacts - Mixed use (commercial/residential) 2 storey properties across railway line (approx. 100m to east) and high set will have some view obstruction as is typical and reasonable for this location.
- Energy - Solar power (photo voltaic) and rain water retention proposed. 3 tower design allows for maximum sun penetration.
- Noise - Adjoining the railway line there will be noise impacts. However these are considered manageable and from previous adjoining development have been overcome by the use of double glazing and other methods.

Justification of Tonkin Street Project as a Major Project

Clause 6 of State Environmental Planning Policy (Major Projects) 2005 identifies which projects can be considered to be Part 3A projects. Subclause (1) states:

“(1) Development that, in the opinion of the Minister, is development of a kind:

- (a) that is described in Schedule 1 or 2, or*
- (b) that is described in Schedule 3 as a project to which Part 3A of the Act applies, or*
- (c) to the extent that it is not otherwise described in Schedules 1–3, that is described in Schedule 5,*

is declared to be a project to which Part 3A of the Act applies.”

Schedule 1, Group 5 Residential, commercial or retail projects 13(1) Residential, commercial or retail projects identifies the following as potentially applicable under Part 3A: *“(1) Development for the purpose of residential, commercial or retail projects with a capital investment value of more than \$50 million that the Minister determines are important in achieving State or regional planning objectives.”* The project does not qualify as Part 3A project under this clause of the schedule as the proposed project value is only \$12M (excluding land value and GST). Notwithstanding this, the project is considered to qualify under Schedule 2 of the SEPP which identifies specific sites which may be considered Part 3A projects.

Schedule 2 projects include: *“Development within the coastal zone for any of the following purposes(1) (g) buildings or structures (other than minor alterations or minor additions to existing buildings or structures) that are: (i) greater than 13 metres in height, in the case of buildings or structures wholly or partly within a sensitive coastal location,”*

The site is located is within the **“coastal zone”** which is identified on Maps held by the DOP and relates to certain identified land within the meaning of the Coastal Protection Act 1979. The map in Attachment C indicates that the proposal is within the coastal zone.

The major projects SEPP defines **Sensitive coastal location** as “any of the following which occur within the coastal zone: (a) land within 100m above mean high water mark of the sea, a bay or an estuary, (b) a coastal lake, (c) a declared Ramsar wetland within the meaning of the Environment Protection and Biodiversity Conservation Act 1999 of the Commonwealth, (d) a declared World Heritage property within the meaning of the Environment Protection and Biodiversity Conservation Act 1999 of the Commonwealth, (e) land declared as an aquatic reserve under the Fisheries Management Act 1994, (f) land declared as a marine park under the Marine Parks Act 1997, (g) land within 100m of any of the following: (i) the water's edge of a coastal lake, (ii) land to which paragraph (c), (d), (e) or (f) applies, (iii) land reserved under the National Parks and Wildlife Act 1974, (iv) land to which State Environmental Planning Policy No 14—Coastal Wetlands applies, (h) residential land (within the meaning of State Environmental Planning Policy No 26—Littoral Rainforests) that is within a distance of 100m from the outer edge of the heavy black line on the series of maps held in the Department and marked “State Environmental Planning Policy No 26—Littoral Rainforests (Amendment No 2)”.

The proposal is located “within 100m above mean high water mark of the sea, a bay or an estuary” .

Accordingly, as the proposal will be approximately 21m in height (which easily exceeds the 13m figure mentioned in Schedule 2 of the SEPP) and is within a sensitive coastal location it is therefore of the kind described in Schedule and can be considered to be a Major Project.

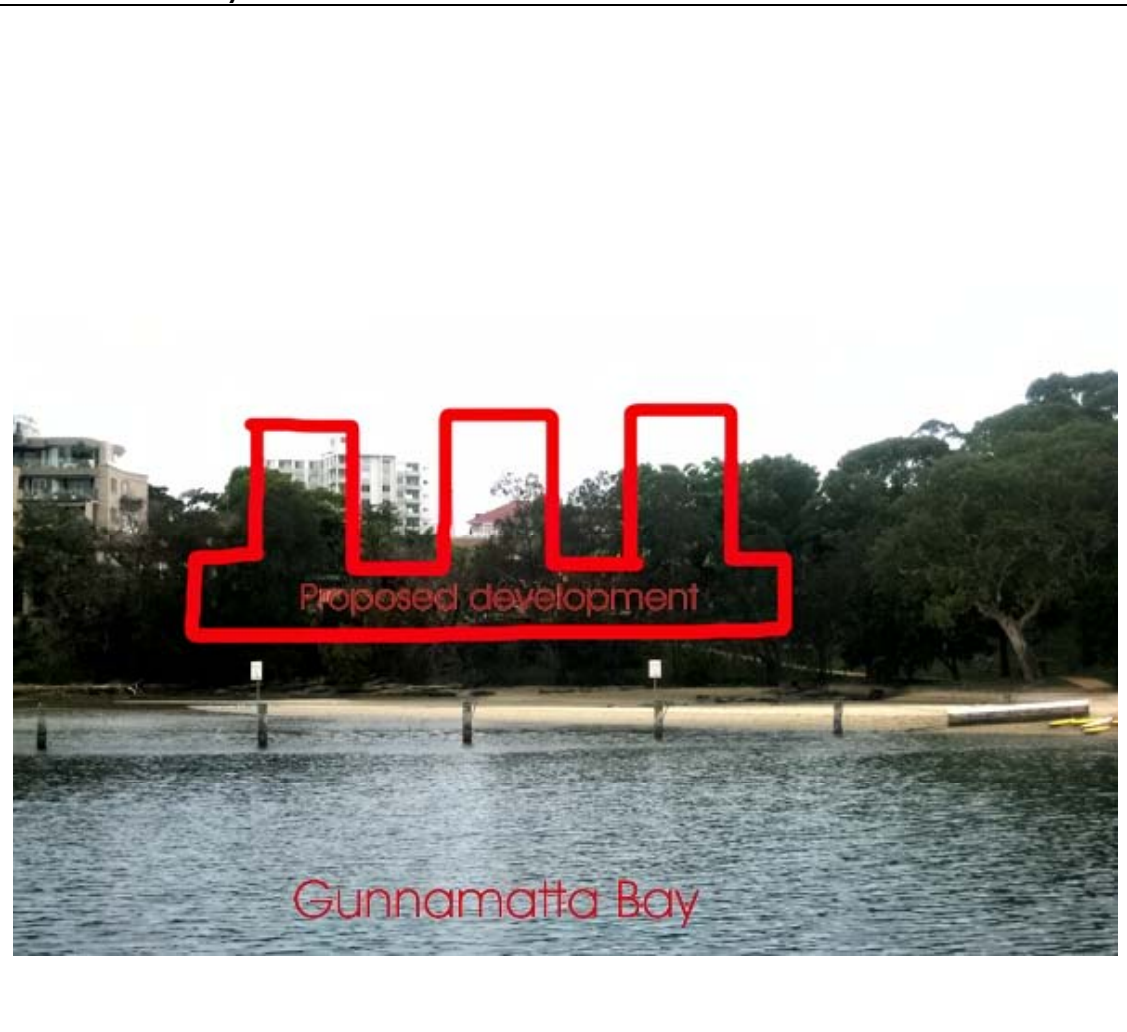
It is also noted that the project will comprise a significant, visually prominent building close to the station within the Cronulla center, which is a key tourism and recreation hub within Sydney's southern suburbs. The site is adjacent to Gunnamatta Park, a major tourist attractor within the region. Furthermore, it is also noted that the size and scale of the project is typical of a number of other Major Projects recently assessed by the DOP under Part 3A as tall buildings in coastal areas. ² The following preliminary images indicate the location and scale of the project when viewed from Gunnamatta Bay.

Figure 10: Preliminary Photomontage of Proposal as Viewed from Gunnamatta Bay



² Examples include: (a) Application no 08_0042 92 Manning Street, Tuncurry, (b) Application No 07_0179 Mixed Use Development Cabarita Beach - Cabarita Beach and (c) Application no 05_0005 Pacific Hotel, Pilot Street, Yamba - Yamba

Figure 11: Location of Proposed Mixed Use Development as Viewed from Gunnamatta Bay



The project will also generate short term employment opportunities for up to 30 residents within the Shire during the construction phase of the development and ongoing employment for up to 10 people after occupation.

We look forward to a favorable consideration of this request for declaration of the proposal as a Major Project under Part 3A of the EP and A Act 1979. Should you have any queries or wish to discuss the above matters further please do not hesitate to call me on 9541 0096 or 0423 040 529.

Yours Faithfully

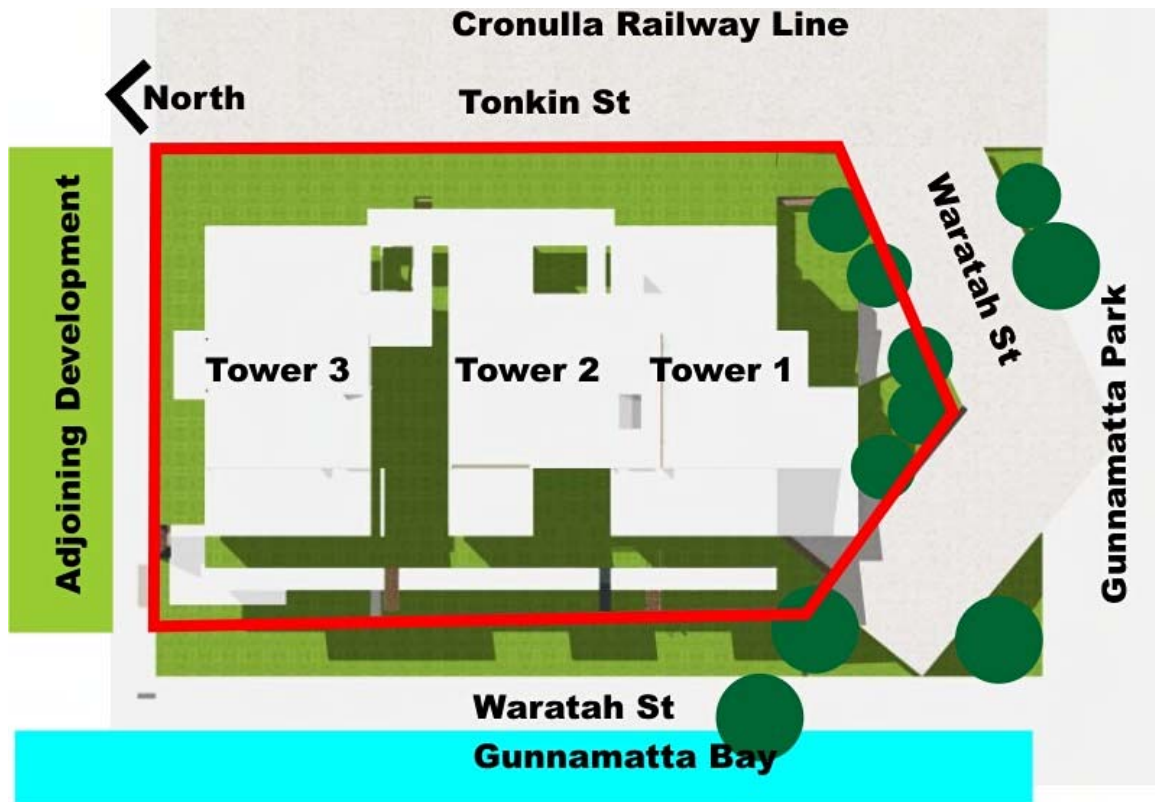
A handwritten signature in black ink, reading "Lyndall Wynne".

Lyndall Wynne

ATTACHMENT A 3D IMAGES



ATTACHMENT B PRELIMINARY SITE PLAN



NB: CONCEPT FLOOR PLANS ARE AVAILABLE IF REQUIRED

ATTACHMENT C

COASTAL ZONE MAP

