

**JOINT REGIONAL PLANNING PANEL  
(SYDNEY EAST REGION)**

<b>JRPP No</b>	<b>2014SYE074</b>
<b>DA Number</b>	<b>DA14/0602</b>
<b>Local Government Area</b>	<b>Sutherland Shire</b>
<b>Proposed Development</b>	<b>Demolition of Six (6) Dwellings and Construction of 18 Townhouses</b>
<b>Street Address</b>	<b>Lot 21 DP 43295, Lot 22 DP 43295, Lot 23 DP 43295, Lot 24 DP 43295, Lot 25 DP 43295, Lot 26 DP 43295 - 4 - 8 Hopman Avenue, Menai and 4 - 8 Bromwich Place, Menai.</b>
<b>Applicant/Owner</b>	<b>St George Community Housing Limited</b>
<b>Number of Submissions</b>	<b>11</b>
<b>Regional Development Criteria (Schedule 4A of the Act)</b>	<ul style="list-style-type: none"> <li>• <b>Private infrastructure and community facilities over \$5 million</b></li> </ul> <p>Development that has a capital investment value of more than \$5 million for any of the following purposes: (b) <b>affordable housing</b>, child care centres, community facilities, correctional centres, educational establishments, group homes, health services facilities or places of public worship.</p>
<b>List of All Relevant s79C(1)(a) Matters</b>	<ul style="list-style-type: none"> <li>• <b>Draft Sutherland Shire Local Environmental Plan 2013 (DSSLEP2013)</b></li> <li>• <b>State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)</b></li> <li>• <b>State Environmental Planning Policy (Major Development) 2005</b></li> <li>• <b>State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP)</b></li> <li>• <b>State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</b></li> <li>• <b>State Environmental Planning Policy (Affordable Rental Housing) 2009</b></li> <li>• <b>Sutherland Shire Local Environmental Plan 2006 (SSLEP 2006)</b></li> <li>• <b>Sutherland Shire Development Control Plan 2006 (SSDCP 2006)</b></li> <li>• <b>Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment</b></li> </ul>
<b>List all documents submitted with this report for the panel's consideration</b>	<ul style="list-style-type: none"> <li>• <b>Conditions</b></li> <li>• <b>PAD Letter dated 23 October 2013</b></li> <li>• <b>Report of the Architectural Review Advisory Panel dated 24 June 2014</b></li> <li>• <b>Sutherland Local Area Command Response dated 18 August 2014</b></li> <li>• <b>Applicant's SEPP1 Objection to Development</b></li> </ul>

	<b>Standard</b>
<b>Recommendation</b>	<b>Approval subject to conditions</b>
<b>Report by</b>	<b>Nicole Askew, (Environmental Assessment Officer) Sutherland Shire Council</b>

## Assessment Report and Recommendation

### 1.0 EXECUTIVE SUMMARY

#### 1.1 Reason for Report

Pursuant to the requirements of State Environmental Planning Policy (Major Development) 2005, this application is referred to the Joint Regional Planning Panel (JRPP) as the development has a capital investment of more than \$5,000,000 which involves private infrastructure and community facilities. The application submitted to Council nominates the value of the project as \$5,521,825.00.

#### 1.2 Proposal

The application is for:

- Demolition of all existing dwellings, structures and removal of vegetation from the allotments; site preparation and earthworks;
- Boundary adjustment to all 6 lots;
- Construction of 18 townhouses in the following configuration:
  - 1 duplex
  - 4 Triplexes (3 dwellings under roof)
  - 1 Quadruplex
  - 12 garages and 1 carport.

The development will be Affordable Housing under the provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009.

The development once complete, will be managed by St George Community Housing. The applicant proposes that any 88B restriction as to the ongoing use of the land as Affordable Housing only apply to 4 of the dwellings to allow for maximum flexibility in the management of the scheme.

#### 1.3 The Site

The subject development comprises 6 lots of land, with 3 fronting Hopman Avenue and 3 fronting Bromwich Place. All lots slope from the rear to the street with various cross falls.

The lots currently accommodate detached single storey dwellings, some with elevated entries. Vegetation within the lots and on the public way is a mixture of native and exotic species.

To the west of the site is a tract of bushland extending to the Georges River. To the east is the major arterial road corridor which contains Alfords Point Road and Old Illawarra Road.

The public way has various infrastructure in the form of electricity, water, power and telecommunication.

#### 1.4 The Issues

The issues that are considered critical to the assessment of the application include:

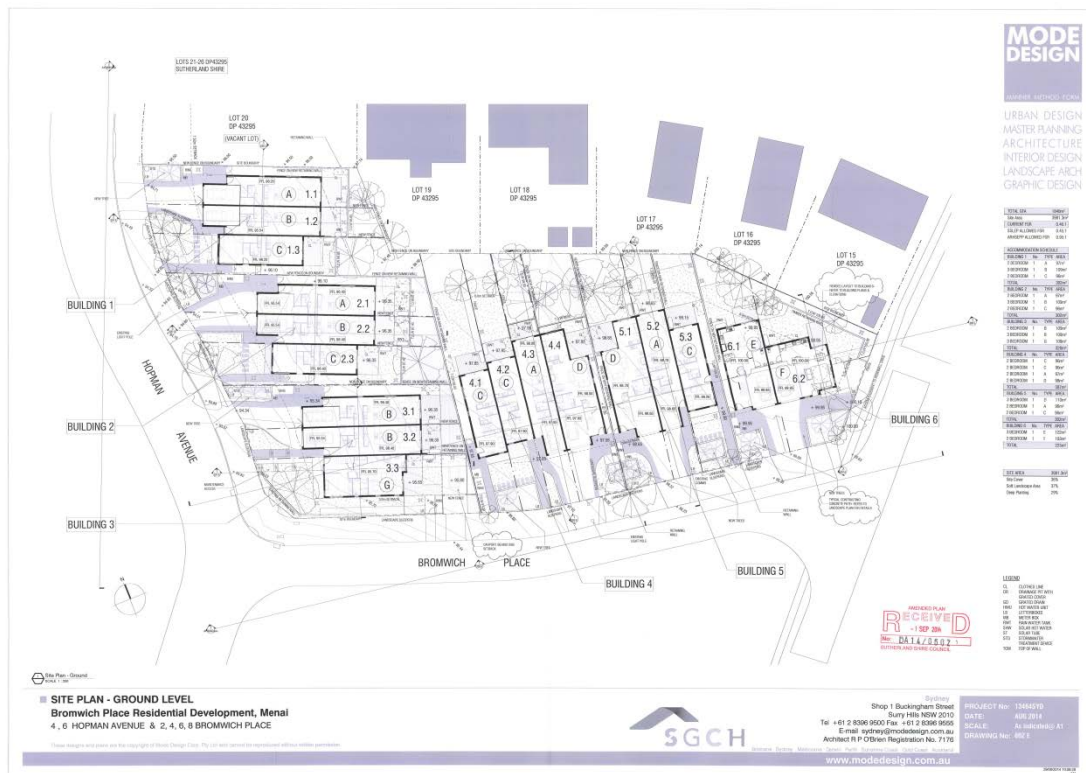
- Density of the development and its implications for the streetscape.
- Insufficient carparking given the site is in an out-of-centre location, with environmental risks and with limited connectivity to town centers, facilities, and services.
- Insufficient private open space for some dwellings.
- Poor separation and solar access between dwellings.
- Overlooking and amenity impacts on adjoining private open space and internally.

#### 1.5 Conclusion

Following a detailed assessment of the proposed development the current application is considered worthy of support. However, to reduce the proportionate undersupply of parking, and increase the area available for building setbacks and private open space, it is recommended that one of the dwellings is deleted from the proposal. The most appropriate area to remove a dwelling from is the 'quadruplex' building, as this is the most poorly resolved part of the scheme in terms of residential amenity and density, and it is central to the site. It is also the most foreign element to the area in that 4 dwellings within 1 'house' is not in keeping with the current or desired future character of the area and is a model more suited to an inner-urban location.

The following design changes are recommended as conditions of approval:

- Density reduction by the removal of one dwelling and increasing side setbacks;
- Increased private open space;
- Increased solar access;
- Consolidation of access pathways;
- Modifications to rooflines and cladding design;
- Raising sill heights of the rear facing first floor bedroom windows; and
- Enclosure of bin stores.



## 2.0 DESCRIPTION OF PROPOSAL

The application is for:

- Demolition of all existing dwellings, structures and vegetation on the allotments; including site preparation and excavation;
- Boundary adjustment of all 6 lots;
- Construction of 18 townhouses in the following configuration:
  - 1 duplex
  - 4 Triplexes (3 dwellings under roof)
  - 1 Quadruplex
  - 12 garages and 1 carport.

The development will be Affordable Housing under the provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009.

The development once complete, will be managed by St George Community Housing. The applicant proposes that any 88B restriction as to the ongoing use of the land as Affordable Housing only apply to 4 of the dwellings to allow for maximum flexibility in the management of the scheme.

## 3.0 SITE DESCRIPTION AND LOCALITY

The subject land is located at 4-8 Hopman Avenue and 4 - 8 Bromwich Place, Menai. Currently situated on each of the sites is a single dwelling with vehicle accommodation and various species of vegetation.

The streetscape in the immediate vicinity of the site is characterised by single dwellings being a mixture of single and 2 storey within the visual catchment of the site.

The site fronts both Hopman Avenue and Bromwich Place. Development immediately adjacent to the northern side of the site includes:

- A vacant lot which has been excavated for footings; and
- Single and 2 storey dwellings;

The dwellings opposite the development in Bromwich Place are single storey dwelling houses. Opposite the Hopman Avenue allotments are 2 storey dual occupancy dwellings.

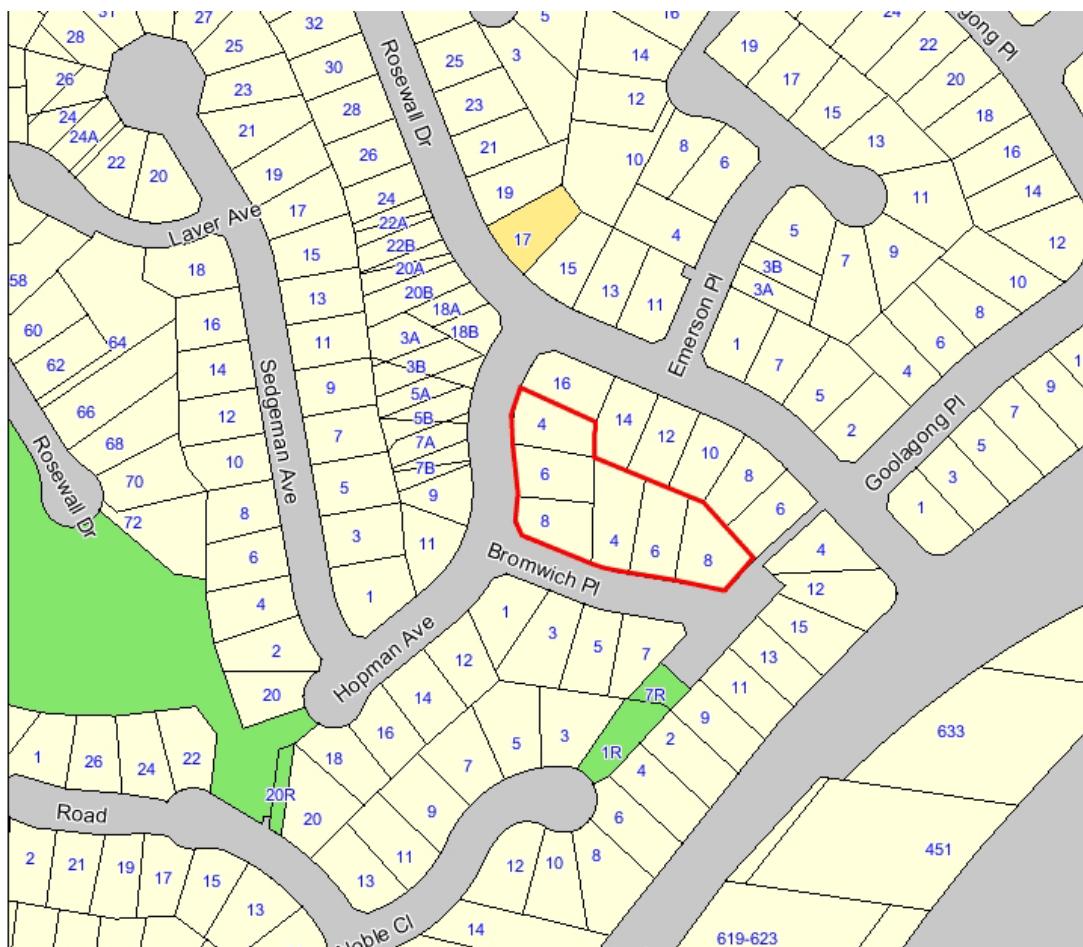
There is a substantial tract of natural bushland located some 200m to the west of the site, which extends all the way to the Georges River.

Approximately the same distance to the east is the major arterial road corridor which contains Alford's Point Road and Old Illawarra Road.

Menai Centre, which contains the closest supermarket, post office and health services, is located approximately 2km from the site to the south east.



Aerial Photo



Locality Plan

## 4.0 BACKGROUND

A history of the development proposal is as follows:

- A pre-application discussion (PAD) was held on 23 October 2013 regarding a 19-21 Townhouse/Villa development under the Affordable Rental Housing SEPP. As a result of this, a formal letter of response was issued by Council dated 18 November 2014. A full copy of the advice provided to the Applicant is contained within Appendix “B” of this report and the main points contained in this letter are as follows:
  - Streetscape impacts, as townhouses are not proposed to be permissible under the provision of DLEP 2013.
  - Streetscape impacts – the design and proportion of building facades and roof forms; front and side setbacks and their visual treatment, landscaping, potential for retention of vegetation and pedestrian entries.
  - The prominence of garage is undesirable.
  - CPTED concerns with respect to the density increase and constrained road network of the cul-de-sac.
  - The design needs to have regard to adaptable housing and design for persons over 55.

- The current application was submitted on 13 June 2014.
- The application went before the Architectural Review Advisory Panel on 24 June 2014, with written comments being issued on 10 July 2014.
- The application was placed on exhibition with the last date for public submissions being 10 July 2014. Eleven submissions were received.
- A public information session was held on 3 July 2014 and 10 people attended.
- The application was considered by Council's Submissions Review Panel on 14 July 2014.
- Council officers briefed the JRPP on 30 July 2014.
- Additional information letter dated 31 July 2014.
- Amended plans were lodged on 1 September 2014.

## **5.0 ADEQUACY OF APPLICANT'S SUBMISSION**

The applicant through the assessment process was asked to address issues relating to density, bulk and scale, vehicle accommodation and character. Amended plans were received on 1 September 2014. The information provided has not addressed all of Council's concerns, however the Statement of Environmental Effects, plans and other documentation submitted with the application and after a request from Council, has provided adequate information to enable an assessment of this proposal.

## **6.0 PUBLIC PARTICIPATION**

The application was advertised in accordance with the provisions of Chapter 12 of Sutherland Shire Development Control Plan 2006 (SSDCP 2006).

59 adjoining or affected owners were notified of the proposal and 11 submissions were received as a result.

Submissions were received from the following properties:

<b>Address</b>	<b>Date of Letter/s</b>	<b>Issues</b>
11 Bromwich Place Menai	23 June 2014	Issue 1, 2, 3, 4, 5, 6, 8, and 13 as discussed below.
11 Rosewall Drive Menai	Received 26 June 2014	1, 7 and 12 as discussed below.
10 Rosewall Drive Menai	1 July 2014	1, 2, 4, 7, 8, 9, 10, 11, and 13 as discussed below.
14 Rosewall Drive Menai	6 July 2014	8, 9, 12 and 13 as discussed below.
5 Rosewall Drive Menai	9 July 2014	1, 4, 5, 6, 7, 9 and 13 as discussed below.
6 Bromwich Place Menai	10 July 2014	1, 4, 7, 8 and 12 as discussed below.
12 Bromwich Place Menai	Undated, however acknowledged on 10 July 2014	1, 3, 4, 11, 12, and 14 as discussed below.
6 Rosewall Drive Menai	8 July 2014	1, 4, 8, 11, 12, 13 and 14 as discussed below.
15 Rosewall Drive Menai	7 July 2014	1, 2, 3, 4, 8, 11 and 13 as discussed below.
1 Emerson Place Menai	7 July 2014	1, 2, 3, 4, 8, 11 and 13 as discussed below.
13 Bromwich Place Menai	7 July 2014	1, 2 and 4 as discussed below.

The issues raised in these submissions are as follows:

#### 6.1 Issue 1 – Parking and Traffic Impacts

**Comment:** SEPP (Affordable Rental Housing) 2009 sets the carparking rates for a development of this nature. Based on the bedroom configuration a total of 12 carparking spaces are required. The applicant has provided 13 spaces. Whilst the carparking satisfies the SEPP criteria, it is considered to be problematic given the constrained road network of Bromwich Place as the 'outer suburban' location of the site.

This has been discussed in greater detail in the assessment area of this report.

It is recommended a dwelling be deleted from the proposal and an additional off street carparking space provided.

## 6.2 Issue 2 – Bushfire

Comment: The 6 allotments which are the subject of this application are not mapped as Bushfire Prone Land, although it is almost entirely surrounded by Bushfire Prone Land. A concern regarding the limitations of the road network for egress to a 'place of refuge' in the event of an emergency is noted.

The road network is not altered by this application; therefore in general terms the availability of emergency vehicles to this location is not hindered. However the displacement of resident parking onto the street remains a concern as discussed in the assessment section of this report.

The applicant has engaged a Bushfire Consultant to review the proposal; one of the recommendations is to construct the dwellings to the Bushfire Attack Level of 12.5.

## 6.3 Issue 3 – FSR – Built to the Maximum

Comment: This application has been proposed under the provisions of the ARHSEPP. As a result a bonus of 0.5:1 above the allowable floor space ratio is permitted.

The development does not exceed the permissible FSR of 0.45:1 on any of the individual lots.

As a result the development satisfies the FSR permitted by Sutherland Local Environmental Plan 2006. The bonus permitted by the ARHSEPP has not been "taken up" by this design.

## 6.4 Issue 4 – Streetscape/Out of Character

Comment: It is acknowledged the development will introduce a new element being akin to townhouses. The predominant development form is single dwellings and duplexes.

The applicant has advised their design intent was for the dwellings to appear as a singular 'big house' (all dwellings being under the same roofline) to be consistent with the streetscape. As discussed below, townhouses are permissible under LEP 2006; however this development form will be prohibited when DLEP 2013 is gazetted. Design changes have been recommended by condition seeking improvement to the current design to be more consistent with the character of this locality. The recommended modifications include the deletion of 1 dwelling, increasing side setbacks, provision of additional off street parking, concealing bin store areas and façade treatments.

## 6.5 Issue 5 – Insufficient Access to Public Transport

Comment: The sites are within the 400m walking distance to a bus stop, which provides connections to Parramatta, Bankstown, Menai, Illawong, Sutherland and Miranda. This satisfies the criteria of the ARHSEPP.

There is limited access to public transport choices which adequately connect residents to town centers, shopping facilities, civic and health services and

government agencies. This inevitably results in high car dependency; and this issue has been addressed in further detail in the assessment section of this report.

#### 6.6 Issue 6 – Development Form Prohibited in the Future Zone

Comment: Council's Draft Local Environmental Plan 2013 proposes to zone the land E4 – Environmental Living, which does not permit multi dwelling housing.

The development is currently permissible under LEP 2006. A detailed assessment of the development with regard to its current and desired future context is discussed below.

#### 6.7 Issue 7 – Child Safety Compromised

Comment: The residents have concern with the increase in density, additional car movements and children playing within the street given there is insufficient play areas associated with each dwelling.

It is acknowledged the design does not propose the incorporation of front fencing thereby providing open front yards to facilitate sight lines and to be consistent with the surrounding development. The driveway crossings have been centralised within each site resulting in only one crossing within the roadway which is similar to the current situation.

It is recommended a condition be imposed (deferred commencement condition 3) requiring access stairs and improved landscaping to the rear elevated yard to provide greater availability to private outdoor recreation areas for the occupants.

#### 6.8 Issue 8 – Concentration of Public Housing is Undesirable

Comment: St George Community Housing has its own definitions of what is Affordable Housing and Community Housing. These are the 2 different models of housing they provide. This definition is different to how the ARHSEPP defines Affordable Housing. St George Community Housing defines Affordable Housing as being:

*“Is for people of very low, low and moderate income who earn at least some of their income from regular paid employment.”*

The clientele of the new dwellings will be required to demonstrate they meet the criteria outlined above, given the application has been proposed, and will be responsible for awarding leases for these homes as St George Community Housing is a register Community Housing provider.

This is distinctly different clientele and housing model to “public housing” which is defined by Housing NSW as:

*“Public Housing is long-term, affordable housing for people living in NSW on low incomes who are unable to rent privately. The properties are managed by Housing NSW.”*

#### 6.9 Issue 9 – Loss of Privacy

Comment: The development will result in additional privacy impacts resulting from the increase in density. (6 single storey dwellings to 18 2 storey dwellings).

Given the lot topography, and the rear of the lots being excavated to facilitate a level building platform, the proposed dwellings will be lower than the lots at the rear. This results in no direct line of sight from the internal recreation areas to the dwellings at the rear (fronting Rosewall Drive).

The upper levels of the dwellings contain bedrooms, service rooms and circulation corridors. The windows servicing these rooms do result in a line of sight into the rear lots, however these rooms are considered low use given they are used predominantly at night and not as recreation areas. In order to provide a greater level of protection for the adjoining lots, and the occupants which will reside in this development, it has been recommended the sill heights of the bedrooms be raised to 1500mm above the finished floor height of the rooms they service.

#### 6.10 Issue 10 - Loss of Sunlight

Comment: The lots fronting Hopman Avenue are east west orientated. The additional built form will result in overshadowing onto Hopman Avenue and the subject development, therefore not resulting in any impact on the adjoining allotments.

The allotments fronting Bromwich Place are north south orientated; any additional overshadowing will fall onto the dwelling within this development and the front setback and roadway of Bromwich Place.

In this regard there is no adverse impact onto the adjoining allotments. In order to improve the amenity for the occupants of this development, a condition has been recommended to mirror reverse buildings 1 and 2 so the 'shorter dwelling' in each building has greater availability to natural sunlight.

#### 6.11 Issue 11 – Density Increase

Comment: This application results in an additional 12 dwellings (6 to 18). All 18 dwellings will be 2 storeys in height replacing the existing single storey housing stock. It is accepted that this results in a significant density increase however; the development form is permissible and compliant with respect to height and floor space. The development is non complaint with respect to side setbacks. This also brings attention to the scale of the development. The setbacks as proposed cannot be supported. In order to provide greater consistency within the streetscape and reduce the bulk presenting to the street it is recommended the side boundary setbacks for each building be a minimum of 1500mm, with the exception of the secondary street setback associated with building 3 which is to remain at 3m.

#### 6.12 Issue 12 – High Crime Rate in the Area

Comment: A review of the crime statistics for the postcode of 2234 was accessed via the NSW Bureau of Crime Statistics and Research (Appendix “D”). It is acknowledged that the statistics in 2013 (preceding 24month period) it is evident there are reasonably low crime rates in the area. When comparing these to other NSW LG Areas the incidents are not overwhelmingly high.

Increasing population numbers has the potential to result in increasing crime rates given there is potential for increased incidents. However, on balance the proposal is not considered to be the catalyst for increased crime in the broader locality.

#### 6.13 Issue 13 Noise

Comment: Additional dwellings will result in additional noise. However this is a permissible form of development, and the noise resulting is considered consistent with residential living.

Noise during construction will be controlled by conditions restricting the hours when work can take place, protecting the amenity of the neighbourhood.

#### 6.14 Issue 14 Trees and Greenweb

Comment: These sites are within a Greenweb support area. The proposal has been reviewed by Council’s Landscape Architect, who has recommended conditions with respect to tree retention and replacement planting.

### **7.0 STATUTORY CONSIDERATIONS**

The subject land is located within Zone4 – Local Housing pursuant to the provisions of Sutherland Shire Local Environmental Plan 2006. The proposed development, being a townhouse and one dual occupancy development for 18 dwellings and accommodation for 13 vehicles, is a permissible land use within the zone under the provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009 with development consent.

The following Environmental Planning Instruments (EPI’s), Development Control Plans (DCP’s), Codes or Policies are relevant to this application:

- Draft Sutherland Shire Local Environmental Plan 2013 (DSSLEP2013)
- State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)
- State Environmental Planning Policy (Major Development) 2005
- State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP)
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy (Affordable Rental Housing) 2009
- Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment

- Sutherland Shire Local Environmental Plan 2006 (SSLEP 2006)
- Sutherland Shire Development Control Plan 2006 (SSDCP 2006)

## 8.0 STATEMENT OF COMPLIANCE

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

Clause Standard/Control	Required	Proposed	Complies? (% Variation)
<b>State Environmental Planning Policy (Affordable Rental Housing) 2009</b>			
CI 4 (1) 9c) Interpretation – general “accessible area” Part 2 division 1 Infill affordable housing CI 10	400m from each lot	Between 132m and 250m	Yes
10(1)(a) Dual Occupancies and Multi Dwelling Housing permitted with consent	An attached Dual Occupancy and Townhouses are permissible in Zone 4 – Local Housing	1 Dual Occupancy and 16 townhouses are proposed over 6 lots, this is a permissible development form.	Yes
10(2) Development the subject of the SEPP within the Sydney regional area must be within an accessible area.	Located within a 400m walking distance of a bus stop used by a regular bus service that has at least 1 bus per hour servicing the bus stop between 06.00 and 21.00 each day Monday to Friday and between 08.00 and 18.00 on each Saturday and Sunday.	M92 is a service that provides a mode of transport from Sutherland to Parramatta and return. A service per hour is achieved. Between 6am and 9pm. Route 962 from Bankstown to Cronulla and return provides a regular service from 7.30am to 9.15pm.	Yes
CI 13 Floor Space (2) The maximum floor space ratio for the development to which this clause applies is the existing maximum floor space ratio for any form of residential accommodation	0.45:1 plus the 0.5 bonus = 0.95:1	Building 1 264.74m <sup>2</sup> or 0.44:1 Building 2 266.81m <sup>2</sup> or 0.42:1 Building 3 294.54m <sup>2</sup> or	Yes

permitted on the land on which the development is to occur, plus: (a) if the existing maximum floor space ratio is 2.5:1 or less: (i) 0.5:1—if the percentage of the gross floor area of the development that is used for affordable housing is 50 per cent or higher.		0.43:1 Building 4 358.19m <sup>2</sup> or 0.39:1 Building 5 271.42m <sup>2</sup> or 0.42:1 Building 6 200.04m <sup>2</sup> or 0.38:1	
CI 14 Standards that cannot be used to refuse consent			
(1) <b>Site and solar access requirements</b> A consent authority must not refuse consent to development to which this Division applies on any of the following grounds: b) <b>site area</b> if the site area on which it is proposed to carry out the development is at least 450 square metres		Lot 1 602.5m <sup>2</sup> Lot 2 639.9m <sup>2</sup> Lot 3 663.7m <sup>2</sup> Lot 4 900.6m <sup>2</sup> Lot 5 640.8m <sup>2</sup> Lot 6 539.4m <sup>2</sup>	Yes
(c) <b>landscaped area</b> if: (i) in the case of a development application made by a social housing provider—at least 35 square metres of landscaped area per dwelling is provided,	There is no definition in the SEPP therefore the standard instrument definition has been used; namely <b>Landscape area</b> means, a part of a site used for growing plants, grasses and trees, but does not include any building, structure or hard paved area.	1.1 = 40.19m <sup>2</sup> 1.2 = 41.13m <sup>2</sup> 1.3 = 113.8m <sup>2</sup> 2.1 = 70.06m <sup>2</sup> 2.2 = 36.11m <sup>2</sup> 2.3 = 93.69m <sup>2</sup> <b>3.1 = 25.94m<sup>2</sup></b> <b>3.2 = 28.49m<sup>2</sup></b> 3.3 = 137.93m <sup>2</sup> 4.1 = 115.54m <sup>2</sup> 4.2 = 98.96m <sup>2</sup> 4.3 = 53.58m <sup>2</sup> 4.4 = 107m <sup>2</sup> 5.1 = 88.48m <sup>2</sup> <b>5.2 = 31.88m<sup>2</sup></b> 5.3 = 80.95m <sup>2</sup> 6.1 = 76.48m <sup>2</sup> 6.2 = 168.04m <sup>2</sup>	No (3 dwellings fail to comply)
(d) <b>deep soil zones</b> if, in relation to that part of the site area (being the site, not only of that particular development, but also of any other associated development to which this Policy applies) that is not built on, paved or otherwise sealed:	15%	Lot 1 – 24% Lot 2 – 21.2% Lot 3 – 22% Lot 4 – 28% Lot 5 – 19.9% Lot 6 – 30.2% An acceptable split between the front and rear yards provided.	Yes

<p>(i) there is soil of a sufficient depth to support the growth of trees and shrubs on an area of not less than 15 per cent of the site area (the <b>deep soil zone</b>), and</p> <p>(ii) each area forming part of the deep soil zone has a minimum dimension of 3 metres, and</p> <p>(iii) if practicable, at least two-thirds of the deep soil zone is located at the rear of the site area,</p>			
e) <b>solar access</b> if living rooms and private open spaces for a minimum of 70 per cent of the dwellings of the development receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter.	70% required to achieve a minimum 3hrs during mid winter 13 dwellings	Buildings 1, 2, 4, 5, & 6 satisfy this criterion, which equates to 15 dwellings or 83%.	Yes
<p>(2) <b>General</b> A consent authority must not refuse consent to development to which this Division applies on any of the following grounds:</p> <p>a) <b>parking</b> if:</p> <p>(i) in the case of a development application made by a social housing provider for development on land in an accessible area—at least 0.5 parking spaces are provided for each dwelling containing 2 bedrooms and at least 1 parking space is provided for each dwelling containing 3 or more bedrooms</p>	<p>Development mix</p> <p>2 beds = 12</p> <p>3 beds = 6</p>	<p>0.5 x 12 = 6</p> <p>1 x 6 = 6</p> <p>12 provided in a garage and 1 in a carport</p>	Yes
<p>(b) <b>dwelling size</b> if each dwelling has a gross floor area of at least:</p> <p>(iii) 70 square metres in the case of a dwelling having 2 bedrooms, or</p> <p>(iv) 95 square metres in the case of a dwelling having 3 or more bedrooms.</p>	<p>70m<sup>2</sup> - 2 bedroom</p> <p>95m<sup>2</sup> - 3 bedroom</p>	All dwellings exceed these requirements	Yes

Clause Standard/Control	Required	Proposed	Complies? (% Variation)
<b>Sutherland Shire Local Environmental Plan 2006</b>			
28 Subdivision	Must be consistent with the objectives of the zone to subdivide.	Development is consistent with the zone 4 objectives. Boundary adjustments are to be undertaken to each lot.	Yes, a SEPP1 for the undersized lot widths has been provided and assessed below.
33(4)(a) Number of storeys	Max 2 storeys	2 storeys on each of the 6 lots.	Yes
33(4)(b) Maximum height	(i) 7.2m to the uppermost ceiling, (ii) 9m to the highest point of the roof.	Max Ceiling height ranging between 5.8m to 6.5m  Max Overall Height ranging between 7.3m and 8.1m	Yes
35(6) Maximum Floor Space Ratio (FSR)	0.45:1 per lot	All lots comply ranging between 0.38:1 and 0.44:1	Yes
35(5)(b) Minimum landscaped area	40% Lot 1 - 240m <sup>2</sup> Lot 2 - 252.08m <sup>2</sup> Lot 3 - 268.2m <sup>2</sup> Lot 4 - 362.08m <sup>2</sup> Lot 5 - 255.76m <sup>2</sup> Lot 6 - 213.12 <sup>2</sup>	All but lot 6 are non compliant, ranging between 22% and 42%	No – no SEPP1 required as this application has been proposed under ARHSEPP 2009.
41(4) Minimum lot size- townhouse development.	Minimum area =1200m <sup>2</sup> Minimum width =25m.	Lot 1 - 601.6m <sup>2</sup> Lot 2 - 630.2m <sup>2</sup> Lot 3 - 670.5m <sup>2</sup> Lot 4 - 905.2m <sup>2</sup> Lot 5 - 639.4m <sup>2</sup> Lot 6 - 532.8m <sup>2</sup>  Width Lot 1 - 18.8m or a 24.8% variation. Lot 2 - 16.5m or a 34% variation Lot 3 - 23.5m or a	No– no SEPP1 required for lot area as this application has been proposed under ARHSEPP 2009.  SEPP 1 assessment provided later in this report.

		6% variation Lot 4 - 22.3m or a 10.8% variation Lot 5 - 17.3m or a 30.8% variation Lot 6 - 15.4m or a 38.4% variation	
56 Preservation of trees/vegetation.	Protection of trees fundamental to biodiversity.	Various trees are proposed to be removed within the site and on the public way; conditions have been proposed requiring replacement planting.	Yes
<b>Draft Sutherland Shire Local Environmental Plan 2013</b>			
Zoning Table E4 – Environmental Living	Multi dwelling housing is not permissible.	Not Permissible.	No
4.3 Height of Buildings	Maximum 9m	All would be compliant ranging between 5.8m and 8.1m	Yes
4.4 Floor Space Ratio	Maximum 0.55:1	All compliant ranging between 0.38:1 and 0.44:1	Yes
6.11 Landscaped Area	40%	All but lot 6 are non compliance ranging between 22% and 42%	No –however meets with the landscaping requirement of the ARHSEPP.
<b>Sutherland Shire Development Control Plan 2006</b>			
2.b.2 Front building line	7.5m	Ranging from 7.3m to 15.6m, Building 6 is the area where the non compliance occurs.	No

3.b.6 Side setback	3m	Only the southern setback of building 3 and the eastern side of building 6 complies. The remainder of the setback range between 900mm and 1500mm.	No
3.b.6 Rear setback	6m	Building 1, 3 and 6 have areas of non compliance.	No
4.b.3 Max site coverage 35%	Max Building 1 210.56m <sup>2</sup> Building 2 220.57m <sup>2</sup> Building 3 234.67m <sup>2</sup> Building 4 316.82m <sup>2</sup> Building 5 223.79m <sup>2</sup> Building 6 186.48m <sup>2</sup>	Building 3 ( <b>36.8%</b> ) and 5 ( <b>36.5%</b> ) exceed the maximum site coverage.	No
7.b.3 Site Layout	Dwellings to be well organised and functional. Ceiling height 2.7m	Dwellings have acceptable internal layouts and reasonable connectivity to outdoor areas. A minimum of 2.7m ceilings provided. Not all private open space is compliant. Waste storage is a shared arrangement per lot.	No
7.b.3 Private Open Space	6m x 6m	No dwellings meet this criterion.	No
7.b.7 Waste storage area	Within floor space of building or integrated service.	Provided within shared bin storages area within each allotment.	Yes
10.b.3 Ancillary facilities	6m <sup>3</sup> storage	No dwellings satisfy this criterion. 2.1m <sup>2</sup> to 2.81 m <sup>2</sup>	No
11.b.7 Garages, carports and ancillary development	Garages and garage doors to be behind the front facades of housing. Designed to not be	All garages forward of the dwelling facades.  Garages are	No

	dominant. Max 2 single garage doors face the street. Max 2.75m opening, reduced to 2.4m if a front on approach.	dominant. 2.3m non adaptable dwelling 3.0m for adaptable dwellings.	
13.b.1 Privacy	Privacy to be maximised.	Conditions will be recommended to increase the sill heights of the bedrooms to address privacy.	Yes subject to conditions.
14.b.2 Daylight Access	New development must not eliminate more than one third of the existing sunlight, to adjoining properties.	Achieved given the lot configurations, see detailed comments below.	Yes
17.b.1 Adaptable housing = 30% of dwellings on site or at least 1 dwelling	1 required per lot, 6 dwellings required.	5 provided Dwellings 3.3 - carport 4.4 - garage 5.1 - garage 6.1 - garage 6.2 - garage	No
19.b.3 Fencing	High courtyard fencing is not permitted, except where it is common in the street.	No fencing is proposed across the front of the sites. Colourbond fencing at 1.8m in height separating the lots and along the rear of the sites. Low scale rendered walls separate landscaping beds from vehicle movements. Fencing is noted delineating the individual rear yards; they appear to be Colourbond also.	Yes
1.b.5 Car parking	2 spaces/unit= 32 spaces 1 visitor space/4 = 4 spaces 1 for each dwelling in a dual occupancy =	13 spaces, 12 in a garage and one within a carport	No however overridden by ARHSEPP 2009.

	2		
5.b.1 Bicycle parking	1 space/5 dwellings – 4 spaces required	None proposed.	No

## 9 SPECIALIST COMMENTS AND EXTERNAL REFERRALS

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

### 9.1. NSW Police Force

Correspondence received on 18 August 2014 from the NSW Police Force recommended the following be incorporated into the design:

- Clear line of sight to the development, removal of vegetation that prevents this;
- All windows installed with locks;
- Street numbers should be clearly seen and identifiable;
- Front boundary fencing would benefit security, preventing trespassing;
- Boundary fencing to be installed on lot 26 to the accessible footpath to Rosewall Drive;
- Anti graffiti paint to be installed to all external walls;
- Security intercom to be installed at the entries of the dwellings;
- Individual premises are to be well lit, motion sensors after dark;
- Side and rear fencing should be solid and a minimum of 1.8m high.

A number of the items listed above have been incorporated into the design. The remainder of the relevant suggestions will be recommended as conditions to be imposed. (Appendix “D”)

### 9.2. Architectural Review Advisory Panel

Comments dated 10 July 2014 (Appendix “C”) included the following:

- Panel encourage the management of SGCH to take a stronger position in demanding ‘cutting edge’ social and affordable housing;
- Terrace type housing disguised by a ‘McMansion’ style houses on small building lots, with little to distinguish it both from and within its context;
- Low picket fencing would provide a sense of identity;
- 3D imaging is deceptive, there are between 2-4 terrace style dwelling within each building, resulting in bulk that is noticeably larger than that evident in the immediate context;
- Development of this style typically has poor landscaping outcomes, given the very narrow long open spaces between individual dwellings;
- Side setbacks are non compliant with Council's DCP;
- Height is considered appropriate;
- Dwelling entries require further resolution. Individual entries are hidden and not well designed. Front doors have been placed next to each other or concealed around the side of the dwelling;

- A number of thin, long dwellings are distinguished in a large house form, this invariably results in contrived asymmetries, tokenistic changes of material, inefficient building footprints, and poor resolution of solar access and natural ventilation;
- The panel supports the density, if the buildings are planned in conjunction with the creation of legible, useable, high quality outdoor spaces;
- Create a built form that does not marginalise the ability to create appropriate open space and landscape settings;
- Footprints and roofs could be designed more efficiently;
- Consider limiting the building footprint;
- Terrace designs are efficient for the provision of services;
- Solar cells could be introduced for hot water and power;
- Ensure through-ventilation can be achieved;
- How is water storage to be used?
- Distinctive private/public planting may assist in delineating dwellings;
- Poorly resolved landscaping plans;
- Proliferation of paths from the street to individual units undermines the “one dwelling” design approach;
- Letterboxes can be resolved by using the walls of the planting boxes;
- Consider using graduated walls that disappear into the front lawn;
- Trees within the front will be too small at maturity;
- Building 5 does not need a path from the street to the eastern dwelling;
- Buildings 1-3, the southern dwelling could be redesigned to provide greater solar access;
- Bin stores to be screened or enclosed;
- Shortfall in car parking in relation to accessibility and site planning is to be further considered;
- Front doors and awnings need more legible placement and form;
- CPTED issues need to be considered;
- There is little that relates these buildings to their topography, culture or landscape;
- Keep the colour palette subtle;
- Face brick in tandem with painted render and lightweight surfaces is strongly supported, however some darker colours could be introduced;
- Colourbond whilst cost effective is very unattractive;
- Glass balustrading should have a solid component to 760mm in height to provide privacy and street surveillance.

### 9.3. Engineering

Council's development engineer has undertaken an assessment of the drainage proposal and advises the design is acceptable subject to the imposition of conditions of development consent.

### 9.4. Community Services

Comments dated July 2014 request the imposition of the following conditions:

- All aspects of the development should comply with the Access to Premises Standard, the Australian Standards for Access, to be

consistent with the access provisions of the Building Code of Australia and abide by the Disability and Discrimination Act 1992.

- All recommendations from the Access Report must be implemented prior to the issuing of a Construction Certificate
- Graffiti is to be removed from the property as soon as is practicable from the time of reporting and be included in the Plan of Management;

#### 9.5. Environmental Planning – Policy Advisor

Comments received 11 November 2014 recommended that a concession be granted for S94 relating to the 4 affordable housing dwellings that will have the 88E restriction for 10 years and for the 6 dwellings that existed. As a result S94's will be levied on 8 dwellings only.

#### 9.6. Landscape Architect

Comments received 12 November 2014 detailed only minor amendments were made in response to the ARAP comments. The landscaping plans lack detail and inconsistencies remain, however there is considered to be sufficient information to facilitate an assessment. The proposal is considered acceptable subject to conditions.

#### 9.7. Traffic Engineer

Comments dated 30 September 2014 detail:

- As the proposed development does not have good public transport and access to amenities, it is anticipated that the average car ownership would be more than one car per dwelling or, in the very least that private vehicle reliance will be high. It is recommended that the application should provide at least one off street parking space for each dwelling.

#### 9.8. Rural Fire Service

Comments received dated 4 July 2014 detail:

- Consider the intensification an issue with respect to egress in the event of a Bushfire;
- As this is an existing subdivision there is no scope to change the road network.

#### 9.9. Architect

Comments dated 2 October 2014 detail:

- The amendments forwarded to address ARAP are minimal, with the exception of building 6 which has been reconfigured reducing the footprint, providing improved compliances with setbacks and amenity;
- The design does not express a sense of individual resident 'ownership' with a repetitive visual building form and an undefined separation of the 'private' open spaces within the streetscape.
- This proposal is a lost opportunity to provide 21<sup>st</sup> century social community facility that engages the challenges of the site and future resident needs through flexible and environmentally sensitive design.

## 10.0 ASSESSMENT

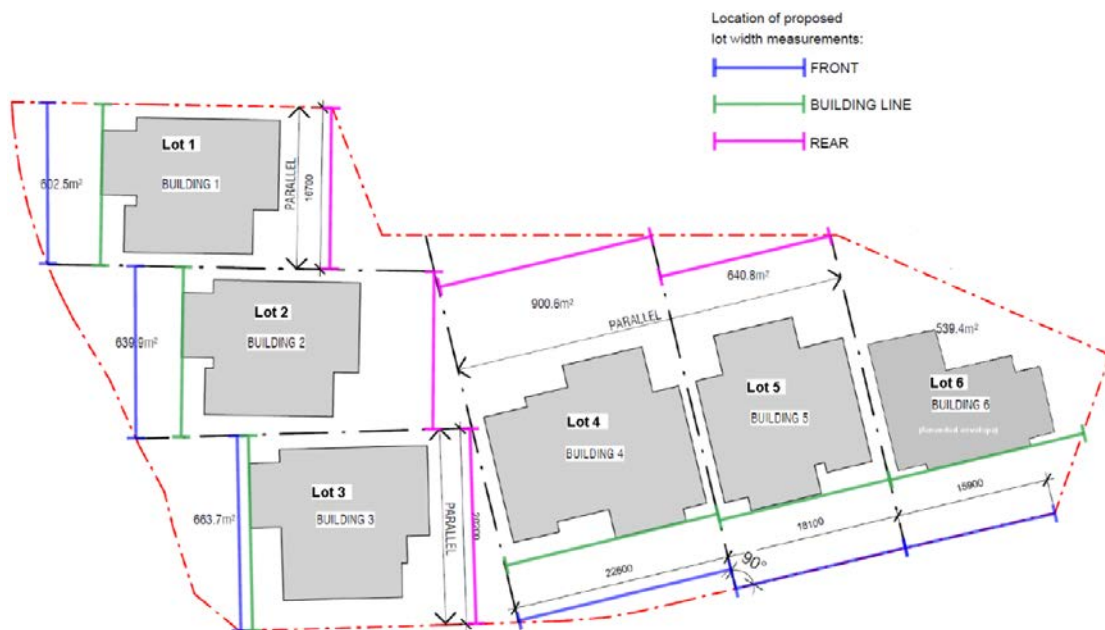
Following a detailed assessment of the application having regard to the Heads of Consideration under Section 79C(1) of the Environmental Planning and Assessment Act 1979 and the provisions of relevant environmental planning instruments, development control plans, codes and policies, the following matters are considered important to this application.

10.1 State Environmental Planning Policy No. 1- Development Standards  
A State Environmental Planning Policy No. 1 - Development Standards (SEPP 1) Objection to the minimum lot width development standard under SSLEP2006 has been submitted.

Lloyd J, in *Winten Property Group Ltd v North Sydney Council* (2001) NSWLEC 46, posed five questions to be addressed in SEPP 1 objections. The extent of departure proposed and the Winten questions are addressed below for each proposed variation to the development standard.

The proposed development fails to comply with the development standard for lot width for a townhouse development. Clause 41(4) of SSLEP 2006 stipulates a minimum lot width of 25m. The lots have the following widths as assessed by Council, being the property boundary:

Lot 1 - 18.8m or a 24.8% variation.  
Lot 2 - 16.5m or a 34% variation  
Lot 3 - 23.5m or a 6% variation  
Lot 4 - 22.3m or a 10.8% variation  
Lot 5 - 17.3m or a 30.8% variation  
Lot 6 - 15.4m or a 38.4% variation



**Figure 1 Location of Proposed lot width measurements**

A copy of the submitted SEPP1 objection is provided as Appendix “E”. In summary, the objection focuses on the public and social benefit the proposal provides, being affordable housing which has been designed to achieve a high quality architectural outcome, minimising bulk and scale and with good quality landscaped areas which respond to its context and setting.

#### Analysis

The lot width control is expressed as a numerical limit and therefore a *development standard* as defined at clause 4 of the EP&A Act.

The minimum lot width objectives are set out in clause 41(4) of SSLEP 2006:

- (d) *to ensure that the area and width of lots are sufficient for their intended purpose and provide sufficient space for negative externalities to be resolved on site,*
- (e) *to ensure that a sufficient area of land is available, in connection with development, for landscaping, drainage and parking so as to achieve a satisfactory residential amenity,*
- (f) *to ensure new development complements the established scale and character of the streetscape where the development is carried out, and does not dominate the natural qualities of its setting.*

The applicant has detailed the proposal is consistent with the above objectives for the following reasons:

- The lot width is intended to work in tandem with the minimum site area. However this proposal is under the ARHSEPP which requires a minimum lot area of 450m<sup>2</sup>. Achieving the lot width on a lot of this size is unreasonable.
- Compliance with this criterion would preclude a townhouse development that was able to comply with the ARHSEPP criteria, therefore not meeting the objectives of the SEPP which overrides Council's SSLEP2006.
- The development has been designed to complement the character of the surrounding built form, with this being the first affordable housing development of its kind in Menai, which will encourage the efficient use of land for low to moderate income earners.
- The development is compatible in design and bulk and scale with adjoining and nearby residential development in the surrounding streetscape, and provides front, rear and side building setbacks that are compatible with neighbouring buildings, and generally complies with Council's DCP.
- Each building has the appearance of a large detached dwelling house.

The aims of SEPP 1, as stated at clause 3 of the Policy are:

*This Policy provides flexibility in the application of planning controls operating by virtue of development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objectives of the Act.*

Clause 5(a)(i) and (ii) of the EP&A Act state:

*The objects of the Act are:*

*(a) to encourage:*

- (i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,*
- (ii) the promotion and co-ordination of the orderly and economic use and development of land,*

Compliance with the lot width development standard would tend to hinder the attainment of the objects specified in Clause 3 of SEPP 1 and Section 5(a)(i) and (ii) of the EP&A Act as:

- Consolidation of the lots presents commercial and practical disadvantages to St George Community Housing which is inconsistent with the application of the ARHSEPP in providing social benefits.
- Strict compliance would discourage the construction of Affordable Rental Housing in an established suburban area with good access to facilities, services and infrastructure. The social and economic welfare of the community would not be promoted as it would prevent the construction of high quality, affordable, energy efficient housing catering for the needs of the local community in an “accessible location”.

In this instance, compliance with the lot width development standard is unreasonable as:

- Strict compliance with the development standard will not enable the use of the ARHSEPP, where the applicant has provided a development that addresses all other criteria in the SEPP, which prevents an application being refused.
- It is acknowledged this development is providing a significant social benefit.
- This SEPP 1 is considered worthy of support as the overall development, subject to recommended design changes will result in an acceptable development proposal. As discussed in more detail below, the recommended design changes will reduce the overall yield by 1 townhouse, and “open up” the remainder of the site for increased setback and open space, in keeping the objectives for the lot width standard.

Strict compliance with lot width would, in this particular case, be unreasonable for the reasons set out above, the proposed departure from the lot width development standard is considered to be well founded.

## 10.2 Parking and Access

This development proposes townhouses on lots 1 to 5 and a dual occupancy on lot 6. A total of 34 carparking spaces are required for the occupants and 4 visitor spaces in accordance with Council's DCP. However, the application before Council provides 13 spaces all allocated to dwellings and no visitor spaces. Five dwellings do not have any off street carparking. The development is proposed under the provisions of the ARHSEPP 2009, which enables greater development density and reduced carparking rates. The proposal has been designed to meet the SEPP carparking provisions. Council, whilst acknowledging this, considers the carparking provided deficient and problematic with respect to the functionality and connectivity of this locality. St George Community Housing acknowledges most of their clientele that will occupy these dwellings will have a vehicle, but would be unlikely to have 2, given their income status.

In this regard, St George Community Housing considers the road network to be sufficient to accommodate on street vehicle accommodation for those tenants who have no off street carparking. Council's Traffic Engineers have reviewed this application and consider the density of this development, together with the distance to services, and limited public transport options, the tenants would have at least 1 car. Bromwich Place is a narrow road providing access and egress to and from a cul-de-sac. This narrow roadway would not be able to accommodate a legally parked vehicle on both sides of the street, as a third vehicle would not be able to pass resulting in issues for emergency vehicles and other normal local traffic given the potential threat of bushfire this is a significant issue.

In order to ameliorate this, it is considered that additional off street carparking is necessary, with the driveway access carefully designed to retain as many on-street carparking spaces as possible.

In order to achieve this, at least 1 dwelling needs to be deleted from the proposal. The quadplex, by nature of the development, (given its central location and the 'crowding' problems of 4 dwellings on 1 site) would be the most obvious option. Removal of 1 dwelling would enable an additional hard stand car space to be accommodated, and appropriately screened from the street to address vehicle/ carparking dominance. In addition, the internal space of the dwellings could be reviewed and the required 1500mm setbacks to be achieved. These design changes will result in greater amenity for future occupants together with increased CPTED principle compliance.

It is considered the increase in off street parking for the dwellings fronting Bromwich Place are of greater importance given the narrowness of the road network and the street being a cul-de-sac. It is a more acceptable and safe option to accommodate on-street carparking within Hopman Avenue as this thoroughfare is wider and legal parking can be accommodated on both sides of the street without compromising access and manoeuvrability of emergency vehicles.

Conditions have been recommended to delete 1 dwelling, from building 4 but

not the adaptable dwelling, in order to resolve the worst of the traffic and parking concerns and ameliorate other issues as discussed in this report.

### 10.3 Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment

The Greater Metropolitan Regional Environmental Plan No. 2- Georges River Catchment (GMREP2) includes a number of aims and objectives for the environment and water quality within the catchment. Appropriate stormwater management and water quality measures are proposed and there are minimal likely adverse impacts on existing coastal processes anticipated. With the implementation of the recommended conditions of consent, the proposal would be consistent with the aims and objectives of the GMREP2.

### 10.4 Privacy

The application proposes the removal of 6 single storey dwellings, one on each of the 6 lots, boundary adjustments and the construction of 18 by 2 storey dwellings with associated vehicle accommodation for 13 dwellings and landscaping works.

The density increase results in considerable opportunity for overlooking from the upper levels of the dwellings. The upper levels contain bedrooms; bathrooms and circulation corridors, there are no entertaining spaces/living areas. The development as proposed does not exceed the height limit. The development proposes to undertake a cut across the rear of the lots to facilitate the floor plates. This results in the ground floor living areas and adjacent external recreation areas being below the finished ground level of the adjoining lots to the rear.

Privacy has been raised by the objectors, whilst there will be some loss of privacy; the impact is not considered significantly detrimental. It is acknowledged the impact could be lessened by providing 1500mm sill heights to the rear facing bedroom openings, which in conjunction with the 2m high screen planting is considered to mitigate any privacy impacts. The raised sill heights have been recommended as a deferred commencement condition No.9.

The bathrooms and circulation corridors are considered acceptable as proposed as the bathroom windows will be frosted, and the circulation areas are passive spaces where residents are not likely to congregate for long periods of time.

The design changes recommended by condition will reduce the privacy impacts onto the existing adjoining residents. Future occupants of these dwellings will also achieve an improved level of privacy while maintaining an acceptable level of internal amenity and compliance with the natural light and ventilation provisions of the National Construction Code – Building Code of Australia.

### 10.5 Setbacks

The application with the exception of building 6 satisfies the 7.5m street setback control set out in Council's DCP. Of the 6 lots the subject of this application, the only compliant side setbacks are the western side of building 3 and the eastern side of building 6. The remaining setbacks are between 900mm and 1500mm.

The applicant advised the design intent of this proposal was development on each lot to read as a 'large' 2 storey dwelling, to be consistent with the character of the locality.

Each of the lots, with the exception of lot 6, are by definition townhouses (more than 2 dwellings on one lot of land) requiring a side boundary setback of 3m.

It is acknowledged yield is a key factor for the applicant, based on the affordable housing model whereby SGCH can only levy rentals at 75% of the market rate.

The application has been proposed under the ARHSEPP 2009, which does provide more lenient provisions to offset the public benefit (and low commerciality) of providing affordable housing. Notwithstanding this, the ARHSEPP does require the designer to have regard to the context of the locality where it is to be located. In order to achieve a contextual relationship the requirements of Council's DCP criterion remains relevant.

This application largely fails to satisfy the 3m setback required to each boundary. The side setbacks of building 4 and 5 propose in part a 900mm setback. Whilst this is compliant with the National Construction Code – Building Code of Australia, it is out of character with development in this location, which requires a minimum setback of 1500mm for dwellings (that is 3m between each dwelling).

A 3m setback is not able to be achieved given the current design, unless each development is reduced to a duplex on each lot.

It is further noted this development form will no longer be permissible upon the gazettal of Draft Local Environmental Plan 2013. As a result, in order for this development to be more respectful of the desired future context, it is recommended that the plans be amended to provide a 1500mm side setback to each allotment boundary. This can be readily accommodated if a townhouse is deleted as recommended by Council.

This design modification will result in the development being more consistent with the objectives of Chapter 3 Urban Design (clauses 3.a.1 and 3.a.2) and the existing and future character of the locality.

### 10.6 Private Open Space

Sutherland Development Control Plan 2006 requires:

*“each dwelling must provide at least one primary area of useable private open space at ground level that has minimum dimensions of 6 x 6 metres, with a maximum area of this private open space equivalent to 4m x 4m paved. This space is mostly open to the sky”.*

Given the layout of the dwellings, and the rear yards being specific to each dwelling, there is insufficient area in which to provide a 6m width or depth in many instances.

ARHSEPP requires that each dwelling provide 35m<sup>2</sup> of landscaped area. The application fails to meet this on many of the lots as proposed.

In this regard it is considered the private open spaces at the rear of each dwelling are insufficient to provide adequate amenity for future occupants. This is of particular concern given most of the townhouses are big enough to sustain a family occupancy. In order to provide a more functional and useable space, it is recommended via conditions, that access stairs be provided to the elevated rear yards, with balustrading to the top of the retaining walls where there is a change in level of greater than 1.0m. This area is to be suitably landscaped so as to be functional and usable. The availability of this elevated area results in the ability of the clothes lines to be relocated to this level resulting in a more accessible and functional outdoor space adjacent to the internal living areas.

This design change is not considered onerous, and results in greater amenity for the future occupants whilst maintaining the mature trees and deep soil zones. A design that fails to meet minimum standards for private open space for future residents cannot be supported.

### 10.7 Greenweb

The subject site is identified within Council's Greenweb strategy. The Greenweb is a strategy to conserve and enhance Sutherland Shire's bushland and biodiversity by identifying and appropriately managing key areas of bushland habitat and establishing and maintaining interconnecting linkages and corridors. The subject site is identified as a Greenweb *Support* area. A condition of consent has been recommended which requires additional Greenweb plantings to be incorporated within the amended landscape plan, which is to accompany the Construction Certificate plans and documents to the satisfaction of the Certifying Authority.

### 10.8 Energy Efficiency and sustainable building techniques

Clause 52 of SSLEP 2006 contains matters for consideration relating to energy efficiency and sustainable building techniques.

ARAP asked that the applicant give consideration to incorporating solar panels to power hot water and electricity given the predominance of the roofs are north facing. The applicant has not incorporated this in their design

changes. The application has been accompanied by BASIX certificates, which demonstrate compliance with the SEPP.

The proposal is considered acceptable.

#### 10.9 Tree Removal

Landscaping comments and conditions have been received on 12 November 2014, recommending tree replacement and retention conditions. These conditions have been imposed.

#### 10.10 Adaptable Housing

DCP 2006 requires 30% of dwellings on site or at least 1 dwelling. There are 6 lots in this development. The lots are not proposed to be consolidated; therefore 6 dwellings are required to be adaptable, 30% of the development equates to 5.2 dwellings.

This application proposes 5 adaptable dwellings, with floor plans that satisfy AS4299. This is considered reasonable, and no objection is raised to this shortfall as the objectives of DCP 2006 are considered to have been met.

#### 10.11 Safety and Security

The application was forwarded to the NSW Police Force for review. The comments received raised matters that can be resolved by condition (see referrals section of this report for further detail).

The development has been designed to read as a 'large' single dwellings resulting in several of the dwellings having concealed entries. However to mitigate these design issues, it has been recommended that greater attention be given to lighting, and identity of street numbering, the design of fencing and planting so as to provide a suitable, well lit access to these obscured entries.

The proposal is considered to meet the safer by design principles and conditions have been included below.

#### 10.12 Bushfire

The development lots are not mapped as Bushfire Prone Land. The applicant has acknowledged the development is within proximity of land mapped as Bushfire Prone. In this regard, a consultant was engaged to comment on the proposal. The recommendation of this report was the development is constructed to BAL 12.5 as outlined in Planning for Bushfire Protection and AS3959 Construction of Buildings in Bushfire Prone Areas.

The proposal is acceptable in this regard and conditions recommended accordingly.

#### 10.13 Seniors Living Policy – Urban design guidelines

ARHSEPP 2009 references this policy as a guide for designing infill development. The guidelines have been group into 5 mains areas, being:

- Improving neighbourhood fit – This requires the development to have regard to its current and future context. The designer has attempted to design each building to read as a ‘large’ 2 storey single dwelling, through the use of a centralised driveway, obscured entries, terraced rear yards and retained front areas to facilitate driveway grades. Although 2 storey developments are characteristic in the area in the form of dwellings and duplexes, multi unit development is not a characteristic development form and DLEP 2013 proposes to prohibit multi unit housing, as a result this development is not the future character of this locality.

Design changes have been recommended via conditions of consent to reduce the worst of the impacts associated with multi-unit type housing.

- Improving site planning and design - the objectives of this design requirement is for the development to have regard to:
  - Minimising the impact of new development on neighbouring character.
  - Retaining the existing natural features of the sites that contribute to neighbourhood character.
  - Provide high levels of amenity for new dwellings.
  - To maximise deep soil and open space for mature tree planting, water percolation and residential amenity.
  - To minimise the physical and visual dominance of carparking, garaging and vehicular circulation.
  - To provide housing choice through a range of dwelling sizes.

The development has not been designed to meet with Council’s DCP criteria with respect to side setbacks, garages dominating the streetscape and is out of character with the existing and future density and development typology. In order to address this design changes have been recommended to resolve streetscape presentation and amenity concerns.

The application will be conditioned to retain as many of the trees on site including those within the public way.

A condition is recommended to improve access, maintenance and usability/functionality of the rear yards.

There are 5 dwellings with no off-street carparking. The garaging provided is forward of the façade of the dwelling, which does result in dominance. It is acknowledged there are only 2 garages per lot which is not dissimilar to a dwelling; an improved design would be to make the garaging recessive. The applicant has advised this is not possible as the change to this part of the proposal would result in the development being unfeasible. As a result design changes have been recommended with respect to bulk and scale, which reduce the façade dominance of the garages.

The development is a mix of 2 and 3 bedroom dwellings which is considered acceptable.

- Reducing impacts on streetscape.  
Conditions have been recommended to increase the side setbacks to be more consistent with the streetscape and the future character which will be single dwellings. In addition screening of the garbage bay is recommended to address streetscape impact and also reduce the potential for odour impacts on adjoining dwellings.

If the development is to achieve the design outcome of reading as a single dwelling, than consolidation of the access pathways is required, this has been addressed by way of recommended conditions.

- Reducing impacts on neighbouring properties.  
The upper levels of the development contain windows which service bedrooms, circulation corridors and bathrooms. It is considered greater levels of amenity can be achieved by conditioning the upper level bedroom openings to have a sill height of 1500mm.

Screen planting is proposed along the rear boundary of the sites, with the ground floor of the dwellings being considerably lower than the lots at the rear.

Fencing is proposed separating the rear yards of the dwellings, providing a defined outdoor recreation area of each dwelling.

The orientation of the lots results in there being northern and eastern sunlight available to the dwellings. However the quality of this solar access could be improved by increasing the side boundary setbacks to 1500mm and also mirror reversing the developments fronting Hopman Avenue so that the 'shorter' of the dwellings is not obstructed by the 'longer dwellings' resulting a greater level of natural light for all dwellings along this site axis.

- Improving internal site amenity – This development has no common areas, each dwelling is designed to be self supporting the respect to services and private open space.

This application is considered deficient when compared with the objectives of this document; and is not supported in its form as presented, however the design can be improved with the imposition of conditions requiring appropriate design amendments.

#### Draft Sutherland Shire Local Environmental Plan 2013 (DSSLEP2013)

DSSLEP2013 was placed on exhibition on 19 March 2013 and is matter for consideration under S.79C(1)(a)(ii) of the EPA Act.

The land is proposed to be rezoned E4 – Environmental Living under DSSLEP2013. The proposed development, being multi unit housing and attached dual occupancy, will become prohibited in the proposed zone.

At this stage DSSLEP2013 has limited statutory weight in the assessment of applications. The proposed development is not consistent with the draft provisions.

## **11.0 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.

It is recommended that credit be granted for the 6 existing lots and an exemption be granted for the 4 townhouse dwellings with SEPP covenants are granted only. At this time the payable S94 contribution would be:

- 2005 Shire Wide Open Space and Recreation Facilities Plan - \$65,752.48, and
- 2003 Community Facilities Plan - \$8,022.72

The calculation is based on 14 townhouses (14 x \$10,650.05 / \$1,377.75) with a credit for 6 existing lots (6 x \$13,891.37 / \$1,877.63).

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 five new residential units with a concession of one existing allotment.

## **12.0 DECLARATION OF AFFILIATION**

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.

## **13.0 CONCLUSION**

The proposed development is for 18 dwellings over 6 allotments, being a combination of a duplex, 'triplexes' and a 'quadruplex', together with associated vehicle accommodation and landscaping works at, 4-8 Hopman Avenue Menai and 4-8 Bromwich Place Menai, proposed under the provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009.

The subject land is located within Zone 4 – Local Housing pursuant to the provisions of Sutherland Shire Local Environmental Plan 2006. The proposed development, being a 16 townhouse and 1 duplex development, is a

permissible land use within the zone with development consent. However, it will become prohibited as the proposed rezoning of the land to E4 under Draft LEP 2013 prohibits multi dwelling housing and dual occupancies, as a result this development would not be permissible in the future.

In response to public exhibition 11 submissions were received. The matters raised in these submissions have been dealt with by design changes or conditions of consent where appropriate. In particular, conditions requiring design changes such as density reduction, improved solar access, increased private open space and site functionality are recommended.

The proposal includes variations to lot width, density, bulk, scale, private opens space, carparking/traffic, streetscape and future character. These variations have been discussed and are considered acceptable subject to design changes and/or conditions of consent.

The application has been assessed having regard to the Heads of Consideration under Section 79C (1) of the Environmental Planning and Assessment Act 1979 and the provisions of Sutherland Shire Local Environmental Plan and all relevant Council DCPs, Codes and Policies. Following detailed assessment it is considered that Development Application No. DA14/0602 may be supported for the reasons outlined in this report.

## **14.0 RECOMMENDATION**

- 14.1 That pursuant to the provisions of Clause 6 of State Environmental Planning Policy No. 1 (SEPP 1), the Objection submitted in relation to the requested variation of the lot width development standard under Clause 41(4) of Sutherland Shire Local Environmental Plan 2006 is considered to be well founded and is therefore supported. Accordingly, the provisions of SEPP No. 1 are invoked and this development standard is varied to Lot 1 24.8%, Lot 2 34%, Lot 3 6%, Lot 4 10.8%, Lot 5 30.8% and Lot 6 38.4% in respect to this development application.
- 14.2 That Development Application No. DA14/0602 for demolition of the existing 6 dwellings and associated structures, boundary adjustments and construction of 18 dwellings over 6 lots of land, carparking for 13 vehicles and landscape works on Lot 21 DP 43295, Lot 22 DP 43295, Lot 23 DP 43295, Lot 24 DP 43295, Lot 25 DP 43295, Lot 26 DP 43295 8 Bromwich Place, Menai, 6 Hopman Avenue, Menai, 4 Hopman Avenue, Menai, 6 Bromwich Place, Menai, 4 Bromwich Place, Menai, 8 Hopman Avenue, Menai be approved, as a deferred commencement determination subject to the draft conditions of consent detailed in Appendix "A" of the Report.