

## JOINT REGIONAL PLANNING PANEL (Sydney East Region)

<b>JRPP No:</b>	JRPP 2015SYE135
<b>DA No:</b>	DA15/1178
<b>Local Government Area:</b>	Sutherland Shire
<b>Proposed Development:</b>	Demolition of 7 existing dwellings and the erection of two residential apartment buildings comprising 57 units, basement parking and associated landscape works
<b>Street Address:</b>	Lots 1 - 7 DP 23748, 1 - 13 Dianella Street, Caringbah
<b>Applicant/Owner:</b>	Pier Property Corporation
<b>Number of Submissions:</b>	24
<b>Regional Development Criteria (Schedule 4A of the Act)</b>	The development has a capital investment value of more than \$20 million and as such is nominated under Schedule 4A (3) of the Environmental Planning and Assessment Act 1979
<b>List of All Relevant s79C(1)(a) Matters</b>	<ul style="list-style-type: none"> <li>• State Environmental Planning Policy (State and Regional Development) 2011</li> <li>• State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (SEPP 65)</li> <li>• State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</li> <li>• Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment</li> <li>• Apartment Design Guide (ADG)</li> <li>• Sutherland Shire Local Environmental Plan (SSLEP) 2015</li> <li>• Draft Sutherland Shire Development Control Plan (DSSDCP) 2015</li> <li>• Section 94 Developer Contributions Plans: <ul style="list-style-type: none"> <li>• Shire-Wide Open Space and Recreation Facilities 2005</li> <li>• Section 94 Community Facilities Plan</li> </ul> </li> </ul>
<b>List all documents submitted with this report for the panel's consideration:</b>	<ul style="list-style-type: none"> <li>• Draft Conditions of Development Consent</li> <li>• Pre-Application Discussion Minutes</li> <li>• Architectural Review Advisory Panel (ARAP) comments</li> <li>• NSW Police comments</li> <li>• Applicant's Clause 4.6 Objection to Building Height</li> </ul>
<b>Recommendation:</b>	Approval
<b>Report By:</b>	BirchallA, Development Assessment Officer Sutherland Shire Council

## 1.0 EXECUTIVE SUMMARY

### 1.1 Reason for Report

Pursuant to the requirements of Schedule 4A (3) of the Environmental Planning and Assessment Act 1979, this application is referred to the Joint Regional Planning Panel (JRPP) as the development has a capital investment of more than \$20 million. The application submitted to Council nominates the value of the project as \$21,208,000.

### 1.2 Proposal

The application is for two residential flat buildings comprising of 57 units and two levels of basement parking for 122 cars at the above property.

### 1.3 The Site

The subject site is regular in shape and is located off the north side of Dianella Street directly west of the Caringbah oval car park. The site has a total area of 4,292m<sup>2</sup> and falls some 7m from the west to the east.

### 1.4 The Issues

The main issues identified are as follows:

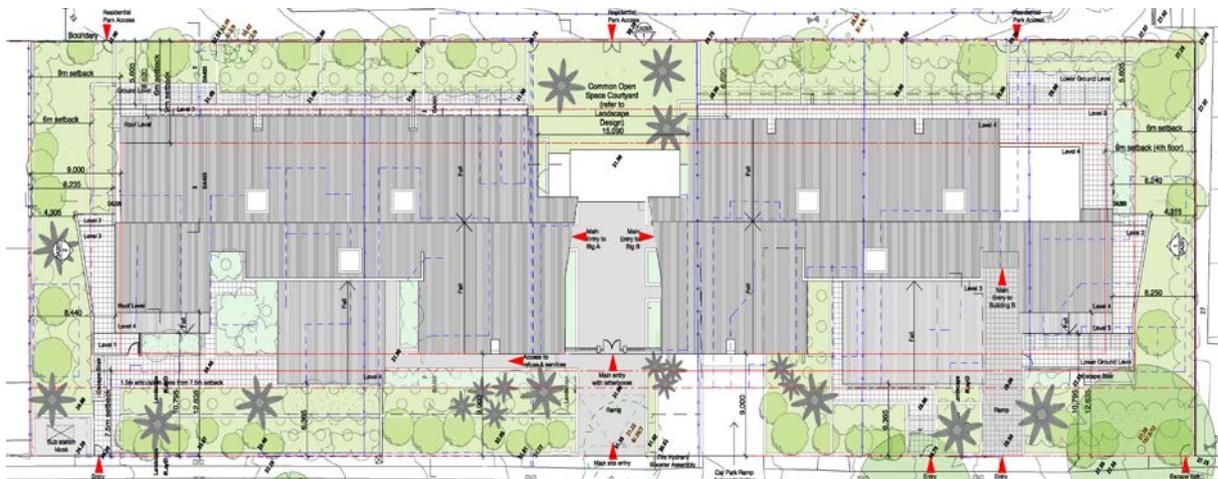
- Common open space
- Setbacks
- Floor space
- Drainage

### 1.5 Conclusion

Following detailed assessment of the proposed development the current application is considered worthy of support, subject to standard conditions and conditions requiring additional common open space and a resolution for drainage.

## 2.0 DESCRIPTION OF PROPOSAL

An application has been received for a residential flat building development at the above property. The proposal is for the demolition of all existing structures and the construction of 2 residential flat buildings up to 5 storeys in height and accommodating 57 residential units. The development includes a mix of 1, 2 and 3 bedroom apartments. Two (2) levels of basement car parking accommodate 122 parking spaces including 107 residential and 15 visitor spaces plus 2 car wash spaces. These are accessed from Dianella Street in the centre of the site.



The development is of a modern contemporary design. Both buildings are 5 storeys in height to the north. From the street however, due to the slope of the site, each building will appear as a 5 storey building to the east, stepping to 4 storeys to the west. The two buildings are separated by a central open space which provides pedestrian access to each building as well as a north facing common open space for the development. Access to the ovals to the north is proposed from this central open space.

All except one existing tree on the site are to be removed. Two (2) of the existing street trees along Dianella Street are to be retained. A strip of deep soil is maintained along each boundary which will provide opportunity for privacy planting between residential developments as well as the public oval and car park. Stormwater is to be discharged to Council's system via an existing pit within the Council car park.

### 3.0 SITE DESCRIPTION AND LOCALITY

The subject land is located at 1 – 13 Dianella Street, Caringbah. Currently situated on the site are seven 1 and 2 storey dwellings and detached ancillary structures.

The land is rectangular in shape and is located off the northern side of Dianella Street near the intersection with Willarong Road. The site has a primary southern frontage to Dianella Street of 117.35m and a depth of 36.58m for a total area of 4,292.12m<sup>2</sup>. The northern boundary adjoins playing fields owned by Sutherland Shire Council. Access and parking for the playing fields is located directly to the east of the site while the western boundary adjoins residential land.

The site falls approximately 7m from the west to the east along the road frontage. The site also falls in a northerly direction by some 1m along the western boundary and 200mm along the eastern boundary. There are six existing trees on and adjacent to the site.



The site is located close to Caringbah Centre and is therefore within close proximity to major public transport nodes, community facilities and public services. The site is within the Caringbah North Precinct which has recently been “up zoned” under Sutherland Shire Local Environmental Plan 2015 from low density residential to R4 High Density Residential.

North Caringbah oval is directly north of the site with a childcare centre and North Caringbah Public School located directly east of the oval. A small Council owned car park for the oval is located directly east of the site followed by a large park which extends some 140m further east. Residential dwellings are currently located directly west of the site and along the western boundary of the oval address Willarong Road. These properties are currently under assessment for residential flat building developments. The southern side of Dianella Street consists of 2 storey medium density developments.



#### 4.0 BACKGROUND

A history of the development proposal is as follows:

- A pre-application discussion (PAD) was held on 3 September 2015 regarding development of the properties. A formal letter of response was issued by Council dated 30 September 2015. 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:
  - Concerns regarding the suitability of a single building along the length of the site.
  - Excess car parking spaces will be included as floor space.
  - Direct access to the ovals from individual dwellings will not be supported.
  - Additional common open space to be explored on the roof.
  - A drainage easement must be obtained from Council prior to lodgement.
  - A loading bay must be provided for waste collection.
- The current application was submitted on 8 October 2015.
- The application was placed on exhibition with the last date for public submissions being 12 November 2015. Twenty four submissions were received.
- An Information Session was held on 4 November 2015 and 10 people attended.
- A letter was sent to the applicant on 2 December 2015 requesting that the following additional information be provided by 16 December 2015.
  - *Provide greater detail on plans in terms of existing and proposed levels and balcony overhangs.*
  - *The amenity of Unit G.1 is considered unacceptable.*
  - *Amend internal layouts and balcony depth of some units to improve amenity.*
  - *Reposition planter boxes away from buildings.*
  - *Explore additional common open space on the roof of both buildings.*
  - *Provide solar access and natural ventilation diagrams.*

- *Provide a waste room for Building B and an on-site collection point.*
- *Show evidence of the required drainage easement or redesign.*
- *On-site detention tank is to be removed from deep soil area.*
- Amended plans were lodged on 22 December 2015.
- The application was considered by Council's Submissions Review Panel on 12 January 2016.

## 5.0 ADEQUACY OF APPLICANT'S SUBMISSION

In relation to the Statement of Environmental Effects, plans and other documentation submitted with the application or after a request from Council, the applicant has provided adequate information to enable an assessment of this application, including a clause 4.6 Objection requesting a variation to the Floor Space Ratio standard.

## 6.0 PUBLIC PARTICIPATION

The application was advertised in accordance with the provisions of Chapter 12 of DSSDCP 2015. One hundred and sixty four (164) adjoining or affected owners were notified of the proposal and 24 submissions were received as a result.

A full list of the locations of those who made submissions, the dates of their letters and the issues raised is contained within **Appendix "C"** of this report.

The issues raised in these submissions are as follows:

### 6.1 Issue 1 – Parking and Traffic Impacts due to width and use of the Dianella Road

Comment: The proposal has been assessed by Council's Traffic and Transport unit. The proposed development complies with floor space allowances and provides more than the required parking number and therefore will have traffic impacts as envisaged by the development of the new Caringbah North Precinct.

### 6.2 Infrastructure – Surrounding developments already suffer from reduced water pressure and are unable to access high speed internet.

Comment: This is a broader regional issue that needs to be addressed by individual providers. This concern has been referred to Council's Strategic Planning Division for consideration.

### 6.3 Public park – private access should not be provided to the park.

Comment: The park and ovals are available to the general public at all times. While private access will not be provided to the public oval from individual apartments, an access point is proposed to be provided from the developments central open space. This will help provide easier access by residents of the apartments to a public space and is not considered to encourage the 'privatisation' of this area by surrounding residents.

### 6.4 Concern is also raised with regards to privacy and security for the ovals, the school and the childcare centre

Comment: As noted, the park and ovals are available to the general public at all times and is currently overlooked by several two storey dwellings and is adjoined by a public car park and road. The park is the principal aspect of this development to take advantage of the northern sun and distant city views. The orientation of the development towards the ovals is considered beneficial to the security of the oval and its users through passive surveillance and activated frontages. The ovals separate the childcare centre and school from the development to avoid direct overlooking with significant trees and school buildings also providing a visual and aural boundary.

#### 6.5 School – long term disruption due to construction noise and traffic.

Comment: The construction of the development will result in short term disruption to the local area. Construction noise and working hours are managed through standard conditions of consent and disruption to public areas will be managed via a permit obtained through Council's Engineering Division which will manage construction traffic, parking, road and footpath closures and the like.

#### 6.6 Waste – on street pick up disrupts traffic flow and parking.

Comment: As is required for a development of this size, waste will be collected by a private contractor. This will occur on site from a waste holding area adjacent to the basement entrance.

#### 6.7 Cumulative impacts – due to the development of the new precinct

Comment: The area has been upzoned in the recent gazette of Council's new Local Environmental Planning Instrument. This area is close to public transport and all major services and is therefore considered suitable for higher density development.

#### Submission Review Panel (SRP)

The 24 submissions received by Council during public exhibition were considered by Council's SRP on 12 January 2016. The SRP concluded that all matters raised within the submissions are either not substantive or can be dealt with via condition of consent.

#### Revised Plans

The applicant lodged revised architectural plans on 22 December 2015. The amendments made to the original proposal included the following:

- Additional waste room added to Building B.
- Additional spot levels and building overhangs have been provided.
- North facing terraces and balconies reduced in size to increase deep soil landscaping, solar access to living areas and provide articulation.
- Some internal alterations to improve circulation and outlook.
- Addition of windows to side elevations to improve cross ventilation.

Further revisions providing appropriate adaptable dwellings and a clause 4.6 objection were received 19 January 2016.

It was deemed unnecessary to renotify the amended proposal on the basis that all amendments were either minor in the context of the overall development.

## **7.0 STATUTORY CONSIDERATIONS**

The subject land is located within Zone R4 High Density Residential pursuant to the provisions of Sutherland Shire Local Environmental Plan 2015 (SSLEP 2015). The proposed development, being the construction of 2 residential flat buildings, is a permissible land use within the zone with development consent from Council.

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

- State Environmental Planning Policy (State and Regional Development) 2011
- State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (SEPP 65)
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment
- Apartment Design Guide (ADG)
- Sutherland Shire Local Environmental Plan (SSLEP) 2015

- Draft Sutherland Shire Development Control Plan (DSSDCP) 2015
- Section 94 Developer Contributions Plans:
  - Shire-Wide Open Space and Recreation Facilities 2005
  - Section 94 Community Facilities Plan

## 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:

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

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

<b>Design Quality Principles</b>	<b>Assessment</b>
Principle 1: Context and neighbourhood character	The proposal is an appropriate response to the large site and the upzoning of the Caringbah North Precinct at the periphery of Caringbah Centre. The development is consistent with desired future character of the Caringbah North Precinct as envisaged under SSLEP 2015.
Principle 2: Scale and Built Form	The proposed scale is a positive response to the site and is generally consistent with the built form envisaged in DSSDCP 2015. The scale of the proposal is compatible with the scale of the new development that will occur within the Caringbah North Precinct. Adopting a 2 building scheme allows for a central open space area that also connects to the ovals to the north and provides visual relief. Each of the 2 RFB buildings step down and the uppermost storeys is reduced in number of units and generally recessed from the sides. This affords some articulation to the scale.
Principle 3: Density	The proposed density is acceptably distributed across the site. The density of the proposal is an appropriate response to the new development Floor Space Ratio and Landscaped Area development standards that apply to the Caringbah North Precinct under SSLEP 2015.
Principle 4: Sustainability	The development incorporates BASIX requirements and sustainability measures into its overall design. A large number of the dwellings receive adequate solar access and cross ventilation so as to enhance the energy efficiency and to provide suitable amenity to the building's future occupants
Principle 5: Landscape	The proposed development includes compliant deep soil areas for tree planting and landscaped areas which reinforce the existing and desired future character of the locality.
Principle 6: Amenity	The proposal adequately satisfies the provisions of the ADG with respect to residential amenity, including appropriate building and floor plan layout, solar access, natural ventilation and visual/acoustic privacy.

Principle 7: Safety	The proposed development incorporates Crime Prevention Through Environmental Design (CPTED) Principles in the design.
Principle 8: Housing Diversity and Social Interaction	The proposal provides a mix of apartment types and sizes including adaptable and garden apartments. Areas of formal and informal meeting spaces will provide opportunity for social interaction.
Principle 9: Aesthetics	An appropriate composition of building elements, textures, materials and colours within the development has been generally achieved.

## 8.2 Apartment Design Guide (ADG)

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

<b>Apartment Design Guide (ADG) – Key Controls</b>			
Building separation	<i>Up to 12m:</i> 4.5m non habitable 6m habitable	6m 4.3m	Yes <b>No (28.3%)</b>
	<i>12 – 25m:</i> 6m non habitable 9m habitable	- 7.1m (balcony)	<b>No (21.1%)</b>
Solar access	Living rooms and private open space, 2 hours direct sunlight between 9am and 3pm, mid winter to 70% of apartments.	47 of the proposed 57 dwellings (82%) receive 2 or more hours of sunlight to living room windows and to private open space areas during mid winter	Yes
Maximum depth of open plan layout apartments	8m	<8m max	Yes
Natural ventilation	60% of apartments to be naturally cross ventilated. Max. Depth 18m	41 of the 57 or 72% are naturally cross ventilated	Yes
		< 18m	Yes
Apartment size	1br: 50m <sup>2</sup> 2br: 70m <sup>2</sup> 3br: 90m <sup>2</sup>	1br: Min. 56m <sup>2</sup> 2br: Min. 75m <sup>2</sup> 3br: Min. 96m <sup>2</sup>	Yes Yes Yes
Ceiling heights	2.7m	2.7m	Yes
Private open space:	<i>Primary balconies:</i> 8m <sup>2</sup> , min. 2m depth 10m <sup>2</sup> , min. 2m depth 12m <sup>2</sup> , min 2.4m depth	>8m <sup>2</sup> , min. 2m depth >10m <sup>2</sup> , min. 2m depth >12m <sup>2</sup> , min 2.4m depth	Yes Yes Yes
		15m <sup>2</sup> with min 3m depth	>15m <sup>2</sup> with min 3m depth Yes
- Ground level apartments (or on a podium)			

Communal open space (COS):			
- Size:	25% of site area (1,073m <sup>2</sup> )	6.45% of the site (277m <sup>2</sup> )	<b>No (74%)</b>
- Solar Access:	Direct sunlight to at least 50% of COS for 2 hours, 9am – 3pm	>50%	Yes
Residential storage	6m <sup>3</sup> per 1br apartment 8m <sup>3</sup> per 2br apartment 10m <sup>3</sup> per 3br apartment	At least 5m <sup>2</sup> in basement as well as additional within apartments	Yes
	At least 50% of storage to be located within the apartments	At least 50% of storage is located within apartments	Yes

### 8.3 Local Controls – SSLEP 2015 and DSSDCP 2015

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

Standard/Control	Required	Proposed	Complies? (% variation)
<b>Sutherland Shire Local Environmental Plan 2015</b>			
Building Height	16m	<16m	Yes
FSR	1.2:1 (5,150.5m <sup>2</sup> )	1.25:1 (5,367.75m <sup>2</sup> )	<b>No (4.2%)</b>
Landscaped Area	30% (1,287.63m <sup>2</sup> )	32.8% (1,409m <sup>2</sup> )	Yes
<b>Sutherland Shire Development Control Plan 2015</b>			
Articulation / Streetscape Integration	Built form articulated to avoid large expanses of broken wall	Articulation through varying building setbacks, use of balconies and materials	Yes
Street setbacks	7.5m (1.5m articulation zone permitted)	7.5m	Yes
Side setback	<i>Up to 12m:</i> 4.5m non-habitable or highlight window 6m habitable  <i>12 – 25m:</i> 6m non habitable 9m habitable	4.3m  6m  - 7.1m	<b>No (4.4%)</b>  Yes  <b>No (21.1%)</b>
Basement setback to street	6m	6m	Yes
Side and rear boundaries	3m	Min. 4.55m	Yes
Adaptable apartments	20% (11 adaptable) 10% (6 livable)	20% (11 adaptable) 10% (6 livable)	Yes
Open space:-			
- Common	25% of site area (1,073m <sup>2</sup> )	6.45% of the site (277m <sup>2</sup> )	<b>No (74%)</b>
- Private			
- 1 br apartment	8m <sup>2</sup> , min. 2m depth	>8m <sup>2</sup> , min. 2m depth	Yes

Standard/Control	Required	Proposed	Complies? (% variation)
<ul style="list-style-type: none"> <li>- 2 br apartment</li> <li>- 3 br apartment</li> <li>- Ground level apartments</li> </ul>	10m <sup>2</sup> , min. 2m depth 12m <sup>2</sup> , min 2.4m depth >15m <sup>2</sup> with min 3m depth	>10m <sup>2</sup> , min. 2m depth >12m <sup>2</sup> , min 2.4m depth >15m <sup>2</sup> with min 3m depth	Yes Yes Yes
Car parking	Min. 89 residential spaces Min. 14 visitor spaces	107 residential spaces 15 visitor spaces	Yes Yes
Solar access: Apartments	70% (40) of apartments receive 2hrs mid winter	82% (47) apartments	Yes
Open space	Direct sun between March and September	Achieved	Yes

## 9.0 SPECIALIST COMMENTS AND EXTERNAL REFERRALS

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

### 9.1. Architectural Review Advisory Panel

The proposal was considered by Council's ARAP on 8 October 2015. The ARAP made the following comments:

- Further detailed design consideration is given to ground floor apartments that are located below natural ground level.
- The size, location, amenity and detailed design of communal open spaces be enhanced.
- Articulation of the northern façade is further considered and the extent of deep balconies reviewed.
- The level of direct accessibility to the oval is restricted to the central communal open space.
- Apartment plans are re-considered to create larger and more functional primary living areas. This also applies to the design provisions for adaptable units.
- The location of the garbage refuse collection zone and the storage area is more convenient, discreet and separated from units.
- Further consideration be given to the landscape treatment and permeability of the northern park edge transition zone."

A copy of the Report from ARAP is attached at **Appendix "D"**.

### 9.2. NSW Police (Miranda Local Area Command)

The DA was referred to the Miranda Local Area Command Crime Prevention Officer in accordance with Council's adopted policy for RFBs over 50 units. The comments made by the Crime Prevention Officer have been taken into account in the assessment of the DA. The NSW Police advise that many simple measures can improve the safety and security of the area and should be considered at the DA stage. Various reasonable and enforceable conditions that were recommended by the Officer have been included within the recommended consent conditions. A copy of the full NSW Police comments is held at **Appendix "E"**.

### 9.3. Engineering

Council's development engineer has undertaken an assessment of the application and advised that subject to suitable conditions of development consent no objection is raised to the proposal.

### 9.4. Architect

Council's architect has undertaken an assessment of the application and advised that generally the development is well designed. The development does not comply with the ADG design criteria for building separation but this is supportable in this case. These matters are addressed below in the "Assessment" section of this report and suitable conditions of consent have been recommended.

### 9.5. Landscape Architect

Council's landscape architect has undertaken an assessment of the application and advised that subject to suitable conditions of development consent no objection is raised to the proposal. This includes providing a roof top terrace on each building to supplement the common open space on the ground floor and the planting of appropriate tree species.

### 9.6. Traffic and Transport

Council's traffic engineer has undertaken an assessment of the application and advised that subject to suitable conditions of development consent no objection is raised to the proposal.

## **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 Built Form

The aim of the Caringbah North Precinct Draft DCP is to create a medium to high rise residential community close to the centre and services amongst indigenous landscaping and spaces between buildings. The Architectural Review Advisory Panel considered this development to be relatively well resolved through the proposal to create two built forms. This reduces the scale of the development and allows the 7 metre fall across the site to be resolved. The street façades have been further articulated into six smaller elements that step in height with the street frontage, so that the bulk and scale have been successfully modulated to preserve a sense of the finer grain of this residential precinct.

The northern facade is more immense and horizontally articulated which responds to the oval side setting, however, this could benefit from some articulation. This elevation has been addressed through revised plans which reduce the depth of balconies as well as the horizontal extent to provide breaks in the facade, particularly at lower levels.

Landscaped courtyards open to the street further and assist in integrating the scale of the development and encouraging street activation. Ground level terraces extend to the northern boundary and include a landscaped strip to allow the planting of canopy trees and a green outlook to these dwellings. A broad common landscaped strip has been provided to each side boundary to extend the landscaped setting of the development.

Parking to both buildings is accessed under the western end of Building B. While not at the lowest point of the site, this location allow the basement to be split at this point to allow the buildings to respond to the moderate fall along this frontage.

The provision of an accessible built environment is both a design and a legislative requirement and is central to all new developments within the Sutherland Shire to provide everyone with the opportunity to have equitable and barrier free movement. The incorporation of level entrances, lift access to all areas, and the provision of adaptable and livable units ensure a barrier free environment to all residents, visitors and pedestrians through the precinct.

## 10.2 Floor Space Ratio

The proposed development fails to comply with the development standard for building density. Clause 4.4(2) of SSLEP 2015 stipulates a maximum floor space ratio (FSR) of 1.2:1 (5,150.5m<sup>2</sup>) for this site.

The development proposes a FSR of 1.25:1 which exceeds the maximum allowed by approximately 4.2% (217.25m<sup>2</sup> in excess of the standard).

The objectives of the floor space ratio development standard set out in clause 4.4(1) of SSLEP 2015 are as follows:

- (a) *to ensure that development is in keeping with the characteristics of the site and the local area,*
- (b) *to ensure that the bulk and scale of new buildings is compatible with the context of the locality,*
- (c) *to control development density and intensity of land use, taking into account:*
  - (i) *the environmental constraints and values of the site, and*
  - (ii) *the amenity of adjoining land and the public domain, and*
  - (iii) *the availability of infrastructure to service the site, and*
  - (iv) *the capacity of the road network to accommodate the vehicular and pedestrian traffic the development will generate, and*
  - (v) *the desirability of retaining the scenic, visual, and landscape qualities of the area.*

The non-compliant floor space is due solely to the provision of car parking above that required by Council in the Draft DCP 2015. All parking is provided within two levels of basements. As such, the additional floor space does not impact on the bulk or scale of the development, the character of the area or the amenity of adjoining land. As the additional floor space is not a result of additional or larger dwellings, it will have minimal additional impact on the capacity of the road network or the traffic generated by development. It will, however, increase off street parking offered to the development and assist in minimising on-street parking.

The proposed development is located within zone R4 High Density Residential. The objectives of this zone are as follows:

### Zone R4 High Density Residential

- *To provide for the housing needs of the community within a high density residential environment.*
- *To provide a variety of housing types within a high density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To encourage the supply of housing that meets the needs of the Sutherland Shire's population, particularly housing for older people and people with a*

- disability.*
- *To promote a high standard of urban design and residential amenity in a high quality landscape setting that is compatible with natural features.*
- *To minimise the fragmentation of land that would prevent the achievement of high density residential development.*

The additional car parking technically resulting in the non-compliance with floor space will particularly attract residents with more than one car or possibly with other vehicles such as motorbikes, small boats or trailers that require secure storage and therefore adds to the variety of housing types in high density developments and provides a housing need. The basement does not extend beyond the perimeter of the development itself and therefore has no impact on deep soil landscaping, ensuring a high standard of residential amenity in a high quality landscape setting.

The applicant has lodged a written request in accordance with the requirements of clause 4.6 of SSLEP 2015. A copy of the clause 4.6 objection is attached at **Appendix “F”**.

A full copy of this request is on the file and the most relevant section is reproduced below:

*“The additional GFA sought is located at basement level and therefore it will have a negligible impact on the overall bulk and scale of the development visible from the public domain. The particular sizing attributes of the site allow for the delivery of this additional floor space without any impact.”*

The applicant’s written submission demonstrates that compliance with the FSR development standard is unreasonable or unnecessary in the circumstances of the case as the development is consistent with the objectives of the standard notwithstanding non-compliance with numeric control. The bulk and scale of the development are compatible with the desired future character of the new precinct and the density is appropriate considering the sites proximity to transport, employment and services. Being in the basement, the additional floor space does not impact on the bulk and scale of the development and does not affect the solar access or privacy of neighbouring developments.

The written submission also demonstrates sufficient environmental planning grounds to justify varying this development standard in that the size and dimensions of the site allow for the delivery of additional parking without any impact when viewed from the public domain.

The proposed development is in the public interest as the proposal complies with the objectives for both FSR and the R4 Zone as well as assisting with minimising impacts on road side parking by providing more than the minimum parking without impacting on landscaping or the built form.

The proposed variation not does raise any matters of State or Regional Environmental Planning significance. In addition, there is no public benefit to maintain the FSR development standard in the circumstances of this case as the removal of the additional parking would have no impact on the bulk or scale of neither the development nor the deep soil area around the buildings.

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

### 10.3 View loss

The issue of view loss has been raised as a generally concern from surrounding properties as well as specifically from the medium density development off the southern side of Dianella Street.

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

**Step 1 - Assessment of views to be affected**

The views currently enjoyed from No. 1-5 Sunnyside Avenue (off the southern side of Dianella Street) are distant (some 20km) views of the city skyline to the north as well as potential glimpses of Woolloomooloo Bay to the north east. It is estimated that 3 of the 7 dwellings fronting Dianella Street enjoy some level of view to the city and 2 of these may have water glimpses. The city view currently enjoyed is largely due to the dwelling at No 7 Dianella Street being of single storey construction.

**Step 2 - What part of the property the views are obtained from.**

Views are obtained from select areas of the second floor north facing balcony from a standing position. They are not available from the corresponding living area from the dwelling inspected. Considering the distance of the views and the existing trees and buildings off the northern side of Dianella Street, as well as the height of the impacted development, it is unlikely views are obtained from any of the internal living spaces.

**Step 3 - Assess the extent of the impact.**

Any views of the bay are likely to be completely lost from the development due to the north easterly direction in which they are obtained. This area will be impacted by Building B. The two central north facing balconies of the development at No. 1-5 Sunnyside Avenue are immediately south of No's 7 and 5 Dianella Street. The 9m wide space between proposed Buildings A and B is located in the centre of No. 7 Dianella Street. The dwelling inspected will therefore retain the existing distant view to the city skyline and potentially enjoy an improved view through this central space.

The top floor unit directly to the east of that visited may have more limited views of the city as the dwelling directly in front at No. 5 Dianella Street is a double storey dwelling with a pitched roof. There are three additional units adjacent to the western boundary a set back from the Dianella Street. The top floor unit may also enjoy city views over No. 7 Dianella Street. Again, this is likely to be retained.

The view loss from No. 1-5 Sunnyside Avenue is therefore considered to be minor.

**Step 4 - Assess the reasonableness of the proposal that is causing the impact.**

Apart from the additional parking providing wholly below ground level, the development fully complies with the height limit and the density as envisaged for the site. The proposal consists of some minor encroachments into required side and rear setbacks.

The only means of ensuring that units of No. 1-5 Sunnyside Avenue retain water views is for Building B to be of a single storey construction. This significant loss of floor space is unreasonable and unrealistic for any residential site. Due to the location of the impacted development, increasing side setbacks would not reduce view loss.

Increasing the separation between the two buildings may provide the eastern top floor unit with city views, however, this would significantly impact on the largely south facing units in terms of solar access or alter the design to add more bulk to the Dianella frontage. Considering this would potentially retain very distant views for one of 7 units along this frontage, the proposed building separation is considered appropriate.

The proposed design of the two buildings, at or below the height limit, with a central open space is appropriate for this site. The built form has been kept low and provides a 9m wide view corridor to the units on the southern side of Dianella Street. The proposal is therefore considered reasonable in terms of impact on views.

#### 10.4 Building Separation

The ADG design criteria require a minimum separation between balconies and window of 12m up to 4 storeys (12m) and 18m between 5 storeys (12m) and 8 storeys (25m). To achieve this equitably between sites, a 9m setback from side boundaries is required for buildings above 4 storeys. Variations to this can be considered depending on the design of any existing developments or the adequacy of window treatments.

The development generally sets habitable rooms at the required distance from both side and rear boundaries. South facing units adjacent to the east and west boundaries up to level four have been provided with a splayed living room and balcony in order to provide solar access to the private open space and living areas of these units. This splayed area encroaches into the required side setbacks by up to 1.7m. The development complies with the required side setbacks above 12m being the top floor units.

Apart from level 3, the side elevations which encroach into the side setbacks are provided with a solid wall which also extends the length of the balcony. This effectively negates both acoustic and visual privacy to any development adjoining to the east.

Amendments to the design rearranged the internal layout of Unit 3.1 to provide an appropriate adaptable layout and the living room has been provided with doors leading to the principle part of the balcony as requested by Council. The western edge of this balcony encroaches into the required 6m setback and should be fitted with some form of privacy screen to protect both the eventual neighbouring development and the future residents with an adequate level of privacy. An appropriate condition of consent has been recommended (condition 2).

The balconies of north facing units comply with the required setback up to 12m, however, the top floor balconies encroach into the required setback in relation to the rear of the site by 1.9m. In this instance, the rear and east of the site bounds a public space which is unlikely to be developed in the foreseeable future. A minor encroachment into these areas is therefore considered acceptable as this will not reduce the development potential of adjoining land.

The building separation provided between the two buildings does not comply with ADG requirements due to the habitable spaces. However, these non-compliances have been addressed through the provision of a solid wall which also extends the length of the balcony. This effectively negates both acoustic and visual privacy between these buildings. This separation is therefore acceptable in this instance.

#### 10.5 Common Open Space

The proposal provides a formal area of common open space in the centre of two buildings adjacent to the ovals. This space is well located in terms of solar access, access to the ovals and central to both buildings. This space has been provided with shade, seating, toilet facilities and a BBQ. As this area is the only communal open space proposed and occupies approximately 6.5% of the site, the proposal is notably below the ADG requirements of 25% of the site.

The ADG makes allowances for sites in really dense urban environments, however, this site is not considered to be in such a location and has few constraints to warrant such a shortfall in common open space. The applicant argues that the site is in close proximity to public ovals as well as a large park with children's play equipment. While this is correct, it is not considered appropriate to rely on these spaces for outdoor entertainment for the residents of the development.

This site is just one site within the newly formed Caringbah North Precinct, much of which is focused around the ovals. It is considered that each of these developments must supply

appropriate open space for its future residents rather than forcing these residents onto public land.

As the site has a moderate fall from the west to the east, the western side of each of the buildings are up to 3m below the allowable height limit for the site. It is considered suitable and appropriate to provide an area of common open space on the roof top of each building to supplement the small area of ground floor open space. While these additional areas do not require the full facilities of the ground floor communal space, this side of the roof tops can readily accommodate facilities such as seating, tables, planters and a pergola below the maximum height limit and a condition of consent requires the construction of a roof top terrace on each building (Condition 2).

While the stair access and lift overrun are likely to breach the height limit, these are largely located in the centre of the building and will have little impact on the bulk and scale of the buildings while providing essential facilities to future tenants. The building will remain consistent with the objectives for height control and better comply with the objectives of the zone in providing facilities to meet the day to day needs of residents as well as a high standard of residential amenity.

The provision of roof top terraces with suitable hard and soft landscaping has been included as a recommended condition of consent.

#### 10.6 Parking and Traffic

To comply with Council's draft DCP 2015, this development requires 89 residential car parking spaces and 14 visitor's car parking spaces. The proposal provides 107 residential spaces and 15 visitor's spaces at basement level. The development therefore provides more parking than required.

As the site is long but narrow, the proposal includes a large number of tandem spaces. While this is not considered an ideal parking arrangement, each set is allocated to a single unit and allows for all two bedroom units to be provided with two parking spaces. The basement is below the foot print of the building and complies with all setback requirements. The removal of tandem spaces would therefore have little impact on landscaping and no impact on the appearance of the building. The additional parking spaces can reduce the use of roadside parking and provides flexibility to residents to store other large items such as motor bikes, camper trailers or the like.

#### 10.7 Stormwater Management

Clause 6.4 of SSLEP 2015 requires Council to be satisfied of certain matters in relation to stormwater management prior to development consent being granted. These matters include maximising permeable surfaces and on-site stormwater retention to minimise the impacts on stormwater runoff.

The stormwater drainage design proposes to rely on on-site detention, however, it is considered appropriate that some rainwater harvesting be utilised at least for irrigation of the communal landscaped areas and car washing. Stormwater concept plans indicate an in-ground 10,000L rainwater tank. A condition has been recommended requiring harvested stormwater be used for these purposes.

The concept stormwater plan indicates a 10 x 3 m on-site detention tank. The tank was originally located in the rear north-eastern corner, the lowest portion of the site. The tank has been relocated to be midway along the eastern boundary. This is still in accordance with Council's requirements that the OSD not be located in landscaped area and its relocation has been conditioned accordingly.

The tank has a volume of 66m<sup>3</sup> with discharge proposed to be directed to the existing kerb inlet pit located within 125R Cawarra Road. As this is a Council Reserve an easement to drain water must be negotiated with Council's property division and the applicant was advised to secure the easement prior to lodgement. Evidence of the in principle agreement is yet to be provided and as such the application cannot be approved until this matter is resolved.

A condition has therefore been imposed that requires an alternate drainage solution be approved where an in principal agreement to an easement cannot be negotiated (Condition 13). This requires discharge directly to the south eastern corner of Dianella Street through the extension of the infrastructure on the northern side of Dianella Street from a newly constructed pit fronting the property to the existing kerb inlet pit located approximately 65m to the east.

#### 10.8 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.

As the subject site is identified as being within a Greenweb Restoration area, all new tree plantings must be indigenous species and 50% of understorey plants must be indigenous species. Appropriate conditions have been included to substitute plantings with suitable species to address the Greenweb area requirements.

### 1.0 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. These contributions include:

Open Space:	\$392,504.59
Community Facilities:	\$67,925.04

These contributions are based upon the likelihood that this development will require or increase the demand for local and district facilities within the area. It has been calculated on the basis of 57 new residential units with a concession of 7 existing allotments.

### 2.0 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.

### 3.0 CONCLUSION

The proposed development is for two residential flat buildings at 1-13 Dianella Street, Caringbah.

The subject land is located within Zone R4 High Density Residential pursuant to the provisions of Sutherland Shire Local Environmental Plan 2015. The proposed development, being a residential flat building is a permissible land use within the zone with development consent.

In response to public exhibition, 24 submissions were received. The matters raised in these submissions have been discussed in this report and include traffic, privacy and view loss.

The proposal includes a variation to the floor space ratio. This variation has been discussed and is considered acceptable in the circumstances of this development. The proposal does not comply with the ADG for building separation however these are also acceptable in this case. The proposal provides the density and landscaping envisaged for this area and will deliver a high quality development with good amenity and additional parking in a park setting.

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. DA15/1178 may be supported for the reasons outlined in this report.

#### **4.0 RECOMMENDATION**

- 4.1 Pursuant to the provisions of Clause 4.6 of Sutherland Shire Local Environmental Plan 2015, the written submission in relation to the variation to Floor Space Ratio satisfies the relevant provisions of Clause 4.6 and is therefore supported. It is recommended that the provisions of Clause 4.6 be invoked and that the Floor Space Ratio development standard be varied to 1.25:1, in respect to this application.
- 4.2 That Development Application No. DA15/1178 for two residential flat buildings at Lot 1- 7 DP 23748, 1-13 Dianella Street, Caringbah be approved, subject to the draft conditions of consent detailed in Appendix "A" of the Report.