

2015SYE135 - 1-13 Dianelle Street, Caringbah

(DA15/1178)

ASSESSMENT REPORT APPENDICES

Appendix	A	Draft Conditions of Consent
	B	Pre-Application Discussion dated 30 September 2015
	C	Submission List
	D	Architectural Review Advisory Panel Report dated 12 November 2015
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DRAFT CONDITIONS OF DEVELOPMENT CONSENT
Development Application No. DA15/1178

1. Approved Plans and Documents

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

<i>Plan number</i>	<i>Reference</i>	<i>Prepared by</i>	<i>Date</i>
DA003 Rev B	Site Plan	BKA Architecture	21/12/15
DA100 Rev F	Basement Floor Plan	BKA Architecture	7/10/15
DA101 Rev G	Lower Ground Floor Plan	BKA Architecture	18/01/16
DA102 Rev G	Ground Floor Plan	BKA Architecture	18/01/16
DA103 Rev G	Level 1 Floor Plan	BKA Architecture	18/01/16
DA104 Rev G	Level 2 Floor Plan	BKA Architecture	21/12/15
DA105 Rev G	Level 3 Floor Plan	BKA Architecture	18/01/16
DA106 Rev G	Level 4 Floor Plan	BKA Architecture	21/12/15
DA107 Rev C	Roof Plan	BKA Architecture	21/12/15
DA200 Rev E	Elevations	BKA Architecture	18/01/16
DA201 Rev C	Elevations	BKA Architecture	18/01/16
DA300 Rev B	Sections	BKA Architecture	21/12/15
DA301 Rev A	External Building Materials and Finishes - Elevations	BKA Architecture	30/09/15
DA302 Rev B	External Building Materials and Finishes - Detail Section	BKA Architecture	07/10/15
DA700 Rev B	Adaptable Apartments	BKA Architecture	18/01/16
L1 Rev DA-H	Landscape Plan - Ground Floor & Plant List	Nicholas Bray Landscapes	21/12/15
L2 Rev DA-H	Landscape Plan - Level 1 and Ground Floor	Nicholas Bray Landscapes	21/12/15
L3 Rev DA-H	Landscape Street Elevation and Sections	Nicholas Bray Landscapes	21/12/15
L4 Rev DA-H	Landscape Planter Levels & Sections	Nicholas Bray Landscapes	21/12/15

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

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

- i) A Construction Certificate.
- ii) Notification of the appointment of a Principal Certifying Authority and a letter of acceptance from that Principal Certifying Authority.

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

2. Design Changes Required

A. Before Construction

The following design changes must be implemented:

- i) Extend the balustrade or provide a privacy screen to the splayed section of the western edge of the balcony of Unit 3.1 to a minimum height of 1.7m.
- ii) Extend the southern terrace of Unit 1.1 east to incorporate area proposed as planter box adjacent to beds 1 and 2. Provide a 1m wide planter along the southern extent of terrace and appropriate screen fencing along the southern and eastern extent of terrace.
- iii) Extend the lift and western most stair of each building to provide access to a 60m² roof terraces to be constructed west of the stairs and lift. The lift of Building A is to be repositioned to be directly adjacent to the western stair. The extent of the lift /stair structure at roof level is to be minimised and integrated into the design of the building.
- iv) Reconfigure fire stairs adjacent to basement ramp to accommodate Building B refuse store room immediately north of and with direct access to waste collection area. Provide planter box between relocated refuse store room and central walkway.
- v) The on-site detention vessel is to be relocated to an area that is not within a deep soil landscaped area.
- vi) The on-site waste collection point must accommodate a heavy rigid vehicle.

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

3. Public Place Environmental, Damage & Performance Security Bond

A. Before Construction

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

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

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

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

The value of the bond is \$50200.

Note: Bond amount includes a non refundable administration fee which must be paid separately.

Use of Bank Guarantee - As bond releases may occur under different timeframes only one bond amount / bond purpose is permitted on a Bank Guarantee. Multiple bonds will require multiply bank guarantees to be lodged.

B. After Occupation

A request for release of the bond may be made to Sutherland Shire Council after all works relating to this consent have been completed. Such a request must be submitted to Council on the 'Bond Release Request Form' signed by the owner or any person entitled to act on the consent and must be accompanied by a current dilapidation report including photographs.

SECTION 94 CONTRIBUTIONS

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

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

4. Monetary Contribution for Shire-Wide Open Space and Recreational Facilities

A. Before Construction

Pursuant to Section 94 of the Environmental Planning and Assessment Act 1979 and Sutherland Shire Council's Contributions Plan - Shire Wide Open Space and Recreation Facilities 2005, a monetary contribution of \$392,504.59 must be paid to Sutherland Shire Council toward the cost of land identified for acquisition and works contained in the Works Programme of the Contributions Plan.

This contribution has been assessed and calculated in accordance with the Shire Wide Open Space and Recreation Facilities 2005, Contribution Plan on the basis of 57 proposed Residential Flat Units with a concession for 7 existing allotments.

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

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

5. Community Facilities, Shire Wide 2003 Plan

A. Before Construction

A monetary contribution of \$67,925.04 must be made for the cost of providing community facilities.

This contribution has been assessed pursuant to s.94 of the Environmental Planning and Assessment Act, and the Sutherland Shire Contributions Plan - Community Facilities in the Sutherland Shire, after identifying the likelihood that this development will require or increase the demand for community facilities within the shire. It has been calculated on the basis of 57 proposed Residential Flat Units with a concession for 7 existing allotments.

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

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

6. Approvals Required under Roads Act or Local Government Act

A. Before Construction

No occupation or works are to be carried out on public land (including a road or footpath) or access provided over a public reserve adjacent to the development site without approval being obtained from Sutherland Shire Council and the necessary fee paid under the Roads Act 1993 and/or the Local Government Act 1993.

Note: Approval under the Roads Act or Local Government Act cannot be granted by a Principal Certifying Authority or by a Private Certifier. Failure to obtain approval may result in fines or prosecution.

7. Design and Construction of Works in Road Reserve (Council Design)

A. Design

Council has determined that the proposed development generates a need for the following works to be undertaken by the applicant in the road reserve. To this end an application under the Roads Act shall be submitted to Sutherland Shire Council, prior to the release of the Construction Certificate, for a road frontage design drawing and consent to undertake the required frontage works. This design will generally comply with the approved architectural design drawings, except where amended and/or addressing the following;

- i) Establish the property alignment levels and crossing profiles,
- ii) Construct two vehicle crossings,
- iii) Construct retaining / slope stability walls where required,
- iv) Road pavement construction,
- v) Kerb & gutter/edge strip where required,
- vi) Alter / install street signage where required,
- vii) Regrade, topsoil, turf and landscape the footpath verge to final design levels,
- viii) Adjust public services infrastructure where required,
- ix) Underground power lines,
- x) Install three (3) *Eucalyptus paniculata* (Grey Ironbark), three (3) *Syncarpia glomulifera* (Turpentine) and two (2) *Eucalyptus globoides* (White Stringybark) street trees,
- xi) Ensure there are adequate transitions between newly constructed and existing infrastructure.

Evidence of the lodgement of this application must be provided to the PCA prior to the release of the Construction Certificate.

B. Before Construction

Prior to the release of the Construction Certificate property alignment levels and crossing profiles must be obtained from Sutherland Shire Council.

C. Before Occupation

Prior to the occupation of the building or the issue of an Occupation/Subdivision Certificate the following certification must be provided to Sutherland Shire Council:

- i) The supervising engineer must certify the road frontage works were constructed to

their satisfaction and in accordance with the development consent and associated Roads Act consent.

- ii) The supervising arborist, landscape designer or landscape architect must certify the street trees are the correct species and were installed in accordance with the development consent and associated Roads Act consent.

8. Site Management Plan

A. Before Commencement of Works including Demolition

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

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

B. During Works

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

9. Pre-commencement Inspection

A. Before Works

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

The purpose of the meeting is to:

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

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

10. Supervising Engineer

A. Before Construction

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

- i) Road frontage works.
- ii) Construction / installation of stormwater drainage.
- iii) Rainwater harvesting & reuse.
- iv) All other works that form part of a subdivision.

B. During Construction

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

- i) All relevant conditions of development consent
- ii) Any Consent issued under the Roads Act for this development

C. Before Occupation

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

11. Internal Driveway Profile

A. Before Construction

An Access Application must be made to Council to obtain footpath crossing and boundary alignment levels before commencing the final design of internal driveways, paths and car park area.

B. Design

The internal driveway profile must be designed to:

- i) Provide adequate sight distance for the safety of pedestrians using the footpath area.
- ii) Align with Council's issued footpath crossing levels.
- iii) Comply with AS2890.1(2004) in relation to the design of vehicular access, parking and general manoeuvring for the B85 vehicle.
- iv) The maximum longitudinal grade of the driveway must not exceed 25%.

Certification by an appropriately qualified person to the effect that these design requirements have been met must accompany the application for a Construction Certificate.

12. Basement Car Park Design

A. Design

The basement car park must be designed in accordance with AS 2890 and must incorporate the following:

- i) A minimum headroom of 2.2m measured from the parking floor to the underside of any beam, ventilation duct or service conduit, or to the underside of any door including a security door and fittings when those doors are in an open position.
- ii) Any garage must have a minimum width of 3m with a minimum door opening of 2.75m wide x 2.2m high clear of any necessary hinges, jambs or fixtures required for the operation of garage doors or any services within the garage area.
- iii) A security door is to be fitted to the car parking area entrance and must be independently mounted on rubber pads to prevent vibration noise transmission through the concrete walls and / or columns. An intercom system shall be

- installed for visitors to gain entry and is to incorporate a CCTV system to ensure that the visitor space availability can be determined.
- iv) A parking bay within any double garage must have a clear width of 3.8m, a clear length of 5.4m and a head height clearance in compliance with figure 2.7 of AS2890.6:2009, and
 - v) Where a remote controlled garage door is fitted when fully opened it not encroach into the space envelope specified in figure 2.7 of AS2890.6:2009.

B. Before Construction

Certification of the above must accompany the application for a Construction Certificate.

13. Drainage Design - Detailed Requirements

As the natural fall of the land is towards the rear of the site an easement is required to allow discharge of stormwater by gravity through adjoining properties to the nearest Council drainage system.

A. Design

The stormwater drainage system shall be designed in accordance with the approved stormwater drainage design drawing, Australian Standard AS3500.3:2003 and the BASIX Certificate issued against this development.

The design must include;

- i) An easement to drain water through adjoining downstream properties to a drainage system within the natural catchment under Council's control. If an easement is unable to be obtained then the stormwater discharge directly to the south eastern corner of Dianella Street with the infrastructure on the northern side of Dianella Street to be extended from a newly constructed pit fronting the property to the existing kerb inlet pit located approximately 65m to the east.
- ii) A detailed drainage design supported by drainage calculations.
- iii) A layout of the drainage system showing existing and proposed pipe sizes, type, class, grades, lengths, invert levels, finished surface levels and location of all pipes with levels reduced to Australian Height Datum. Impacts on existing trees must be indicated on the plan.
- iv) A longitudinal section of the pipeline within the road reserve including existing natural surface levels, design surface levels, design invert levels of the proposed pipeline and the location, size and reduced level of all services to AHD where those services cross the proposed drainage line.
- v) The rate of discharge of stormwater from the site to a drainage system under Council's control shall be controlled so that it does not exceed the pre-development rate of discharge.
- viii) Where pipelines are located within the "tree protection zone" of significant vegetation to be retained, the lines shall be excavated by hand or by directional underboring techniques to reduce any adverse impact on the root zone of the trees.

B. Before Construction

- i) Certification issued by an appropriately accredited person to the effect that these design requirements have been met must accompany the application for a Construction Certificate.
- ii) Evidence that the required 'easement to drain water' in favour of Sutherland Shire Council has been created under the provisions of section 88B of the Conveyancing Act shall be provided with the Construction Certificate Application.

C. Before Occupation

The above work must be completed in accordance with 'A' above to the satisfaction of the supervising engineer before the issue of any Occupation Certificate.

Note: Upon approval of the stormwater management designs a notation will be added to the 149 certificate in relation to any required detention facility or stormwater treatment device.

14. Noise Control During Construction and Demolition

To minimise the impact on the surrounding environment:

A. During Works

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

15. Public Utilities

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

A. Before Construction

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

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

16. Allocation of Common Property

A. Ongoing

Common property must not be allocated by the Owners Corporation for the exclusive use of a proprietor. No modification may be made to a Plan of Strata Subdivision without the prior development consent of Council.

17. Approved Landscape Plan

A. Design Changes

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

- i) The following information must be provided in the plans:
 - Updated layout of hardworks in accordance with architectural plans.
 - Provision of low shrubs and ground covers to planter boxes within the two roof terraces in accordance with architectural plans.
 - Tree Protection Zones (TPZ) for all existing trees to be retained and protected.
 - Existing and new spot levels, including levels of existing trees to be retained, terrace levels and the top and bottom of retaining walls and stairs/ramps.
 - The line of basement carpark and all balconies or floors overhanging landscaped areas.
- ii) Retention of Tree 6 (*Banksia serrata*). Relocate paving and steps as required to ensure their retention and protection.
- iii) Relocation of the proposed stormwater pipes and pits from Trees 2 (*Syzygium*

- spp.) and 3 (*Glochidion ferdinandi*) to ensure their retention and protection.
- iv) Realignment of the ground floor terraces and paved and covered section of common open space to match the basement slab below.
 - v) Remove gate from western landscaped area to the oval.
 - vi) 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. All indigenous species must be selected from Council's 'Native Plant Selector' available on Council's website (www.sutherlandshire.nsw.gov.au <<http://www.sutherlandshire.nsw.gov.au>> and search for Native Plant Selector). The planting style should reflect the informal character of the Sutherland Shire. This can be achieved through a diverse mixture of indigenous species planted at irregular spacings.
 - vii) Provision of 2 indigenous canopy trees for every 15m along the northern and southern boundaries and central common open space. All tree species must be Sydney Turpentine Ironbark Forest (STIF) species that grow to a mature height greater than 6m. Trees should be clustered to create view corridors from living rooms in the buildings.
 - viii) Planters boxes on slab shall be designed and constructed to contain a minimum soil depth of:
 - 450mm for grass and ground covers
 - 600mm for shrubs
 - 900mm for small trees
 - 1200mm for large trees

Where trees are proposed in planter boxes an area of 3m x 3m per tree must be provided. Planter boxes in this case must be stepped, mounded or set down in the slab to reduce their apparent height on the surface to 450mm.
 - ix) The communal open space areas and all planter boxes on slab must be provided with a water-efficient irrigation system, connected to a pump and the rainwater tank, to enable effective landscape maintenance.
 - x) The terrace of each dwelling must be provided with one tap with a removable water key, connected to a pump and the rainwater tank.
 - xi) Each ground floor unit shall be provided with a clothes line and each unit above the ground floor must be provided with a clothes line on a balcony. Ensure that clothes lines are not visible above the balustrade.

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

Notes:

A Landscape Designer is a person eligible for membership of the Australian Landscape Designers and Managers and a Landscape Architect is a person eligible for membership of the Australian Institute of Landscape Architects as a Registered Landscape Architect.

If demolition works to occur prior to the Construction Certificate being issued, tree protection measures must be installed prior to commencement of demolition.

B. Prior to Occupation/Occupation Certificate

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

the site and within the road reserve are the correct species.

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

C. Ongoing

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

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

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

Sutherland Shire Council Nursery
345 The Boulevard, Gympie
Ph: 02 9524 5672

18. Trees Removal

A. Tree Removal

The removal of the following trees is approved:

- i) All trees (including palms) EXCEPT FOR Trees 1, 2, 3 and 6 within the site and Trees 5 and 8 in the street, which must be retained and protected. Refer to tree numbering in the arborist report prepared by Rennie Bros, Tree Surgeons (dated 14th October 2015).
- ii) Any declared noxious plant. The applicant is to ensure that all noxious plants are properly identified and controlled/removed.
- iii) Any tree species exempted by the Sutherland Shire Local Environmental Plan 2015 including Tree 4 - *Cinnamomum camphora* (Camphor Laurel).

All other vegetation that would require approval to be removed must be protected.

19. Removal and/or Pruning of Trees on Council Land

A. Design

Council has preferred supplier agreements in place with arborists who are approved to carry out arbor works on Council land. Removal / Pruning of the tree/s listed below must only be undertaken using Council's preferred supplier at the applicant's expense. The applicant is responsible for contract management and payment of the arborist prior to works being undertaken.

Select from Council's list of preferred suppliers listed on Council's website: <http://www.sutherlandshire.nsw.gov.au/Residents/Trees/Trees-on-Council-or-Public-Land>. Payment of the quoted amount provided must be made prior to any works commencing on site.

All pruning must be carried out by a qualified Tree Surgeon/Arborist and conform to the provisions of AS4373 - 2007 Australian Standard for Pruning of Amenity Trees.

20. Tree Retention and Protection

A. Before Works

Prior to the commencement of any demolition, excavation or construction works on site the applicant shall engage a suitably qualified and experienced Arborist to oversee the measures for the protection of existing trees as listed below.

Note: An Arborist is a person with a current membership of the National Arborist's Association of Australia at a grade of General Member, Affiliate Member or Life Member, or alternatively a person who has obtained an Australian Qualifications Framework AQF Level 5 in Arboriculture.

Prior to the commencement of any works, including demolition, the supervising Arborist must oversee the protection of the following trees as listed in the table below and as marked on the plan in the arborist report prepared by Rennie Bros, Tree Surgeons (dated 14th October 2015) to ensure the installation and adequacy of all tree protection measures.

Tree No.	Tree Species (botanical and common name)	Location
1	<i>Eucalyptus globoidea</i> (White Stringybark)	SE corner of site
2	<i>Syzygium</i> spp. (Lilly Pilly)	NE corner of site
3	<i>Glochidion ferdinandi</i> (Cheese Tree)	NE corner of site
5	<i>Eucalyptus haemastoma x racemosa</i> (Scribbly Gum)	Dianella St east
6	<i>Banksia serrata</i> (Old Man Banksia)	SE corner of site
8	<i>Prunus cerasifera</i> (Cherry Plum)	Dianella St west

The trees identified for retention must be protected by the following measures:

- Protective fencing constructed of 1.8m high chain wire mesh supported by robust posts must be installed in accordance with the arborist report for each tree referenced above. Signage must be erected on the fence with the following words clearly displayed "TREE PROTECTION ZONE, DO NOT ENTER".
- The tree protection zone within the protective fencing must be mulched with a maximum depth 75mm of suitable organic mulch (woodchips or composted leaf chip mulch) and kept regularly watered for the duration of the works subject to this consent.
- No development or associated activity is permitted within the fenced tree protection zone for the duration of works subject to this consent. This includes vehicular or pedestrian access, sheds, washout areas, excavations, backfilling, installation of services (including stormwater), removal of top soil, stockpiling of soil or building materials.
- Where site access/egress is required over the roots of trees identified for retention and protection, provide hardwood rumble boards over a 200mm thick layer of wood chip.

B. During Construction

- The tree protection measures detailed in 'A' above must be maintained during construction.
- The supervising Arborist must be present during any approved hand excavation or under boring works within the Tree Protection Zone (TPZ) of any tree identified for retention and protection and have the authority to direct works to ensure the trees long term preservation;
- The supervising Arborist must strictly supervise that there is no disturbance or severing of roots greater than 30mm diameter and to cleanly cut those roots between 10-30mm in diameter.

- iv) If the trees identified for retention in 'A' above are damaged or destabilised during construction then works must cease and Council's Tree Assessment Officer (ph. 9710 0333) must be contacted to assess the tree/s and recommend action to be taken.

21. Car Wash Bays

To prevent contamination of the stormwater drainage system a car-wash bay must be provided on site:

A. Design

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

B. Before Construction

Details of the design satisfying 'A' above must accompany the application for a Construction Certificate.

C. Before Occupation

The Principal Certifying Authority must be satisfied that

- i) 'A' above has been complied with and
- ii) any discharge to the sewer from the premises is in accordance with the requirements of Sydney Water.

D. Ongoing

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

22. Garbage, Recycling and Green-waste Storage Area

To ensure the proper storage of waste from the premises:

A. Design

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

B. Before Construction

Details of compliance with 'A' above must form part of the documentation accompanying the applications for a Construction Certificate.

C. Before Occupation

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

D. Ongoing

All waste and recycling bins must be stored wholly within the approved waste storage area. The bins must only be put out for collection in the evening prior to pick-up and returned to the storage area as soon as possible after pick-up.

23. External Lighting - (Amenity)

To ensure that any lighting on the site does not cause a nuisance to neighbours or motorists on nearby roads:

A. Design

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

B. Ongoing

All lighting must be operated and maintained in accordance with the Standard above.

24. Noise Control - Residential Air Conditioning Units

To minimise the noise impact on the surrounding environment:

A. Design

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

B. Ongoing

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

25. Noise Control - Design of Plant and Equipment (General Use)

To minimise the impact of noise from the development, all sound producing plant, equipment, machinery, mechanical ventilation system or refrigeration systems:

A. Design

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

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

B. Before Occupation

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

C. Ongoing

All plant and equipment must be operated and maintained in accordance with 'A' above.

26. Noise and Vibration Control - Residential Car Park

To minimise noise and vibration from use of the security door in the car park:

A. Design

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

B. Before Occupation

The Principal Certifying Authority must be satisfied that 'A' above has been complied with.

27. Car-Park Ventilation - Alternate System

To ensure adequate ventilation for the car park:

A. Design

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

B. Before Construction

Details of compliance with 'A' above must form part of the application for a Construction Certificate.

C. Before Occupation

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

D. Ongoing

The ventilation system must be operated and maintained in accordance with 'A' above.

28. Demolition Work

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

A. Before Commencement

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

B. During Works

- i) The demolition of the existing building must be carried out strictly in accordance with Australian Standard 2601 - The Demolition of Structures.
- ii) The applicant must ensure that the demolition contractor has a current public risk insurance coverage for a minimum of \$5 million. A copy of the Policy must be submitted to the Council prior to demolition.

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

- a) Work Health and Safety Act 2011;
- b) Work Health and Safety Regulation 2011;
- c) Safe Work Australia Code of Practice - How to Manage and Control Asbestos in the Workplace;

- d) Code of Practice for the Safe Removal of Asbestos 2nd Edition [NOHSC:2002(2005)];
- e) Workcover NSW 'Working with Asbestos - Guide 2008';
- f) Protection of the Environment Operations Act 1997; and
- g) Protection of the Environment Operations (Waste) Regulation 2005.

Asbestos waste in any form must be disposed of at a waste facility licensed by the Department of Environment Climate Change & Water to accept asbestos waste.

29. Design Requirements for Adaptable Housing

A. Design

A report prepared by a suitably qualified Adaptable Housing Specialist must be submitted with the Construction Certificate, demonstrating that the development complies with the requirements of AS4299 - Adaptable Housing. The report must contain a completed checklist (Appendix A - AS4299) demonstrating compliance with the requirements of a Class C Adaptable House.

30. Verification of Design for Construction - SEPP 65

A. Design

Design verification must be provided by a registered Architect pursuant to SEPP 65 stating that the design intent approved by the Development Consent has been maintained in the building / architectural plans submitted with the Construction Certificate. This must accompany the application for a Construction Certificate.

B. Before Occupation

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

31. Certification Requirement of Levels

A. During Construction

At the following stages of construction:

- i) Prior to the pouring of each floor or roof slab,
- ii) Upon completion of the roof frame.

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

B. Before Occupation

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

32. Sydney Water Tap inTM & Compliance Certificate

A. Before Construction

The plans approved as part of the Construction Certificate must be submitted to a Sydney Water Tap inTM to determine as to whether the development will affect Sydney Water's sewer and water mains, stormwater drains and / or easements, and if further requirements need to be met. Customers will receive an approval receipt. Please refer to the web site www.sydneywater.com.au.

B. Before Occupation / Prior to issue of Subdivision Certificate

A Compliance Certificate under s73 of the Sydney Water Act, 1994, must be submitted to Council by the Principal Certifying Authority. Sydney Water may require the construction of works and/or the payment of developer charges.

Sydney Water Advice on Compliance Certificates:

An application must be made through an authorised Water Servicing Coordinator. For details see the Sydney Water web site at

www.sydneywater.com.au/customer/urban/index or by telephone 13 20 92.

Following application a "Notice of Requirements" will be forwarded detailing water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator, since building of water / sewer extensions can be time consuming and may impact on other services as well as building, driveway or landscaping design.

33. Dial Before You Dig

A. Before Construction

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

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

34. Noise Control and Permitted Hours for Building and Demolition Work

A. During Works

To minimise the noise impact on the surrounding environment:

- i) The LAeq sound pressure level measured over a period of 15 minutes when the construction or demolition site is in operation, must not exceed the ambient background level (LA90 15min) by more than 10dB(A) when measured at the nearest affected premises.
- ii) All building and demolition work must be carried out only between the hours of 7.00am and 6.00pm Monday to Friday inclusive, 8.00am and 3.00pm Saturdays. No work must be carried out on Sundays and Public Holidays.

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

In order to activate the extended hours of operation both Council and affected neighbours must be notified a minimum of 48 hours prior to commencement. Affected neighbours include those in the immediate vicinity, adjacent or adjoining the development site. Notification must be by way of written advice including:

- Date/s the extended hours will be utilised.
- The purpose of the extended hours - pouring large slab.
- Address of the development works / site.
- Contact name and number of appropriate site officer (supervisor or manager) for enquiries.

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

35. Toilet Facilities

A. During Works

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

Each toilet must:

- i) be a standard flushing toilet connected to a public sewer, or
- ii) have an on-site effluent disposal system approved under the Local Government Act 1993, or
- iii) be a temporary chemical closet approved under the Local Government Act 1993

36. Street Numbering and Provision of Letter Box Facilities

A. Before Occupation

- i) Street / unit numbers must be clearly displayed.
- ii) Suitable letterbox facilities must be provided in accordance with Australia Post specifications.
- iii) The dwellings must have the following street address format:

Building B must be known as 1 Dianella Street, Caringbah

Units must be known as LG01-LG05 / 1 Dianella Street, Caringbah; G01-G06 / 1 Dianella Street, Caringbah; 101-107 / 1 Dianella Street, Caringbah; 201-206 / 1 Dianella Street, Caringbah; 301-304 / 1 Dianella Street, Caringbah.

Building A must be known as 3 Dianella Street, Caringbah

Units must be known as G01-G05 / 3 Dianella Street, Caringbah; 101-107 / 3 Dianella Street, Caringbah; 201-207 / 3 Dianella Street, Caringbah; 301-306 / 3 Dianella Street, Caringbah; 401-404 / 3 Dianella Street, Caringbah.

37. Car Parking Allocation

A. Before Subdivision

Car parking must be allocated to individual strata lots as part of their unit entitlement.

Visitor parking facilities and/or car wash bays must be designated as common property on any strata plan.

Parking must be allocated on the following basis:

- Residential dwellings: 107 spaces
- Residential visitors: 15 spaces
- Car wash bays: 2 spaces

B. Ongoing

The car-parking provided must only be used in conjunction with the dwellings and/or tenancies contained within the development and not for any other purpose.

38. General Deliveries / Loading

A. Ongoing

- i) All general deliveries to the site must be carried out within the hard stand waste collection / loading bay within the site.
- ii) The hard stand waste collection / loading bay must be clearly signposted as being used for both the collection of waste and for all general deliveries / loading.

39. Security

A. Design

In order to maximise safety and security of future residents and visitors, the following security measures are to be provided.

- Adequate lighting is to be provided to the central pathway and building entry points.

Lighting is to be directed to pathways and appropriately spaced to ensure even lighting throughout the area.

- Basements are to be painted a light colour to improve lighting efficiency.
- Adequate lighting is to be provided throughout all parking levels.
- Entry doors and lifts are to be provided with appropriate security measures including intercom.
- A CCTV system must be installed to monitor all common areas (including letter boxes), the access / exit driveway and all basement car park levels including lift areas.

B. Before Occupation

The Principal Certifying Authority must be satisfied that 'A' above has been complied with.

40. Undergrounding of Power Lines

B. Before Occupation

All power lines along both frontages of the site must be placed underground and street lighting installed to the satisfaction of Ausgrid prior to the issue of any Occupation Certificate. A copy of certification from Ausgrid that the works have been completed to Ausgrid's satisfaction must accompany an application for any Occupation Certificate.

END OF CONDITIONS



Administration Centre
4-20 Eton Street, Sutherland
NSW 2232 Australia

Please reply to:

General Manager,
Locked Bag 17,
Sutherland NSW 1499
Australia

Tel 02 9710 0333

Fax 02 9710 0265

DX 4511 SUTHERLAND

Email ssc@ssc.nsw.gov.au
www.sutherlandshire.nsw.gov.au

ABN 52 018 204 808

Office Hours

8.30am to 4.30pm
Monday to Friday

Martin Southwell - 9710 0250
File Ref: PAD15/0102

30 September 2015

Pier Property Corporation
Suite 412/Level 4
15 Lime St
KINGS STREET WHARF NSW 2000

Dear Sir/Madam

Pre-Application Discussion No. PAD15/0102

Proposal: Construction of a residential flat building comprising 57 units

Property: 1 – 13 Dianella Street, Caringbah

Council refers to the pre-application discussion (PAD) held on 3 September 2015 regarding the above development proposal. Carine Elias (Team Leader), Martin Southwell (Assessment Officer), David Jarvis (Architect), Barbara Buchanan (Landscape Architect) attended the meeting on behalf of Council, whilst Scott Egelton (Pier Property) John Keith (Pier Property), John Kavanagh (Baker Kavanagh Architects) and Brendan Hoskins (JBA) attended on behalf of the applicant.

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

Your DA will need to be supported by a Statement of Environmental Effects addressing all relevant Environmental Planning Instruments and the detailed planning controls contained in the Draft Sutherland Shire Development Control Plan 2015 (DSSDCP 2015). Please note that any reference herein to the DSSDCP 2015 relates to the amended version of the document that has recently been uploaded to Council's "[Join the Conversation](#)" website.

The Site and Proposal:

The development site is located on the northern side of Dianella Street. It is directly adjacent to a public reserve and public car parking area, to the rear and the east respectively. There are currently 7 dwelling houses on the site. They are the only houses on the northern side of Dianella Street that address that street. The houses immediately to the west of the site address Willarong Road.

The property is about 117m wide, 36.5m deep and has an area of about 4,290m². The land has a fall of about 7m from west to east. There are a number of existing trees both on the site and on the street immediately adjacent to the site.

The proposal is to develop a residential flat building (RFB) comprising 57 units over 5 storeys. Car parking is proposed within 2 basement levels.

The property is within Zone R4 High Density Residential under the provisions of Sutherland Shire Local Environmental Plan 2015 (SSLEP 2015). The proposed RFB is a permissible form of development within this zone.

Under SSLEP 2015, the site is subject to a maximum Floor Space Ratio (FSR) of 1.2:1, a maximum height of 16m and minimum deep soil landscaped area of 30%.

Comments on the Proposal:

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

1. Built Form / Urban Design

The proposal seeks to provide a single built form on a 7 lot amalgamation. The extent / length of the street elevation will be larger by far than any other built form in Dianella Street. It is questionable as to whether this strategy is an appropriate response to the grain of the site's context. A development that is broken down into smaller built forms may provide a more appropriate response to the context.

The strategy to provide one long building also contributes to difficulties in complying with the 16m height limit under SSLEP 2015, the creation of subterranean units and a large extent of hard paving facing the street. With respect to height, it is the expectation of Council that all new development complies with the new development standards given that they have generously increased the development potential of many properties including this site.

It is highly recommended that an application be made for a Pre-DA Architectural Review Advisory Panel (ARAP) meeting to provide feedback on these fundamental site planning issues prior to the lodgement of a DA.

2. Basement Levels

The Draft Sutherland Shire Development Control Plan 2015 (DSSDCP 2015) requires the basement to have a minimum front setback from Dianella Street of 6m. A setback of 3.4m is shown on the submitted plans, which does not comply.

Please note that any car parking in excess of the minimum requirements of the DCP will count towards the gross floor area (GFA) of the development. The proposal has an excess of 49 car parking spaces. Therefore there may be opportunity to reduce the quantum of parking provided to achieve compliance with the minimum basement setbacks and maximum 1.2:1 FSR for the site. If excess parking is provided, resulting in a non-compliant GFA, you must submit a Clause 4.6 Objection to the FSR development standard of SSLEP 2015. Should such an objection be submitted, Council will consider whether it is appropriate in the circumstances to permit a non-compliant FSR that is caused by excess car parking.

3. Direct Access to Public Park

The proposed direct access from the site into the public park behind, which is zoned RE1 Public Recreation under SSLEP 2015, is not supported by Council's Property Services division. Council does not generally permit such access as it encourages the privatisation of public space.

4. Landscaping

At least 30% of the site must consist of deep soil landscaped area under SSLEP 2015. The basement footprint dictates that a maximum of 25.4% of the site is available for deep soil landscaping, but that figure will be further reduced once hard paved areas at ground level are excluded (paths, fire egresses, terraces *etc.*). Achieving a compliant basement setback will go some way towards achieving compliance with the landscaped area provisions of SSLEP 2015.

The central COS is well located but does not comply with the ADG requirement for 25% of the site area (and of which at least 50% must have direct sunlight in mid winter). There is an opportunity to locate a second COS on a roof terrace on the eastern section of the development, overlooking the park, which would be a great facility for residents provided it is properly fitted out with toilet, pergola/all-weather cover, kitchen and furniture *etc.* However, this area (including roof structures) must comply with the maximum building height under SSLEP 2015.

The site is located within a Greenweb 'Restoration' area that requires all new tree plantings to be indigenous species and understorey plantings to be 50% indigenous species. Species should be selected from the Sydney Turpentine Ironbark Forest (STIF) community, an Endangered Ecological Community (EEC) of which many remnant trees exist in the neighbouring park. A list of suitable plant species can be obtained from Native Plant Selector available on Council's website.

An Arborist's report is required to be submitted as part of the DA. There are two remnant STIF trees in Dianella Street that must be retained - a Scribbly Gum in the street in front of No.3 and a Stringybark in the NW corner of No.1. There is also an old Banksia serrata in the front setback of No.3 that may be a remnant tree and should be retained if possible. There are two existing trees in the NE corner of the site - a Cheese Tree and Lilly-Pilly - that should also be retained.

The existing overhead wires in Dianella Street along two thirds of the frontage prohibit the planting of large street trees. However, the DSSDCP 2015 requires that frontage works for residential flat buildings must include the bundling of local distribution power lines and other utilities (and the provision of new street lighting). The bundling of power lines will permit the planting of street trees. Their quantity and locations within the verge will be determined as part of a Detailed Frontage Works Application, which should be made prior to the lodgement of a DA.

Adequate rainwater storage should be provided to irrigate all landscaped areas, especially planter boxes on slab which require more watering than deep soil areas.

5. Engineering Matters

The following engineering matters must be addressed within the DA:

- a) The required concept stormwater drainage design must be undertaken by a qualified Civil Engineer. This design must detail the Interlot drainage system including detention, connection location into Council's existing kerb & gutter network within Dianella Street, water sensitive urban design principles and treatment devices in accordance with Council's DCP and stormwater specification. Where a connection to the kerb and gutter cannot be achieved, a possible connection could be via an easement over North Caringbah Oval car park to the public subsurface system. Approval for an easement must be obtained from Council's Property Services prior to any DA lodgement.
- b) A full traffic report and construction site management plan and report are to be undertaken and submitted with the DA. The reports must include details about internal ramps, location of any mirrors *etc* and manoeuvring within the basement and ramps.
- c) Suitable manoeuvring must be demonstrated for 2 vehicles passing when turning into the basement ramp on both basement levels.
- d) Provide a primary pedestrian access-way from Dianella Street.
- e) Number of spaces and allocation of parking spaces must comply with Council's DCP controls including residential spaces, visitor spaces and carwash bays.
- f) Adaptable parking spaces must comply with AS2890.6 or AS4299 for residential spaces only.
- g) Parking spaces, aisles and ramps must comply with AS2890.1. Where a ramp is curved, the grade must be measured on the inside edge of the curve.
- h) Details of garbage collection and deliveries must be provided within the traffic report including an "HRV" sized loading bay to provide suitable collection within the site.
- i) The basement entrance ramps within the road reserve must be a two way ramp with a maximum width of 6m.
- j) Roads development application (RDA) should be applied for and obtained for the driveway levels prior to lodging any DA.

6. Utilities and Infrastructure

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

Conclusion:

The proposal involves the construction of a 57 unit RFB on the site, which is permissible with development consent under SSLEP 2015. The proposal does not, however, achieve compliance with the height and landscaped area development standards of SSLEP 2015. It is Council's expectation that new development comply strictly with the new development standards. Please note that FSR has not been calculated; the information provided to Council indicates compliance but excess car parking provision has been noted and will contribute to GFA as discussed within the "Basement Levels" subheading above. Please ensure that the GFA of the development is calculated in accordance with SSLEP 2015.

It is highly recommended that you submit an application to have the development considered at a Pre-DA ARAP meeting. At this stage, Council is not yet convinced that a single building is the most appropriate response to the constraints of the site, and a development that is broken down into smaller built forms may be more appropriate.

A Detailed Frontage Works Application should also be made to Council prior to the lodgement of a DA.

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

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

On the web page a "DA Guide" is available and an online tool called "Development Enquirer" which searches the applicable planning instruments for the planning controls relevant to your site and development.

Council's Development Enquiry Officers are also available to assist you with the lodgement requirements for your application (9710 0520).

Please contact Council if you believe any of the above information to be incorrect or if you need clarification of the advice provided. Your initial point of contact should be Martin Southwell (9710 0250) as this is Council's development assessment officer who will most likely be responsible for the assessment of your DA.

Yours faithfully

Mark Adamson
Manager – Projects and Development Assessment
for J W Rayner
General Manager

APPENDIX “C”

Address	Date	Issue
131-135 Willarong Rd Caringbah	11/11/15	Narrow road, traffic, traffic safety, roadside parking, internet, water pressure, cumulative impacts
131-135 Willarong Rd Caringbah	9/11/15	Traffic, waste, roadside parking, cumulative impacts
131-135 Willarong Rd Caringbah	10/11/15	Water pressure, internet, traffic, cumulative impacts, safety during construction
131-135 Willarong Rd Caringbah	12/11/15	Density
131-135 Willarong Rd Caringbah	9/11/15	Narrow road, traffic, traffic safety, roadside parking, internet, water pressure, cumulative impacts
131-135 Willarong Rd Caringbah	9/11/15	Infrastructure, traffic safety, waste, character, social impact
131-135 Willarong Rd Caringbah	9/11/15	Narrow road, traffic, traffic safety, roadside parking, water pressure, cumulative impacts
131-135 Willarong Rd Caringbah	9/11/15	Narrow road, traffic, traffic safety, roadside parking, internet, water pressure, cumulative impacts
17 Crammond Boulevard, Caringbah	9/11/15	Traffic safety, roadside parking, narrow road, construction disruption, privacy
131-135 Willarong Rd Caringbah	9/11/15	Narrow road, traffic, traffic safety, roadside parking, internet, water pressure, cumulative impacts
131-135 Willarong Rd Caringbah	9/11/15	Narrow road, traffic, cumulative impacts
131-135 Willarong Rd Caringbah	9/11/15	Narrow road, traffic, traffic safety, roadside parking, internet, water pressure, cumulative impacts
131-135 Willarong Rd Caringbah	11/11/15	Narrow road, traffic, traffic safety, roadside parking, internet, water pressure, cumulative impacts
1-5 Sunnyside Ave, Caringbah	5/11/15	Privacy, construction disruption, roadside parking, traffic, traffic safety, cumulative impacts, private access to oval, view impacts for current dwellings
	3/11/15	Overdevelopment, character, construction disturbance, complaints re. use of ovals, traffic safety, private access to ovals
	10/11/15	Traffic, roadside parking, waste, height
	5/11/15	Height, privacy, traffic, traffic safety, roadside parking
Caringbah North Public School P&C	10/11/15	Traffic safety, roadside parking, cumulative impacts, construction disturbance, privacy, smoking
4 Dianella Street, Caringbah	10/11/15	Traffic, roadside parking, waste, internet
1-5 Sunnyside Ave, Caringbah	10/11/15	Traffic, roadside parking, traffic safety, view impact on existing dwellings, infrastructure
16-18 Dianella Street Caringbah	9/11/15	Height, privacy, view impacts on existing dwellings, roadside parking, traffic, waste, internet
1-5 Sunnyside Ave, Caringbah	12/11/15	Traffic, roadside parking, traffic safety, view impact on existing dwellings, infrastructure
	12/11/15	Traffic, roadside parking, traffic safety, construction disruption, increase in crime, waste, infrastructure view impact on existing dwellings,
1-5 Sunnyside Ave, Caringbah	11/11/15	View loss, privacy, construction disruption, traffic, traffic safety

Architectural Review Advisory Panel

Proposal:

Demolition of existing structures and construction of two new residential flat buildings

Property:

1-13 Dianella Street CARINGBAH NSW 2229

Applicant:

Pier Property Corporation

File Number:

DA15/1178

The following is the report of the Architectural Review Advisory Panel Meeting held on 12 November 2015 at the Administration Centre, Sutherland Shire Council, Eton Street, Sutherland. The report documents the Panel's consideration of the proposed development described above.

1. “DA15/1178 – Demolition of Existing Structures & Construction of Two (2) x Four (4) Storey Residential Flat Buildings Comprising Fifty-Seven (57) Units & Two (2) Levels of Basement Car Parking at 1-13 Dianella Street, Caringbah – JRPP Application

Council's David Jarvis, Annette Birchall, Carine Elias and Barbara Buchanan outlined the proposal for the Panel, including providing details of Council's relevant codes and policies.

John Kavanagh, Scott Eggleton and Brendan Hoskins addressed the Panel regarding the aims of the proposal and the constraints of the site.

Description of the Site and Proposal

This development application is for the demolition of existing structures and construction of two (2) x four (4) storey residential flat buildings comprising fifty-seven (57) units and two (2) levels of basement car-parking. The unit mix comprises seven (7) x 1 bedroom, thirty-seven (37) x 2 bedrooms and thirteen (13) x 3 bedrooms.

The site is zoned R4 – High Density Residential (SSLEP 2015).

The site is located at 1-13 Dianella Street, Caringbah.

Key Controls:

Sutherland Shire Local Environmental Plan 2015 (SSLEP 2015)

Sutherland Shire Draft Development Control Plan 2015 (SSDDCP 2015)

State Environmental Planning Policy 65 Amendment No. 3 (SEPP 65)

Apartment Design Guide (ADG)

Applicant's Submission

The Panel noted that the proponent has attended a PAD meeting (PAD15/0102).

PRINCIPLE 1 – CONTEXT AND NEIGHBOURHOOD CHARACTER

The Dianella Street site is an amalgamation of seven residential lots directly south and fronting onto Caringbah North Oval. The site faces north onto the playing fields and south toward the street. Immediately to the east is a small car-park for the oval and a pleasant park with mature Turpentine trees forming a strong streetscape edge.

There are good views to the north towards the City.

The site has been rezoned under SSLEP 2015 to R4 – High Density Residential. Adjacent lands to the west and along Willarong Road have also been rezoned R4. Substantial areas to the south and to the west have also been zoned R4.

The present context and neighbourhood character is single and two storey detached residential dwellings and two storey apartments to the south of Dianella Street.

The future form of development both in Dianella Street and along Willarong Road provides for 4-5 storey residential apartments and the proposed development on Dianella Street forms part of this future context.

The site has a fall of around 7m from west to east and is broadly level from north to south. The playing field is set at mid-level of the site. The view of the development from the oval forms a second public face to the proposal. The applicant has conceived the façade here as a type of ‘grandstand’, which is appropriate but leads to some amenity issues. It was also noted that a utilitarian protective chainmesh screen has been constructed on the playing field side of the development site, which will be highly visible from north-facing apartments.

The degree of accessibility between the proposed central communal open space and the playing fields was discussed and the Panel generally considers that there should be a clear and more definitive connection between the two spaces. The interface between the park and the development is a significant issue and the development must provide for more visual permeability and integration than the existing high Colorbond fences presently offer.

The Dianella Street setback of 7.5m has been generally met, although the car-park intrudes into the 7.5m setback for part of the site. There is strong and exciting potential to extend the existing native vegetation character within the eastern park into this southern setback zone. The Panel supports the proposed rear setback non-compliance on this site since it adjoins an oval with no privacy or overshadowing impact, and allows for maximised deep soil for mature tree plantings in the front setback zone to Dianella Street.

The requirement to place all overhead cabling underground across the Dianella frontage will provide further opportunities to enhance the Greenweb objectives that apply to the site.

PRINCIPLE 2 – SCALE AND BUILT FORM

Built form has been broken into two separated elements, which allows the 7 metre fall across the site to be resolved. It also contributes to diminishing the apparent bulk and scale of the development, which had previously been proposed as one monolithic form.

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. Landscaped courtyards open to the street further integrating the scale of the development.

The built form on the oval side is more monolithic and horizontally articulated. Whilst this is an appropriate design response to the open spaces of the playing fields, these elevations could benefit from more articulation.

Treatment of end elevations facing the central communal space and the parklands to the east should be of a more considered and refined design quality and materiality, as these elements are highly visible from the public domain.

Terraces to north-facing units are 4-5m deep, which will restrict solar access and ventilation to living rooms as well as adding to visual bulk – the Panel recommends reducing balcony depths, or stepping balconies in plan (in front of bedrooms) to improve articulation of the northern façade.

PRINCIPLE 3 – DENSITY

The proposed density of development will be confirmed by Council however it appears to be compatible with the prescribed maximum FSR of 1.2:1.

PRINCIPLE 4 – SUSTAINABILITY

Most units will benefit from north orientation and natural cross ventilation. Windows should be added to mid-level units on either side of the common open space.

A 10,000 litre rainwater tank has been provided but does not seem sufficient to irrigate landscaping or provide WC flushing for this large site. Further detail is required on the use of stormwater for this development.

PV power generation on the north-facing roof should also be considered.

PRINCIPLE 5 – LANDSCAPE

It was recommended that an enhanced landscape plan be prepared that includes the design parameters associated with the site, including the linkage with the parklands to the east and acknowledging the design intent to provide for smaller vegetation to the northern boundary of the site.

The following matters were raised at the meeting and must be further considered:

1. The Landscape Architect should use Council's Plant Selector for plant selection.
2. The site is in a Greenweb restoration zone and species will need to comply with this.

3. Provide large trees along the street frontage as power lines are to be underground.
4. Ensure careful placement of trees on both sides to balance the scale of the building.
5. Consider open space at west east ends being incorporated into private open space.
6. Arborist report to include trees shown by surveyor and the landscape plan is to retain Items 1, 2, 3, 5 and 6.
7. Raised planters against buildings are generally not desirable.
8. Ensure that Council's 30% deep soil provision is achieved.
9. Landscape cross sections are required to fully describe the plantings and walls.
 - The use of the side setbacks is not clear – is this private or common open space?
 - The sloping topography results in retaining walls and stepped fences that require further information on heights, detail and materials, as do fences.
 - The Panel notes the established nature of the parkland native vegetation trees adjacent to the site and supports the extension of its character and species selection into the site landscape design. It was further noted that the site is subject to Greenweb species selection.
 - The issue of individual access from ground floor apartments to the park was raised however it is likely that Council may not support this level of private access to the playing fields.

PRINCIPLE 6 – AMENITY

The Panel raised concerns in relation to how future residents/occupants will be made aware of and accept the existing community rights of use to the oval, particularly at night. The existing mesh fence to the Oval goal-posts needs to be considered in the design.

Bench seating at the main entry will assist residents and visitors.

Balconies facing Dianella Street in Building B would benefit from openings to the east to be able to enjoy the pleasant views to the Park.

Balustrades at lower levels would have better privacy from the street and oval if partially solid or obscure.

Lift lobbies are long but have outlook on each level. Will natural ventilation be provided?

Check and confirm that the development meets the natural cross ventilation requirements of the ADG.

The Panel is concerned that most 2-bed unit plans have too much circulation space and large bathrooms, to the detriment of the size of primary living spaces.

The garbage store is not well located for Building B – consider a garbage store in each building close to the lift, accessed from the lobby corridors and ensure that garbage handling is discreet.

Check the swept path movements of vehicles using the basement ramps for clearances and safety.

Concern was expressed about the below-grade location of some apartments, particularly the north-western ground floor apartment in Building A.

The proposed communal open space is currently 7% of the site area and should be closer to the 25% prescribed by the ADG. Design to include details of furnishing, amenity items including covered/shaded areas, BBQs, seating and the like.

PRINCIPLE 7 – SAFETY

Acceptable.

PRINCIPLE 8 – HOUSING DIVERSITY AND SOCIAL INTERACTION

The development provides an acceptable range of apartment types and sizes. The common pedestrian entry from Dianella Street will facilitate social interaction apart from the limited direct entry provision to a small number of apartments.

Adaptable units are well located chiefly on the ground floor however adaptability will require extensive changes to wet areas, which will not assist affordability and ageing-in-place.

PRINCIPLE 9 – AESTHETICS

This has been generally well handled. The strong articulation of forms to Dianella Street will mean the many side walls will be visually prominent, requiring further aesthetic consideration and detail.

Refer to previous comments in relation to end walls and further articulation of the north elevation. The latter may be best achieved by the introduction of some breaks in the strong horizontal overhanging eaves of each building, and reduction of the extensive terraces in some areas.

RECOMMENDATIONS/CONCLUSIONS:

The Panel is generally supportive of this proposal. It is recommended that:

- 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.
- Vehicular swept paths in the areas around the ramps are checked and made more generous.
- Further consideration be given to the landscape treatment and permeability of the northern park edge transition zone.”

Tony Caro
Acting ARAP Chairman

30 November 2015

RECEIVED

- 6 JAN 2015

APPENDIX "E"

Sensitive: Law Enforcement**NSW Police Force**
www.police.nsw.gov.au**ISSUE:**

Submission regarding Development Application No. DA15/1178 at 1-13 Dianella Street, Caringbah, submitted by Senior Constable Christopher Shade Reg'd No. 27402.

BACKGROUND:

See attached file.

COMMENT:

Development Application No.: DA15/1178

Proposal: Demolition of existing structures and construction of two new residential flat buildings.

Property: 1-13 Dianella Street, Caringbah.

Police Ref: D/2015/614100

We refer to your development application which seeks approval for the development of 2 towers comprising of 4 levels containing 57 units being 7 x 1 bed, 37 x 2 bed and 13 x 3 bed apartments with 2 levels of basement car parking for 124 motor vehicles. The proposed development will result in an increase in activity, both in and around the location. Such activity will subsequently increase the risk of crime, along with increasing crime opportunities and potential offenders to the development and its surroundings.

After perusing the paperwork the following suggested treatment options are submitted for consideration including a number of Crime Prevention through Environmental Design (CPTED) factors that should be considered in this development.

Surveillance

The attractiveness of crime targets can be reduced by providing opportunities for effective surveillance, both natural and technical. Good surveillance means that people can see what others are doing. People feel safe in public areas when they can easily

Miranda Local Area Command

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see and interact with others. Would-be offenders are often deterred from committing crime in areas with high levels of surveillance.

- **Lighting and Technical Supervision**

Lighting should meet minimum Australian standards. Effective lighting contributes to safety by improving visibility, increasing the chance that offenders can be detected and decreasing fear. Special attention should be made to lighting the entry and exit points from the buildings, pathways throughout the site, car park and access/exit driveways.

The access/exit driveways need to be adequately lit to improve visibility and increase the likelihood that offenders will be detected and apprehended. At the same time throughout the site transition lighting is needed to reduce vision impairment, i.e. reducing a person walking from dark to light places.

Security lighting should not illuminate observers or vantage points. Within the residential complex, observers are likely to be "inside" dwellings. Light should be projected away from buildings towards pathways and gates – not towards windows and doors. Additionally, the central pathway through the complex should provide adequate lighting for pedestrian safety. The attached development application does not specify such lighting considerations.

- **Landscaping**

The safety objective of "to see and be seen" is important in landscaped areas. Research and strong anecdotal evidence suggests that vegetation is commonly used by criminals to aid concealment through the provision of entrapment pockets. Dense vegetation can provide concealment and entrapment opportunities.

Species can be selected for different locations on the basis of their heights, bulk and shape. A safety convention for vegetation is: lower tree limbs should be above average head height, and shrubs should not provide easy concealment. It is recommended that 3-5m of cleared space be located either side of residential pathways. Thereafter, vegetation can be stepped back in height to maximise sightlines.

Given the inclusion of shrubs and trees throughout the site within the proposed development, it must be emphasised that the vegetation be kept trimmed and maintained at all times.

Access Control

Physical and symbolic barriers can be used to attract, channel or restrict the movement of people. They minimise opportunities for crime and increase the effort required to commit crime. By making it clear where people are permitted to go or not go, it becomes difficult for potential offenders to reach and victimise people and their property.

Illegible boundary markers and confusing spatial definition make it easy for criminals to make excuses for being in restricted areas. The proposed development application does not specify access control measures throughout the development. It is, however, crucial that these access control measures be considered.

Consideration should be given to installing security shutters at the entry to the underground car park area. It is noted that the following 'can be conditioned' - *"where security measures to car parks are provided an intercom system shall be installed for visitors to gain entry. This system shall incorporate a CCTV system to ensure that the visitor space availability can be determined"* (Annexure B, SSDCP 2006 Compliance Table, p.15). This security control measure should strongly be considered prior to approval of this development application.

Police would recommend that all residents are allocated access cards to provide temporary activation of security shutters to the basement area. This security access control measure could also be used to gain access into the pool area – access/safety control measures are not specified within the development application.

The proposal does not specify the type of locks to be fitted to roller doors within the basement car park area. Police would recommend that garage doors are designed and installed to the Australian Standards, fitted with quality locks. Within the local area, a common modus operandi of break and enter offenders whilst targeting premises of similar nature, is to access the residential premise via the garage area. Hence, quality deadlock sets should be fitted to internal doors leading from the garage area into individual townhouses. Storage doors within the garage area should also be fitted with quality deadlocks.

Police recommend that the underground car parking areas be painted white to greatly help to reflect light. Painted facilities not only look larger and more spacious than unpainted car parks, but can greatly reduce the number of lights required to illuminate the car park and on-going energy costs.

Police would suggest the use of CCTV to monitor the common areas, access/exit driveways and underground car parks to ensure resident safety and security.

Internal residential entrance doors and frames should be of solid construction. These doors should be fitted with quality deadlock sets, which comply with the Australian/New Zealand standards and Fire Regulations (Australian Building Code) to enable occupants to escape in emergency situations such as a fire. Consideration should be given to installing key operated locks to windows. In addition to this, consideration should be given to installing locks that allow for windows and doors in a partially open position.

Territorial Reinforcement

With few exceptions, criminals do not want to be detected, challenged or apprehended. For offenders, the capability of guardianship (to detect, challenge or apprehend) is an important consideration. It is argued that residents are more effective as guardians (crime deterrents) than passing members of the community.

Territorial reinforcement can be achieved through:

- ✓ Design that encourages people to gather in public space and to feel some responsibility for its use and condition
- ✓ Design with clear transitions and boundaries between public and private space
- ✓ Clear design cues on who is to use the space and what it is to be used for. Care is needed to ensure that territorial reinforcement is not achieved by making public spaces private spaces, through gates and enclosures.

• Environmental Maintenance

Clean, well-maintained areas often exhibit strong territorial cues. Rundown areas negatively impact upon perceptions of fear and may affect community confidence to use public space and ultimately, it may affect crime opportunity. Vandalism can induce fear and avoidance behaviour in a public space, therefore the rapid repair of vandalism and graffiti, the replacement of car park lighting and general site cleanliness is important to create a feeling of ownership. Ownership increases the likelihood that people will report or attempt to prevent crime.

Many graffiti vandals favour porous building surfaces, as 'tags' are difficult to remove. Often a ghost image will remain even after cleaning. Easily damaged building materials may be less expensive to purchase initially, but their susceptibility to vandalism can make them a costly proposition in the long term, particularly in at-risk areas. This should be considered when selecting materials for construction.

The overall design of the outdoor "common areas" should include low barrier vegetation, bright/even lighting, wide/even paving, effective guardianship and an absence of entrapment opportunities. In addition to visible street numbering at the entrance to the complex, and throughout, this development should contain clearly signposted directional signage to assist both visitors and emergency services personnel.

Other Matters

Lighting

Offenders within the area target this type of development, both in its construction phase and when the units are occupied. Police would recommend the use of security sensor lights and a security company to monitor the site while construction is in progress.

Car Park Security

One of the major issues that have been brought to Police attention in this Local Government Area is the prevalence of offenders breaching the security access to the car park areas, and breaking into the vehicles. Due to the isolation of the garages, these offences are not usually noticed by the owners until much later. It is suggested that this area be monitored by CCTV and appropriately sign-posted to deter potential offenders.

Way-finding

Way-finding in large environments such as this proposed development site can be confusing. Design and definitional legibility is an important safety issue at these locations. Knowing how and where to enter and exit, and find assistance within the development, can impact perceptions of safety, victim vulnerability and crime opportunity. Signage should *reinforce*, but not be an alternative to legible design.

Letter boxes

Mail/identity theft costs the community millions of dollars annually. And thieves thrive off residents leaving their letter boxes unlocked. It is highly recommended the letter boxes are constructed of quality material and be fitted with quality and robust locks. Letter boxes that are positioned on the outside of the complex are easily accessible by offenders using master keys and residents leaving letter boxes unlocked.

The NSW Police Force (NSWPF) has a vital interest in ensuring the safety of members of the community and their property. By using recommendations contained in this evaluation any person who does so acknowledges that:

- It is not possible to make areas evaluated by the NSWPF absolutely safe for the community and their property*
- Recommendations are based upon information provided to, and observations made by the NSWPF at the time the evaluation was made*
- The evaluation is a confidential document and is for use by the Council or the organisation referred to on page one*
- The contents of this evaluation are not to be copied or circulated otherwise than for the purpose of the Council or the organisation referred to on page one.*
- The NSWPF hopes that by using recommendations contained within this document, criminal activity will be reduced and the safety of members of the community and their property will be increased. However, it does not guarantee that the area evaluated will be free from criminal activity if its recommendations are followed.*

RECOMMENDATION:

There are no objections to this proposal however it is recommended the above Crime Prevention Through Environmental Design (CPTED) should be considered in this development.




Christopher Shade
Senior Constable
Crime Prevention Officer
Miranda Local Area Command
22 December, 2015
Ph: 9541 3899

- 1) Sergeant Millington, Crime Co ordinator – Miranda LAC

*Agree. For the information and consideration of SSC
Rangt sgt 23/12/15 -*

- 2) Crime Manager, Chief Inspector Wollbank – Miranda LAC

 29.12.15

- 3) General Manager, Sutherland Shire Council

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Clause 4.6 Variation to Development Standard Building Height and Floor Space



1-13 Dianella Street, Caringbah

Residential Flat Buildings

Submitted to Sutherland Shire Council

On Behalf of Pier Property Corporation

January 2016 ■ 15283

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JBA operates under a Quality Management System that has been certified as complying with ISO 9001:2008. This report has been prepared and reviewed in accordance with that system. If the report is not signed below, it is a preliminary draft.

This report has been prepared by:



Luke Feltis and Brendan Hoskins 19/01/2016

This report has been reviewed by:



Alexis Cella 19/01/2016

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1.0 Request to Vary a Development Standard

This variation under Clause 4.6 of the *Sutherland Local Environmental Plan 2015* (SLEP 2015) has been prepared by JBA on behalf of Pier Property Corporation. It is submitted to Sutherland Shire Council (Council) in support of a Development Application (DA) for a residential development located at 1-13 Dianella Street, Caringbah.

This variation request made under Clause 4.6 has been prepared following post lodgement comments received from Council regarding variations to both the maximum building height and floor space ratio development standards.

Clause 4.6 of the SLEP 2015 allows Council to grant consent for development even though the development contravenes a development standard imposed by the LEP. The Clause aims to provide an appropriate degree of flexibility in applying certain development standards to achieve better outcomes for and from development.

Clause 4.6 requires that a consent authority be satisfied of three matters before granting consent to a development that contravenes a development standard:

- that the applicant has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case;
- that the applicant has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard; and
- that the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

The consent authority's satisfaction as to those matters must be informed by the objective of providing flexibility in the application of the relevant control to achieve better outcomes for and from the development in question.

The Land and Environment Court has established questions to be addressed in variations to developments standards lodged under State *Environmental Planning Policy 1 – Development Standards* (SEPP 1) through the judgment of Justice Lloyd, in *Winten Property Group Ltd v North Sydney Council* [2001] 130 LGERA 79 at 89. The test was later rephrased by Chief Justice Preston, in the decision of *Wehbe v Pittwater Council* [2007] NSW LEC 827 (Webbe).

These tests and considerations can also be applied to the assessment of variations under clause 4.6 of the LEP and other standard LEP instruments. Accordingly, this Clause 4.6 variation request is set out using the relevant principles established by the Court.

An additional principle was established in the recent decision by Commissioner Pearson in *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009 (Four2Five), which was upheld by Pain J on appeal.

This Clause 4.6 variation request should be read in conjunction with the Statement of Environmental Effects (SEE) prepared by JBA dated October 2015 in relation to proposed residential flat buildings at 1-13 Dianella Street, Caringbah (the Site). It relates to the development standards detailed in Clause 4.3 Height of Buildings and Clause 4.4 Floor Space Ratio under SLEP2015 and has been prepared in light of Council's correspondence dated 31 December 2015.

1.1 Background

1.1.1 Height Variation

Council has recommended that a rooftop communal open space be provided on both Buildings A and B. Council are of the opinion that an insufficient quantum of communal open space is provided, despite strong merit arguments and the specific context of the site. Whilst the provision of communal rooftop spaces into the development will allow for additional open space amenity for residents, it will result in a contravention of the maximum building height development standard.

Council has advised that the requirement for rooftop communal open spaces will be a condition of consent in the development consent. Clause 4.6 (3) states,

*"Development consent must not be granted for development that contravenes a development standard **unless the consent authority has considered a written request from the applicant** that seeks to justify the contravention of the development standard..."*

(our emphasis)

Pursuant of Clause 4.6 (3), this request to vary a development standard has been prepared to administratively address Council's requirement for rooftop terraces which will breach the maximum building height under the SLEP2015. It is understood that the design of the rooftop terraces will be further detailed prior to the issue of a Construction Certificate in which a final numerical variation will be determined. It is assumed that the provision of the communal rooftop terraces on Buildings A and B will contravene the maximum building height development standard by approximately one storey. This general storey increase is considered appropriate to facilitate design elements such as lift overruns, building services, shade structures, landscaping and other amenities.

1.1.2 Floor Space Variation

A second variation to a development standard is sought as a precaution following advice from Council regarding the interpretation of Council's parking rates and the calculation of Gross Floor Area (GFA). Council has deemed that parking in excess of the Draft Sutherland Development Control Plan 2015 (SDCP 2015) rates is to be calculated in the overall GFA for the development.

In determining the amount of floor space within a development, the definition of GFA must be considered. Under the SLEP 2015, Gross Floor Area is defined as:

"the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes:

- (a) the area of a mezzanine, and*
- (b) habitable rooms in a basement or an attic, and*
- (c) any shop, auditorium, cinema, and the like, in a basement or attic,*

but excludes:

- (d) any area for common vertical circulation, such as lifts and stairs, and
- (e) any basement:
 - (i) storage, and
 - (ii) vehicular access, loading areas, garbage and services, and
- (f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and
- (g) car parking to meet any requirements of the consent authority (including access to that car parking), and
- (h) any space used for the loading or unloading of goods (including access to it), and
- (i) terraces and balconies with outer walls less than 1.4 metres high, and
- (j) voids above a floor at the level of a storey or storey above.

(our emphasis)

As stated in the SLEP 2015 definition of GFA, “car parking to meet the requirements of the consent authority” is excluded from the calculation of GFA. Car parking rates for the proposed development are provided in Chapter 6 of SDCP 2015, ‘R4 Caringbah North Precinct’ and are shown in **Table 1** below.

Table 1 – SDCP 2015 Caringbah North Precinct car parking rates

Residential Flat Building in Zone R4	Control
One bedroom	Minimum 1 space/1B
Two bedroom	Minimum 1.5 space/2B
Three bedroom	Minimum 2 spaces/2B
Visitor	1 space/4units

The SDCP 2015 car parking rates are expressed as a minimum control. The Oxford Dictionary defines ‘minimum’ as:

“The least or smallest amount or quantity possible, attainable, or required”

It is clear from the definition above that a minimum rate provides the lowest possible requirement, but does not stipulate a singular requirement or upper limit. In the absence of a maximum parking threshold or a specified singular car parking rate, it is considered the all proposed car parking would be excluded from GFA under the definition provided in the SLEP 2015.

It is our opinion that the parking provided in the development is consistent with the SDCP 2015 car parking rates and no additional GFA is proposed over the maximum Floor Space Ratio (FSR) stipulated for the site under the SLEP 2015. Despite the proposal not contravening the FSR development standard in our opinion, this Clause 4.6 variation request is provided to account for Council’s interpretation.

1.2 Development Standard to be Varied

1.2.1 Height of Buildings

The first development standard to be varied as part of this application is 'Clause 4.3 Height of Buildings' relating to maximum building heights permitted. Under the SLEP 2015 the site is limited to a maximum building height of 16 metres. Clause 4.3 of SLEP states:

Clause 4.3 Height of buildings

(1) The objectives of this clause are as follows:

(a) to ensure that the scale of buildings:

- (i) is compatible with adjoining development, and*
- (ii) is consistent with the desired scale and character of the street and locality in which the buildings are located or the desired future scale and character, and*

(iii) complements any natural landscape setting of the buildings,

(b) to allow reasonable daylight access to all buildings and the public domain,

(c) to minimise the impacts of new buildings on adjoining or nearby properties from loss of views, loss of privacy, overshadowing or visual intrusion,

(d) to ensure that the visual impact of buildings is minimised when viewed from adjoining properties, the street, waterways and public reserves,

(e) to ensure, where possible, that the height of non-residential buildings in residential zones is compatible with the scale of residential buildings in those zones,

(f) to achieve transitions in building scale from higher intensity employment and retail centres to surrounding residential areas.

(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.

The principal reason for the proposed exceedance of the maximum building height is the need to accommodate a rooftop communal open space on each building, as is to be conditioned by Council. It is assumed the proposed height variation will constitute approximately one storey, but will likely be centrally located and not cover the entire rooftop space. The height variation constitutes approximately 20% of the storeys provided in the submitted proposal.

1.2.2 Floor Space Ratio

Clause 4.4 Floor Space Ratio of SLEP 2015 establishes the maximum floor space ratio (FSR) permitted for all development. Under the SLEP 2015 the site is afforded a maximum FSR of 1.2:1. Clause 4.4 of the SLEP 2015 states:

Clause 4.4 Floor Space Ratio:

(1) The objectives of this clause 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.*

(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.

If Council's interpretation of the SDCP 2015 parking rates and calculation of GFA were to be applied to the development, a total of 18 additional car parking spaces would be provided above the minimum SDCP 2015 rates, equating to 234m² of GFA. Subsequently, this results in a varied FSR of 1.25:1 to the site (0.05:1 variation).

1.2.3 Site Context

Site context is a key consideration when determining the appropriateness and necessity of a development standard. Specifically, the development is located at Caringbah within the 'Caringbah North Precinct' nominated by Council for future high density residential development.

The northern boundary of the site presents to North Caringbah Oval, whilst the eastern boundary adjoins an existing at-grade car park associated with the oval. The western boundary of the site adjoins existing low scale dwellings generally fronting Willarong Road. Existing RFB's are located across Dianella Street to the south. The proposed buildings massing and scale has been designed to be consistent with the envisioned built form character of the area, whilst remaining sympathetic to existing residential development.

2.0 Is the Planning Control in Question a Development Standard?

Development Standard is defined under Section 4(1) of the EP&A Act as follows:

“development standards means provisions of an environmental planning instrument or the regulations in relation to the carrying out of development, being provisions by or under which requirements are specified or standards are fixed in respect of any aspect of that development, including, but without limiting the generality of the foregoing, requirements or standards in respect of:

...

(c) the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work...”

The maximum Height of Buildings and Floor Space Ratio standards prescribed under Clause 4.3 and 4.4 of the SLEP 2015 are clearly and unambiguously development standards and have continually been applied in this manner by the consent authority.

3.0 Justification for Contravention of the Development Standard

3.1 Public Benefit

Clause 4.6(4)(a)(iii) of SLEP 2015 requires that development consent must not be granted for development that contravenes a development standard unless the consent authority is satisfied that the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

The proposed development has been assessed against the objectives for the R4 – High Density Residential zone and against the objectives of the Height of Buildings and Floor Space Ratio development standard as provided below.

Despite the proposed variation to the maximum Building Height and Floor Space Ratio development standards, the proposal is considered to be in the public interest as it satisfies the objectives of the zone and the objectives of each development standard.

3.1.1 Consistency with the R4 – High density residential zone objectives

The proposed development is consistent with the objectives of the R4 – High Density Residential zone as follows:

Objective 1 - To provide for the housing needs of the community within a high density residential environment

The existing low density built form represents a significant underutilisation of the land given the development controls that apply to the site and its locational attributes within approximately 400 metres of a railway station. The proposal comprises a new residential development that will provide a mix of 57 apartments and will accord with the density envisaged for the R4 zone surrounding the site, albeit not to the standard of high density established in other local government areas around highly accessible centres.

Objective 2 - To provide a variety of housing types within a high density residential environment

The proposal comprises a residential redevelopment on the site that will increase housing choice with a mix of one, two and three bedroom apartments. The proposal comprises:

- 7 one bedroom apartments;
- 37 two bedroom apartments; and
- 13 three bedroom apartments.

The proposed development is consistent with the envisaged future surrounding built form and will directly increase housing diversity within the area compared to the current low density scale on the site.

Objective 3 - To enable other land uses that provide facilities or services to meet the day to day needs of residents

The proposed development is in close proximity to the Caringbah local centre and railway station. Subsequently, future residents will be serviced by the mix of existing retailers as well as encourage the establishment of new businesses. The proposal's delivery of new residents into the locality will ensure a greater opportunity for other compatible land uses to be provided.

Objective 4 - 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

The proposal fundamentally seeks to respond to market conditions to ensure that the completed development is well occupied and is a vibrant and lively addition to the locality. The proposal has been designed in accordance with the adaptable and liveable housing provisions as required, namely with 20% adaptable apartments and 10% apartments designed as liveable housing. The architectural design ensures that the building is safe and appropriate in the context of the area.

Objective 5 - To promote a high standard of urban design and residential amenity in a high quality landscape setting that is compatible with natural features

The proposed development has been designed to provide all dwellings with a high quality of internal amenity and outlook. The site is oriented to the north to maximise solar access and views. A unique opportunity for views is presented with the site adjoining North Caringbah Oval. The additional floor space is located in the basement levels, therefore will not increase bulk and scale, in turn ensuring no adverse impact to existing natural features.

Despite already being provided with a high level of residential amenity through the design of apartments and the provision of a landscaped communal open space on the ground level, the additional rooftop terraces will provide further amenity benefits over and above any ordinary development.

Objective 6 - To minimise the fragmentation of land that would prevent the achievement of high density residential development

The proposal comprises the amalgamation of six lots to allow for a comprehensive redevelopment, minimising current land fragmentation.

3.1.2 Consistency with objectives of the Height of Buildings development standard

Despite the proposed variation to the Height of Buildings development standard, the proposed development will still result in development which achieves the objectives of the standard. The consistency of the proposed development with the Height of Building development standard is outlined below.

Objective 1 - To ensure that the scale of buildings:

- ***is compatible with adjoining development, and***
- ***is consistent with the desired scale and character of the street and locality in which the buildings are located or the desired future scale and character, and***
- ***complements any natural landscape setting of the buildings***

The proposed development has been carefully considered with respect to the adjoining development. Given the sites zoning, the size and scale of the proposal is consistent with medium to high density built form.

Insight into the desired future character and context of the locality can be derived in the SDCP 2015. The 'Caringbah North Precinct' is an evolving area, with development standards recently updated in the Sutherland LEP 2015 to reflect the locational attributes of the area and the opportunities for higher densities.

The proposed development principally satisfies the envisaged built form in that it provides residential flat buildings maximising amenity through design elements and quality landscaped private and shared open space. SDCP 2015 specifically identifies the area as being "less urban and set in a landscaped context". The additional height accommodating rooftop communal open space and envisaged associated landscaping will align with this vision for the precinct.

The topography of the site enables a stepped form to be created, providing a transition in height from east to west. The proposed design effectively distributes density across the site and provides an interesting built form, sympathetic to the existing character of the location. The built form is generally compliant with the setback and landscaping provisions of the SDCP 2015, ensuring that the character and streetscape scale of the development is consistent with the desired character for the locality.

Objective 2 - To allow reasonable daylight access to all buildings and the public domain

The layout of each building including the orientation of apartments and the size of private open space for each apartment has been carefully considered. The site benefits from a northern orientation with the public open space of North Caringbah Oval to the north. Oversized terraces and balconies have been provided to each apartment where possible, taking advantage of northerly views and solar access. Importantly, the proposal is consistent with the solar access provisions within the Apartment Design Guide (ADG) in that 86% of apartments will receive two hours of solar access between 9:00am and 3:00pm on June 21.

Shadow studies conducted by BKA confirm that the shadow cast by the proposed buildings largely falls on Dianella Street and moves quickly across the landscaped setbacks of adjoining dwellings. The additional height is unlikely to significantly impact overshadowing to surrounding dwellings. As such, adequate daylight access will still be afforded to surrounding development and the public domain.

Objective 3 - To minimise the impacts of new buildings on adjoining or nearby properties from loss of views, loss of privacy, overshadowing or visual intrusion

The nature of the adjoining development, being medium density residential buildings, has informed the proposed building design. The western boundary is the single instance of an interface with another future potential development. Notwithstanding this, the proposed development incorporates design elements to mitigate any impact on neighbouring amenity.

The provision of two residential flat buildings divided by a through site link reduces building bulk and enhances visual permeability through the site when viewed from the public domain and surrounding buildings. The location of the rooftop terraces on the uppermost portion of the building will generally be above surrounding development to the south, therefore ensuring that existing views are not disrupted.

In terms of privacy, the western setback of 4.3m is provided up to 12 metres in height, before a setback of 9m is provided for the remainder of the building. In addition the eastern and western facades have been splayed with views orientated towards the north, purposefully directed away from the adjoining dwelling. The detailed design of the rooftop communal open spaces will ensure that the privacy of surrounding residents is maintained.

As above, the shadow studies conducted by BKA confirm that the shadow cast by the proposed buildings largely falls on Dianella Street and moves quickly across the landscaped setbacks of adjoining dwellings ensuring that daylight access will be maintained to surrounding development.

To ensure that the visual impact of buildings is minimised when viewed from adjoining properties, the street, waterways and public reserves

Both Buildings A and B provide a highly articulated built form through varying setbacks and architectural design elements. It is considered a small to moderate scale presents to Dianella Street and North Caringbah Oval. Furthermore, the buildings have been provided with various slots and large recesses to minimise the extent of a street wall along the northern and southern building facades.

The rooftop terraces are likely to be centrally located on the uppermost portion of the building, ensuring that their visual impact is minimised when viewed from the street.

To ensure, where possible, that the height of non-residential buildings in residential zones is compatible with the scale of residential buildings in those zones

The proposed development exclusively provides for residential development. In the absence of any non-residential areas, the proposal is not inconsistent with this objective.

To achieve transitions in building scale from higher intensity employment and retail centres to surrounding residential areas

The Caringbah North precinct primarily includes residential development set in a landscaped context. The proposed development strategically responds to the local context, providing increased density in close proximity to services located at the Caringbah local centre.

3.1.3 Consistency with the objectives of the Floor Space Ratio development standard

Despite the proposed variation to the Floor Space Ratio development standard, the proposed development will still result in development which achieves the objectives of the development standard. The consistency of the proposed development with the FSR development standard is outlined below.

To ensure that development is in keeping with the characteristics of the site and the local area

Council's rezoning of the land to R4 High Density Residential recognised the need for increased density on the site which is within the Caringbah local centre. The proposed development is compatible with the desired built form outcome for the North Caringbah Precinct. The proposal is sympathetic to the character of the surrounding development and sets a high standard for future residential flat buildings in the area.

To ensure that the bulk and scale of new buildings is compatible with the context of the locality

The additional floor space sought is located in the basement levels, therefore will not have a visual impact through an increase in bulk and scale. The development's location with only one adjoining dwelling/future residential flat building limits the visual impact of the proposed built form on surrounding land uses.

To control development density and intensity of land use, taking into account:

- ***the environmental constraints and values of the site, and***
- ***the amenity of adjoining land and the public domain, and***
- ***the availability of infrastructure to service the site, and***
- ***the capacity of the road network to accommodate the vehicular and pedestrian traffic the development will generate, and***
- ***the desirability of retaining the scenic, visual, and landscape qualities of the area***

The proposed building design has been carefully considered with respect to the environmental planning controls and the site's surrounding context. A number of design measures are incorporated into the proposed scheme that together help manage the development density and intensity. These include effective use of varied setbacks and building materials to break up the building mass and complement the rhythm as well as incorporation of landscaping to deliver an attractive and active pedestrian scaled frontage.

The proposed development is effectively integrated with existing built and natural form, providing a development appropriate in bulk and scale when considering the site dimensions, landscape oriented values and relationship with adjoining land uses.

The proposal will maintain a high level of amenity for surrounding land uses, providing buildings that will pose minimal impacts on neighbouring solar access and privacy. Importantly, the amenity of adjoining residents will not be compromised in the provision of additional GFA given its location at basement level.

The site is sufficiently serviced by local infrastructure. Based on predicted trip generation, the proposal will have a negligible impact on the surrounding road network as reinforced in McLaren's Traffic Impact Assessment.

The proposal's commitment to retaining scenic, visual and landscaped qualities is reflected in the provision of generous landscaped areas coupled with a building design sympathetic with the existing character of the area.

3.2 Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case

Clause 4.6(3)(a) of the SLEP 2015 requires the departure from the development standard to be justified by demonstrating:

that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case

In the decision of *Wehbe*, the Chief Justice expressed the view that there are five different ways in which an objection to a development standard might be shown as unreasonable or unnecessary and is therefore well founded. Of particular relevance in this instance is the first way, as follows:

1. The objectives of the standard are achieved notwithstanding noncompliance with the standard.

The objectives of the Building Height and Floor Space Ratio development standards are predominantly set out to ensure that the proposed developments have scale and density that is compatible with the surrounding character, to ensure the development does not cause unreasonable amenity impacts on surrounding properties and to protect public and private views.

These objectives are satisfied by the proposal (as detailed above) despite the numerical non-compliance with the Building Height and Floor Space Ratio standards. The proposed development will continue to achieve the objectives of the Building Height standard for the following reasons:

- the bulk and scale of the development is compatible with the desired future character of the area;
- the additional height is associated with a rooftop terrace which will likely have built elements located centrally within the rooftop;
- sufficient solar access is afforded to both Buildings A and B as well as surrounding residential dwellings;
- the shadow cast by the development will largely fall on Dianella Street and will not result in a significant increase in overshadowing; and

- an appropriate building density is provided considering the sites proximity to high intensity employment, retail land uses and railway station located in the Caringbah local centre.

The proposed development will continue to achieve the objectives of the Floor Space Ratio standard for the following reasons:

- the floor space variation will have no impact on the streetscape, transition of the built form or the perceived scale of the building when viewed from the public domain as it is located below ground in the basement;
- the additional floor space comprises non-habitable space located at basement level, therefore will not have any privacy impacts on neighbouring developments; and
- the additional floor space resulting from increased car parking will not have a significant impact on the surrounding road network and congestion levels.

Having regard to the above, it would be unreasonable and unnecessary to enforce compliance with the Building Height and floor space development standards contained within Clause 4.3 and 4.4 of the SLEP 2015 as the objectives of these standards are achieved in the proposal.

3.3 There are sufficient environmental planning grounds to justify contravening the development standard

Clause 4.6(3)(b) of the SLEP 2015 requires the departure from the development standard to be justified by demonstrating:

that there are sufficient environmental planning grounds to justify contravening the development standard.

There are considered to be sufficient environmental planning grounds to justify contravention of the Building Height and Floor Space Ratio development standards in this specific instance.

In *Four2Five*, the Court found that the environmental planning grounds advanced by the applicant in a Clause 4.6 variation request must be particular to the circumstances of the proposed development on that site.

There are particular elements that contribute to the development's variation to the Building Height and Floor Space Ratio standards. These are detailed below.

Bulk and Scale

The proposed development has been specifically designed to achieve a high quality built form that reflects the existing character of the area and is compatible with the envisaged built form of the locality.

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 site is well dimensioned and sized to accommodate a basement generally below the natural ground level. This basement is capable of accommodating the additional 18 car parking spaces and corresponding floor space without increasing the scale of the development when viewed from the public domain. The particular sizing attributes of the site allow for the delivery of this additional floor space without any impact.

Communal Open Space

Given the precinct's landscape oriented characteristics and the requirements of the SLEP 2015 to provide 30% of the site as landscaped area, a large portion of the site area has been dedicated to landscaping. When accompanied with the street setback requirements in the Draft SDCP 2015, the extent of space on the site is limited to provide both buildings and communal open space. Council has also required throughout the assessment process that two buildings be provided on the site rather than a single building which more efficiently utilises the site area.

Furthermore, the site contains unique characteristics in terms of size, scale and dimensions. The site has a large frontage and a narrow depth. Despite the site adjoining a large area of public open space at North Caringbah Oval, Council's recommendation to provide additional rooftop communal open space has resulted in the development exceeding the building height development standard.

In light of the stringent landscaping and setback controls, as well as Council's requirement for two buildings, the unique dimensions of the site results in the need to provide additional communal open space on the rooftop levels of Buildings A and B. The proposed buildings have been designed to maximise the floor space available under the SLEP 2015, with a variation proposed only for additional floor space in the basement associated with car parking. As such, the scale of the buildings is generally consistent with the desired controls and there are no other opportunities to provide communal open space other than the rooftop of each building, which in turn requires a variation to the Building Height development standard.

3.4 Director-General's Concurrence

It is understood that the Director-General's concurrence under Clause 4.6(5) of the SLEP 2015 has been delegated to Council. The following section provides a response to those matters set out in Clause 4.6(5) which must be considered by Council under its delegated authority:

Whether contravention of the development standard raises any matter of significance for the State or Regional environmental planning

The proposal demonstrates that a variation to the existing Building Height and Floor Space Ratio development standards are acceptable in terms of significance for State and Regional planning matters. The variance of the development standards will not contravene any overarching State or regional objectives or standards, or have any effect outside the sites immediate area.

The public benefit of maintaining the development standard

Maintaining the development standard would not result in any public benefit in this situation. Reducing the building height and floor space would result in limited communal open space and removal of basement car parking that has been provided to meet market demand and has no material impact.

Further, the development as a whole will deliver a number of public benefits to the area, including:

- additional housing to contribute to overcoming the shortfall of housing in Sydney;
- encouraging future development of the Caringbah local centre for alternative land uses to accommodate the needs of new residents;
- providing a development that sympathises with the landscape character of the area; and

- promoting ecological sustainability and sustainable practices through the achievement of BASIX targets.

Any other matters required to be taken into consideration by the Director-General before granting concurrence

No other matters require consideration by the Director-General. The proposed variation will allow the orderly redevelopment of the site and will better service future occupants of the building.

4.0 Summary

This clause 4.6 variation has been prepared in response to Council recommendations. Rooftop communal open spaces are to be conditioned on the development approval, subsequently resulting in a building height exceedance. The Floor Space Ratio development standard is also varied on the basis that the minimum car parking rates in the SDCP 2015 are applied as a specific or maximum rate.

There are unique constraints and opportunities present in the site which result in a development that exceeds the Building Height and Floor Space Ratio development standards. In light of the unique characteristics of the site, a better development outcome is achieved through contravening these standards.

Consistent with the aim of Clause 4.6 to provide an appropriate degree of flexibility in certain circumstances to achieve better outcomes for and from development, a departure from the Building Height and Floor Space Ratio development standards is considered appropriate in these circumstances.

This request to vary the Building Height and Floor Space Ratio development standard applicable to the site and contained within the SLEP 2015 demonstrates that Council can be satisfied that:

- the proposed development will be in the public interest because it is consistent with the objectives of the Building Height and Floor Space Ratio standards and the objectives for development within the R4 High Density Residential zone in which the development is proposed to be carried out;
- compliance with the development standard is unreasonable or unnecessary in the circumstances of the case because the objectives of the standard are achieved notwithstanding non-compliance with the standard; and
- there are sufficient environmental planning grounds to justify contravening the development standard, in that:
 - the proposed development is consistent with the imminent desired future built form outcome for the site;
 - there is no increase in GFA associated with usable residential floor space;
 - the proposal will provide sufficient communal open space in light of the constraints of the site; and
 - the amended development will ensure the site can promote the role of high density residential in the Caringbah North Precinct.

In light of the above, the proposed non-compliance with the Building Height and Floor Space Ratio development standards is considered acceptable and does not inhibit the ability for Council to favourably consider the subject DA. On this basis, the proposed Clause 4.6 variation is considered well founded and Council's support for the variation to the Building Height and Floor Space Ratio development standards is requested.