

**JOINT REGIONAL PLANNING PANEL
(Sydney East Region)**

JRPP No:	2015SYE149
DA No:	DA15/1278
Local Government Area:	Sutherland Shire
Proposed Development:	Demolition of existing structures and construction of a residential flat building under the provisions of SEPP (Affordable Housing) 2009
Street Address:	128 – 136 Willarong Road, Caringbah (Lots 1 – 5 DP 26537)
Applicant/Owner:	Landmark Group Australia Pty Ltd
Number of Submissions:	Nine (9)
Regional Development Criteria (Schedule 4A of the Act)	General Development over \$20 million
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"> • State Environmental Planning Policy (State and Regional Development) 2011 • State Environmental Planning Policy No. 65 (Design Quality of Residential Apartment Development) • State Environmental Planning Policy (Affordable Rental Housing) 2009 • State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 • State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55) • Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment • Sutherland Shire Local Environmental Plan 2015 • Draft Sutherland Shire Development Control Plan 2015 • Apartment Design Guide • Section 94 Contribution Plans
Recommendation:	Approval
Report By:	Martin Southwell – Environmental Assessment Officer Sutherland Shire Council

1.0 EXECUTIVE SUMMARY

1.1 Reason for Report

This development application (DA) is referred to the Joint Regional Planning Panel (JRPP) as the proposal has a capital investment value of more than \$20 million and is nominated under Schedule 4A(3) of the Environmental Planning and Assessment Act, 1979 (EP&A Act). The proposed development has a value of \$22,647,900.

1.2 Proposal

The proposal involves the demolition of all existing structures and the construction of 2 residential flat buildings (RFBs) comprising 74 units in total over 5 levels, with a common basement split over 3 levels and accessed from Willarong Road providing parking for 97 cars.

1.3 The Site

The development site is located about 500m to the north of the Caringbah centre. It presently consists of 5 individual allotments, each occupied by a dwelling house. It is situated on the eastern side of Willarong Road, directly opposite the former Caringbah High School “top school” site and the Caringbah Bowling & Recreation Club.

To the rear of the site are Council-owned playing fields (North Caringbah Oval) and Caringbah North Public School. Immediately to the north of the site is a pedestrian laneway that is connected with the public school and owned by the NSW Department of Education. Beyond the laneway to the north, and also to the south of the site, are single dwelling houses.

The site is situated within the Caringbah North Precinct, which has recently been rezoned from low density to high density residential under the Sutherland Shire Local Environmental Plan 2015 (SSLEP 2015).

1.4 The Issues

The main issues identified are as follows:

- Non-compliance with SSLEP 2015 – building height
- Traffic and parking
- Waste management
- Building separation and privacy
- Interface to school-owned laneway
- Deep soil basement setbacks to playing fields and laneway

1.5 Conclusion

Following detailed assessment of the proposed development the current application is considered worthy of support subject to appropriate conditions of consent, including a condition requiring the provision of a waste collection area either in the south-western corner of the site or within the basement (requiring the lowering of the basement slab).

2.0 DESCRIPTION OF PROPOSAL

The proposal is for the demolition of all existing structures and the construction of 2 RFBs comprising 74 apartments in total (37 apartments per building) over 5 levels. The proposal includes a mix of 1, 2 and 3 bedroom apartments plus a number of “1 bedroom plus study” apartments. A basement will be accessed from Willarong Road and is split over 3 levels. It contains 97 parking spaces, including 82 residential and 15 visitor spaces.

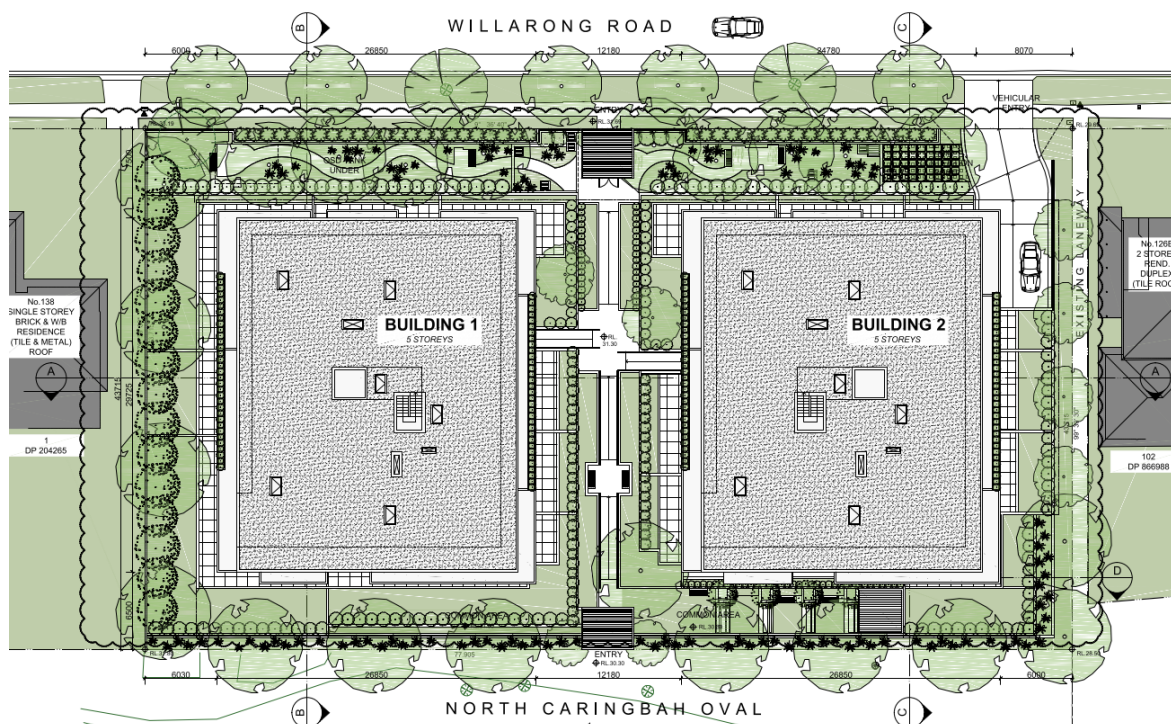
Approval for the RFB is sought under the provisions of the State Environmental Planning Policy (Affordable Rental Housing) 2009. Fifty percent of the total gross floor area (GFA) of the development will be dedicated for affordable rental housing for a 10 year period subject to a condition of consent.

Pedestrian access into the site is via a central access way through a communal open space area between the buildings. Additional useable communal open space is provided within the front setback and at the rear of the site adjacent to the playing fields.

All trees on site are proposed to be removed to accommodate the development, with the exception of a *Schinus molle* (Peppercorn) in the south-western corner of the site. The street trees that have been adversely affected by poorly executed ad hoc pruning by the electricity supplier are also proposed to be removed and replaced with new trees. Stormwater is proposed to be discharged to Willarong Road.

Waste and recycling bins are proposed to be stored within 2 waste storage rooms in Basement 1 and 2 and transported by contractor to the temporary bin collection point at the north-western corner of the site adjacent to the driveway. Residents will utilise garbage chutes on each level that transport the waste to the storage rooms in the basement. The waste bins will be collected by a private contractor in accordance with the Draft Sutherland Shire Development Control Plan 2015 (DSSDCP 2015).

The Site Plan is reproduced below.



3.0 SITE DESCRIPTION AND LOCALITY

The subject land is located at 128 - 136 Willarong Road, Caringbah and presently consists of 5 individual parcels of land. These 5 lots are currently occupied by 1 and 2 storey dwellings and outbuildings. There are 17 trees on the site and 3 street trees (Gums) along the frontage.

The land is rectangular in shape and is located on the eastern side of Willarong Road in Caringbah. The total area of the site is 3,405m². It has a single road frontage to Willarong Road and a rear (eastern) boundary that adjoins a Council-owned sports field known as North Caringbah Oval, each 77.9m wide. Its side boundary lengths are 43.7m. The land falls towards the site's north-eastern corner by about 4.7m (the highest point of the site being the south-western corner).

The site is 570m (path of travel) from Caringbah Railway Station and is within close proximity to major public transport nodes, community facilities and public services. The site is located towards the eastern extremity of a precinct to the north of the Caringbah Centre that has recently been “up zoned” under Sutherland Shire Local Environmental Plan 2015 (SSLEP 2015) from low density residential and special uses (the former Caringbah High School site) to R4 High Density Residential. This precinct is known as the Caringbah North Precinct under the DSSDCP 2015.





Immediately to the north of the site is a pedestrian laneway that measures 1.3m wide. This lane is owned by the NSW Department of Education and provides secondary pedestrian access from Willarong Road to Caringbah North Primary School, located to the north-east and east of the site. (The main entry to the school is off Cawarra Road.) As such, the lane sees heavy foot traffic from primary school children and their parents and is also used by

members of the public as it provides access to the playing fields and Cawarra Road to the east.

To the north of the site beyond the laneway are 5 dwellings (including 1 dual occupancy immediately to the north of the site) that are also zoned R4. Council is not aware of any plans to redevelop these properties for high density residential as yet. However, it is expected that they will at some stage be redeveloped. Beyond those 5 dwellings to the north, the R2 Low Density Residential zone commences.

To the south of the site are 4 properties known as 138 – 144 Willarong Road which are the subject of a DA currently being assessed by Council (DA15/1452). That DA proposes the demolition of all structures and the construction of 40 apartments with 2 basement levels of car parking.

To the west of the site on the opposite side of Willarong Road are the Caringbah Bowling & Recreation Club and the former Caringbah High School “top school” site. Caringbah High School continues to operate out of its original “bottom school” site about 200m to the north along Willarong Road. Preliminary meetings have been held with Council for the redevelopment of the top school site for high density residential apartments in 9 buildings with a central community centre. However, no DA has yet been received for any such proposal.

About 50m to the north of the site at 120 Willarong Road is the Uniting Care Caringbah Preschool with 40 places for 3 – 5 year old children.

4.0 BACKGROUND

A history of the development proposal is as follows:

- A Pre-Application Discussion (PAD) was held on 9 June 2015 regarding the construction of 2 RFBs comprising 66 units plus basement car parking. The proposal was not an affordable rental housing development at that stage. Following the meeting, a formal letter of response was issued by Council on 13 July 2015. A full copy of the advice provided to the Applicant is contained within **Appendix B** of this report and the main points contained in this letter are as follows:
 - The proposed FSR of 1.5:1 exceeded the maximum permitted 1.2:1 under SSLEP 2015 (a draft instrument at the time).
 - Deep soil landscaping does not appear to comply with the minimum 30% required under SSLEP 2015.
 - The proposal's built form comprising 2 buildings with central communal open space was supported, but it was suggested that Building 2 be raised to reduce the level difference between the 2 buildings as the central open space is compromised; a Clause 4.6 Objection must be submitted.
 - The setback to the basement from the street should be increased to allow for deep soil planting within the front setback.
 - Pedestrian access to each building is convoluted and direct access to each building from Willarong Road may be preferable.
- The current application was submitted on 22 October 2015.
- The application was placed on public exhibition with the last date for the receipt of submissions being 26 November 2015.

- An Information Session was held at Council Chambers on 10 November 2015 and 3 people attended.
- Council wrote to the Applicant on 15 February 2016 and requested that an amended design be submitted that addresses the following matters:
 - The FSR of the proposal exceeded the maximum permitted, even when taking into account the GFA bonus provided for under the Affordable Rental Housing SEPP.
 - The proposal had a poor interface to the pedestrian lane to the north due to a nil setback to terraced walls up to 3.9m at their highest point.
 - The eastern setback of the basement should be increased to permit the planting of canopy trees within deep soil.
 - The rear balconies facing east do not meet the minimum 6m setback required under the DSSDCP 2015.
 - There are various setback non-compliances with the ADG that should be addressed.
 - There is a minor height variation to Building 1 that is not mentioned within the Clause 4.6 Objection submitted with the DA.
 - The planting of new larger street trees will be possible as the DSSDCP 2015 requires the undergrounding of existing local distribution power lines.
 - Various non-compliances with ADG in terms of residential amenity must be addressed, including solar access to communal open space.
 - Additional residential storage diagrams should be submitted.
 - Heliographic / sun's eye diagrams should be submitted to demonstrate compliance with the solar access requirements of the ADG.
 - Further details are required in the Arborist Report and various landscaping improvements can be made to the proposal.
- Council officers met with the Applicant and their consultants on 24 February 2016 and discussed the above requests in more detail, with the Applicant committing to provide an amended response as soon as practicable.
- Initial amended plans were received by Council on 4 and 8 March 2016.
- The application was considered by Council's Submissions Review Panel on 15 March 2016.
- Final amended plans were received on 10 March 2016.

5.0 ADEQUACY OF APPLICANT'S SUBMISSION

In relation to the Statement of Environmental Effects, plans and other documentation submitted with the application or after a request from Council, the applicant has provided adequate information to enable an assessment of this application with the exception of waste collection details. Further discussion on this matter is held within the Assessment Section of this report and a condition of consent has been included to address this matter and provide a waste loading area to allow for the collection of waste bins on the site.

6.0 PUBLIC PARTICIPATION

The application was advertised in accordance with the administrative provisions of the DSSDCP 2015. Twenty-five adjoining or affected owners were notified of the proposal and 9 submissions were received from the following properties:

Address	Date of Letter/s	Issues
6/16-18 Dianella St	6 November 2015	1, 2, 3, 4, 6, 7, 8, 10
30/131-135 Willarong Road	22 November 2015	1, 2, 3, 4, 6, 9
23/131-135 Willarong Road	23 November 2015	1, 2, 3, 4, 6, 8, 9
27/131-135 Willarong Road	23 November 2015	1, 2, 3, 4, 6, 8, 9
7/131-135 Willarong Road	23 November 2015	1, 2, 3, 4, 6, 8, 9
19/131-135 Willarong Road	24 November 2015	1, 2, 4, 6, 11
3/131-135 Willarong Road	24 November 2015	1, 2, 3, 4, 6, 8, 9
4/131-135 Willarong Road	24 November 2015	1, 2, 3, 4, 6, 8, 9
126B Willarong Road	26 November 2015	1, 2, 5, 12, 13, 14, 16

The issues raised in these submissions are as follows:

Issue 1: Car parking – there is inadequate street parking in the area due both to this proposal and the cumulative impact of all such proposals in the locality

Comment: The proposal complies with the minimum required parking rates of both the Affordable Rental Housing SEPP and the ADG. Council cannot refuse a DA for affordable rental housing if the development meets the parking requirements of the SEPP. The proposal is within the 800m railway station walking distance threshold of the SEPP and it is reasonable to assume that the SEPP anticipates that a greater proportion of residents of the proposal will utilise the existing public transport network.

Issue 2: Traffic congestion and safety - The proposal will compromise the safety of pedestrian school children and nearby residents exiting their driveways in their cars. Furthermore, the driveway is proposed to be located directly adjacent to the lane potentially causing conflicts between cars and school children.

Comment: The proposal meets the minimum sightlines required within the Australian Standard 2890.1. The setback of the driveway has been increased from 1.8m to 3.3m in order to provide additional reaction time by motorists and pedestrians alike.

Issue 3: Reports and surveys - The traffic report submitted with the application is based on surveys conducted at non-peak times, and does not consider the cumulative impact of all high density residential development in the locality

Comment: The Traffic and Parking Impact report has surveyed existing traffic conditions during both the AM Peak (8.15am – 9.15am) and the PM Peak (5.00pm – 6.00pm). The cumulative impact of all high density development in the area is difficult to ascertain on the basis that it has not yet transpired. However, the area has recently been rezoned by Council for R4 High Density Residential development and it is to be reasonably expected that traffic will increase in the area. As such, the road network and nearby intersections will need to be monitored and reassessed as building works for RFBs are progressively completed in the coming years.

Issue 4: Garbage bins will cause traffic congestion when presented to the kerb for collection

Comment: A condition of consent has been imposed requiring the provision of a waste collection area in the south-western corner of the site. This is discussed in further detail in the Assessment section below.

Issue 5: Driveway setback – safety to school children and their parents

Comment: As mentioned above, the Applicant has increased the side setback of the driveway from the northern boundary of the site (which is the school laneway) from 1.8m to 3.3m to provide additional reaction time for pedestrians and motorists, to minimise and hopefully prevent any such conflicts. As the lane is owned by the Department of Education rather than Council, the Department may need to review whether barriers / bollards should be installed at the western end of the lane to slow down children running through the lane.

Issue 6: Infrastructure - ADSL connections to the local exchange are in short supply and the proposal will further erode availability; the street communications network should be upgraded at the time of construction. The water mains pressure is also low and the system will not cope with additional units.

Comment: The impact that new residential development may have on the availability of new internet connections is insufficient reason to refuse a proposal. Such infrastructure is privately owned and enquiries of this nature should be made to the authorities responsible for their provision and/or management.

With respect to water, a condition of consent will require the developer to obtain a Section 73 Compliance Certificate from Sydney Water. This certificate ensures that the development is served by and will not adversely affect Sydney's water and wastewater (and in some cases stormwater) systems.

Issue 7: Section 94 Contributions – These should be utilised to upgrade the adjacent playing fields and other reserves and areas around the R4 zone.

Comment: The expenditure of Developer Contributions is pre-determined by Council's existing Section 94 Developer Contribution Plans and cannot be individually modified per development proposal.

Issue 8: Traffic calming is required in Willarong Road and/or a safety measure to permit traffic to turn right into Willarong Road from Kingsway more safely should be installed

Comment: This matter has been referred to Council's Traffic Committee for their review outside of the DA process.

Issue 9: Overdevelopment - Too many large developments of this scale in the area

Comment: Following extensive community consultation, the Caringbah North Precinct has been rezoned from low density residential to R4 High Density Residential under SSLEP 2015. Residential flat buildings are permitted development within the R4 zone with consent from Council.

Issue 10: Notification for Future Planning of Services - The Department of Education, local schools, early childhood centres, bus companies and soccer club should be notified of this development so those organisations can make long term plans for enrolments

Comment: Council publicly notifies development of this nature both by mail to surrounding residences and in the local newspaper "The Leader". An Information Session was held on 10 November 2015 in relation to the proposal.

Issue 11: Litter – Waste on public areas caused by the proposal, e.g. mattresses thrown on the footpath etc.

Comment: A bulky waste storage area is located within each of the 2 waste storage rooms in the basement.

Issue 12: Privacy - All levels of the proposal will look directly into the backyard of 126B Willarong Road.

Comment: This matter is addressed in further detail within the Assessment section of this report, under "Building Separation and Setbacks".

Issue 13: Overshadowing - The proposal will overshadow the dwelling at 126B Willarong Road, situated to the north of the site.

Comment: The proposal will not cause any winter overshadowing (when solar access is most desirable) to 126B Willarong Road as that property is due north of the site.

Issue 14: Community Consultation – There was insufficient consultation by the developers before the sites were purchased.

Comment: Community consultation prior to the DA process is not required. Council's public notification process exists to afford the community with an opportunity to provide feedback on a proposal.

Issue 15: Materials illegally dumped during demolition of 111-129 Willarong Road

Comment: This matter does not relate to this DA as the property in question is across the road. Nonetheless, this matter was referred to Council's compliance unit for investigation and/or action.

Submission Review Panel (SRP)

The above issues were considered by Council's SRP on 15 March 2016. The SRP concluded that all of the above issues raised except for Issue 12 (Privacy) were not substantive. With respect to privacy, the SRP concluded that overlooking impacts can be mitigated by appropriate conditions of consent. Privacy is addressed in further detail under Part 10.5 "Building Separation and Setbacks" below.

Revised Drawings

The applicant lodged the final set of revised architectural drawings on 10 March 2016 and revised landscape plans on 4 March 2016. The nature of the amendments made did not warrant renotifying neighbouring residents as they did not change the external impacts of the proposal to the extent that they should be afforded the opportunity for further comment.

7.0 STATUTORY CONSIDERATIONS

The subject land is zoned *R4 High Density Residential* under SSLEP 2015. The proposed development, being a *residential flat building*, is a permissible land use within the zone with development consent from Council.

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

- State Environmental Planning Policy (State and Regional Development) 2011
- State Environmental Planning Policy (Affordable Rental Housing) 2009
- State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP 65)
- State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment
- Apartment Design Guide (ADG)
- SSLEP 2015
- DSSDCP 2015
- Section 94 Developer Contributions Plans:
 - Shire-Wide Open Space and Recreation Facilities 2005
 - Section 94 Community Facilities Plan

8.0 STATEMENT OF COMPLIANCE

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

8.1 SEPP (Affordable Rental Housing) 2009

The Applicant seeks consent for the RFBs pursuant to the Affordable Rental Housing SEPP. Under Part 2, Division 1, in-fill affordable housing in the form of residential flat buildings is permitted if it is located in an "accessible area". The site satisfies this criteria as it is located within 800m walking distance of the public entrance to Caringbah railway station (610m). Further, RFBs are permitted on the site with consent under the SSLEP 2015 and the site does not contain a heritage item.

The following table contains an assessment of the proposal against key requirements of the SEPP.

SEPP (Affordable Rental Housing) 2009			
Floor Space Ratio	<i>0.5:1 bonus (if the existing maximum FSR is 2.5:1 or less)</i> <i>i.e. 1.2 + 0.5 = 1.7:1 (5,789m²)</i>	1.7:1 (5,789m ²)	Yes
Standards that cannot be used to refuse DA (if compliant)			
Min. Site Area	450m ²	3405m ²	Yes
Landscaped area (podium and deep soil combined)	30% (1021.5m ²)	35.4% (1206m ²)	Yes
Deep soil zones	15% of site	15.3% (520.3m ²)	Yes
Solar access	Min. 3hrs of sunlight to living rooms and POS of at least 70% of dwellings between 9am and 3pm	50 units (67.6%) receive required solar access	No (3.4%) (2 units short)
Car parking	0.4 x 1 bed (8 sp) 0.5 x 2 bed (23 sp) 1 x 3 bed (8 sp)	20 spaces 46 spaces 16 spaces	Yes Yes Yes
	Min. 39 residential spaces total	82 residential spaces (43 in excess)	Yes

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

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

Design Quality Principles	Assessment
Principle 1: Context and neighbourhood character	The Caringbah North Precinct has been upzoned from low density to high density residential. The proposal is an appropriate response to the new zoning and development standards that apply to the site. It will make a positive contribution to the identity of this new R4 zone and it is consistent with the desired future character of the area as envisaged under SSLEP 2015.

Principle 2: Built form and scale	<p>The built form is distributed appropriately across the site and responds well to the street and playing fields. The 2 buildings relate to each other in a sensible and competent way.</p> <p>The proposed scale is acceptable in the context of the future density proposed by Council. The scale of the proposal is commensurate and compatible with new RFB development proposed immediately to the south of the site and to the south-east in Dianella Street (despite a minor height variation as discussed in the Assessment section below).</p>
Principle 3: Density	The density of the proposal is supportable as it complies with the Affordable Rental Housing SEPP. Canopy tree planting within the street, front setback and playing fields behind the site will assist to ameliorate the bulk of the building. The building setbacks are acceptable.
Principle 4: Sustainability	The development incorporates BASIX requirements and sustainability measures into its overall design so as to enhance water and energy efficiency and to provide suitable amenity to the building's future occupants. Two rainwater tanks with a total capacity of 10,000L will provide for the irrigation of all ground level and podium landscaped areas.
Principle 5: Landscape	Deep soil zones compliant with the Affordable Rental Housing SEPP will allow for tree planting. Additional landscaped areas are provided on the podium within all communal areas. These will reinforce the existing and desired landscape character of the locality.
Principle 6: Amenity	The proposal generally satisfies the provisions of the ADG with respect to residential amenity, including appropriate building and floor plan layout, solar access, and visual/acoustic privacy. Natural ventilation whilst not strictly compliant is acceptable with the provision of roof vents to the upper level. Similarly, solar access is very close to achieving compliance. A notable non-compliance with the ADG is the absence of natural light to the lift lobbies in each building. A condition of consent is recommended to resolve this issue.
Principle 7: Safety	The proposed development incorporates suitable Crime Prevention Through Environmental Design (CPTED) Principles in the design, and additional conditions of consent have been imposed as recommended by NSW Police.
Principle 8: Housing diversity and social interaction	The proposal provides a mix of apartment types, which encourages diversity. 20% of all apartments are adaptable and 10% of apartments will comply with the Silver Performance Level of the Livable Housing Design Guidelines (subject to a design change condition of consent).
Principle 10: Aesthetics	An appropriate composition of building elements, textures, materials and colours within the development has been achieved. Façade treatments are of an acceptable level.

8.3 Apartment Design Guide (ADG)

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

Apartment Design Guide (ADG) – Key Controls			
Building separation	<i>Up to 12m:</i> Non habitable: 3m Habitable: 6m	6m to both habitable and non-habitable on north and south sides, except for ground level terraces (Yes
	<i>12 – 25m:</i> Non habitable: 4.5m Habitable: 9m	N/A – balconies on side 9m to rooms, but only 6m to edge of balconies	N/A No
Natural ventilation	60% of apartments to be naturally cross ventilated (44 units)	42 / 74 (56.8%) naturally cross ventilated 45 / 74 (60.8%) using passive vertical vent shafts	No (2 units short)
	Max. Depth 18m for cross over units	None proposed	Yes
Solar access	Living rooms and private open space, 2 hours direct sunlight in mid winter to 70% of units between 9am and 3pm	50 units (67.6%) receive required solar access (4 of which utilise skylights on Level 4)	No (2 units short)
	Maximum 15% of units receive no sunlight to habitable rooms	8 units (10.8%)	Yes
Single aspect apartment depth	8m	< 8m to from living room sliding doors to rear of kitchen in single aspect apartments	Yes
Apartment size	1br: 50m ² 2br: 70m ² 3br: 90m ²	1br: 52m ² 2br: 70m ² min. 3br: 96m ² min.	Yes Yes Yes
Ceiling heights	2.7m	2.7m	Yes

Private open space: – 1 br apartment – 2 br apartment – 3 br apartment – Ground level apartments (or on a podium)	<i>Primary balconies:</i> 8m ² , min. 2m depth 10m ² , min. 2m depth 12m ² , min 2.4m depth 15m ² with min 3m depth	10m ² min, >2.5m depth 11m ² min, 2m depth 30m ² min, 2.4m depth 18m ² minimum but 4 of 16 have a depth of 2.2m – 2.9m	Yes Yes Yes No (12 comply but 4 do not)
Communal open space – size	25% of site area (851.25m ²)	Ground level: 906.7m ² = 26.6%	Yes
Communal space - solar access	50% of principal area of communal open space area (i.e. 453.35m ²) to receive 2hrs of direct sunlight in mid winter	250m ² on eastern side and 340m ² on western side will receive 2hrs = 65% total	Yes
Residential storage	6m ³ per 1br unit 8m ³ per 2br unit 10m ³ per 3br unit At least 50% of storage to be located within the apartments	All units compliant with respect to storage in apartments. Condition included to ensure compliance for basement storage.	Yes – subject to condition of consent
Car parking	0.6 x 1 bed (12 sp) 0.9 x 2 bed (41.4 sp) 1.4 x 3 bed (11.2 sp) Min. 65 residential spaces total Min. 15 visitor spaces (1sp per 5 units)	20 spaces 46 spaces 16 spaces 82 residential spaces (17 in excess) 15 spaces	Yes Yes Yes Yes Yes

8.4 Local Controls – SSLEP 2015 and DSSDCP 2015

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

Standard/Control	Required	Proposed	Complies? (% variation)
Sutherland Shire Local Environmental Plan 2015			
Building Height	16m	16.95m max.	No (5.94%)
FSR	1.2:1	1.7:1	No – relies on SEPP
Landscaped Area (deep soil)	30% (1021.5)	15.3% (520.3m ²)	No – relies on SEPP
Sutherland Shire Development Control Plan 2015			
Site width	26m min.	77.9m	Yes
Adaptable apartments	20% (15 apartments)	15 apartments (15 parking spaces)	Yes

Standard/Control	Required	Proposed	Complies? (% variation)
Livable apartments (Silver Performance Level)	10% (7 apartments)	4 apartments	No (42.95%) – conditioned to comply
Streetscape and Building Form	Built form articulated to avoid large expanses of broken wall	Acceptable	Yes
Street setbacks	7.5m from street (1.5m articulation zone permitted for max 1/3 rd of facade width)	7.5m to main building line 25% of facade utilises 6m articulation zone	Yes Yes
Side setbacks	<i>Up to 12m:</i> Non habitable: 4.5m Habitable: 6m <i>12 – 25m:</i> Non habitable: 6.5m Habitable: 9m	South: 6m habitable North: 6m habitable N/A – balconies on side 6m habitable (balconies)	Yes Yes No
Rear setback	<i>Up to 12m:</i> 6m setback <i>12 to 25m:</i> 9m setback	5.5m to balconies, 6.5m to wall 5.5m to balconies, 8.6m to wall	No , but acceptable on balance No
Landscaped side setback to basement driveway	1m	3.3m	Yes
Basement setbacks	<i>Street:</i> May extend into front articulation zone (6m) <i>Side and rear:</i> 3m where it extends beyond the building footprint	6m North: 1.13 – 3m South: 4.3m East: 900mm	Yes No Yes No
Car parking	1 x 1 bed (20 sp) 1.5 x 2 bed (69 sp) 2 x 3 bed (16 sp) Min. 105 residential spaces total Min. 19 visitor spaces (1sp per 4 units)	20 spaces 46 spaces 16 spaces 82 residential spaces (23 deficient) 15 spaces (4 deficient)	Yes No (33.3%) Yes No (21.9%) No (21.1%)

Car wash bays	3 dedicated car wash bays	3 shared with visitors parking spaces	No
Waste Management	1br unit (20 units) Garbage: 80L Recycling: 80L 2br unit (46 units) Garbage: 100L Recycling: 120L 3br unit (8 units) Garbage: 120L Recycling: 120L 15,240L total = 64 x 240L bins	56 x 240L bins provided within 2 storage areas (including 8 bins within waste chute apparatus)	No – 8 bins short , but conditioned to comply

9.0 SPECIALIST COMMENTS AND EXTERNAL REFERRALS

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

9.1. Architectural Review Advisory Panel

The proposal was reviewed by Council's ARAP on 19 November 2015. The ARAP was generally supportive of the proposal, particularly the 2 building form, but suggested further improvements could be made to the design. These include individual access to each building from the street, improved amenity within the front and central communal open space areas, a setback of 1.5m from the lane and deep soil planting along the eastern boundary adjoining the playing fields. The ARAP also identified that 60% natural ventilation does not appear to have been achieved. These matters are discussed within the Assessment section below. The full Report from ARAP is held at **Appendix C** of this report.

9.2. Architect

Council's Architect has undertaken a review of the amended proposal and made the following comments (summarised):

- The proposal generally provides a reasonable level of amenity to its residents and responds to the future context of this area in an appropriate manner.
- The use of passive vertical vent shafts for 3 units to meet the requirements of the ADG does not fit the technical definition of a cross ventilated unit but is recognised as a valid technique to improve the natural ventilation of a single sided unit.
- The balconies on Level 4 are not technically compliant with the ADG setback requirements, but the use of planters on the northern and southern edges is a reasonable strategy provided that they are extended.
- A recess should be created in each building on the southern face of each lift (Levels 1 – 3 only) to provide natural light into each lift lobby. The lifts could also be reorientated to be accessed from the west. To achieve this, Unit 1L01

would need to become a 1BR unit and Unit 2L01 would need to become a studio.

- There has been no significant development to the treatment of the building aesthetic, but façade treatments are of an acceptable level.

9.3. Landscape Architect

Council's Landscape Architect has reviewed the amended landscape plans received by Council on 4 March 2016 and provided comment and conditions. One condition in particular will require the submission to Council (for approval in writing prior to the issue of a CC) of an amended landscape plan with various changes such as direct access from ground floor terraces to communal open space areas, widened pedestrian pathways within the central pedestrian walkway, improvements to the rear communal open space such as relocating the BBQ area to be near the rear gate and lowering the height of the rear fence adjacent to the playing fields.

9.4. Development (Assessment Team) Engineer

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

9.5. Traffic Engineer

Council's Traffic Engineer was verbally consulted in relation to the proposal. The Traffic Engineer advised that additional traffic generated by the proposal will be relatively minor and that the signalisation of the intersection is unwarranted at this time.

9.6. NSW Police

The DA was referred to the Miranda Local Area Command Crime Prevention Officer in accordance with Council's adopted policy for RFBs over 50 units. The comments made by the Crime Prevention Officer have been taken into account in the assessment of the DA. Various reasonable and enforceable conditions that were recommended by the Officer have been included within the recommended consent conditions. The full NSW Police comments are held at [Appendix D](#).

10.0 ASSESSMENT

Following a detailed assessment of the application having regard to the Heads of Consideration under Section 79C(1) of the Environmental Planning and Assessment Act 1979 and the provisions of relevant Environmental Planning Instruments, DCPs, Codes and Policies, the following matters are considered important to this application.

10.1 Site Amalgamation and Building Envelopes

Chapter 6 of the Draft SSDCP 2015 identifies no required amalgamation patterns or building envelopes for the Caringbah North Precinct. Nonetheless, this proposal will not isolate any sites and also complies generally with the required building setbacks. The 4 properties to the south of the site (138 – 144 Willarong Road) are the subject of a DA presently being assessed by Council (DA15/1452). That DA proposes the demolition of all structures and the construction of 40 apartments with 2 basement levels of car parking. The 4 sites to the north on the opposite side of the laneway (122 – 126B Willarong Road) are also zoned for R4 and with a combined area of

about 1,800m² will readily accommodate an RFB in the future, albeit with a reduced height of 13m rather than 16 as required by SSLEP 2015.

10.2 Height

A maximum building height of 16m applies to the site pursuant to Clause 4.3 and the Height of Buildings Map of SSLEP 2015. The north-eastern edge of Building 2 (the northern building) exceeds the 16m height plane, resulting in a maximum height of 16.95m at its north-eastern corner. This equates to a 5.94% variation to the standard.

The lift overrun of the same building also exceeds the 16m height limit by 850mm (5.31%) whilst Building 1 has a very minor non-compliance of just 70mm at its north-eastern corner. The lift overrun of Building 1 has a height of 15.97m and therefore complies.

Council advised the following in its formal PAD letter of response to the Applicant dated 13 July 2015:

"It is considered appropriate that the ground floor level of Building 2 be raised to reduce the level difference between the two buildings compromising the central common open space area between the two buildings. The raising of Building 2 may result in a minor portion of the building exceeding the height limit (16m)."

The letter acknowledged that this would likely result in a non-compliant overall building height but advised that a satisfactory Clause 4.6 Objection would need to be submitted with the DA in order for Council to assess the acceptability of the variation. Following is an assessment of the proposed variation and of the Applicant's objection to the standard:

10.2.1 Consistency with the objectives of the standard

The objectives of the height of buildings development standard set out in clause 4.3 (1) of SSLEP 2015 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.

Despite the numerical non-compliance, the proposal is found to be consistent with

the above objectives for the following reasons:

- The scale of the proposal is generally compatible with the scale of adjoining development and is consistent with the desired scale and character of the newly upzoned Caringbah North Precinct. This precinct is undergoing a transition from low density to high density residential with increased building heights of 13 – 16m. It is reasonable to expect that during this transition period there will be a juxtaposition of new buildings to existing housing stock.
- The non-compliance is relatively minor to the extent that reducing the overall building height by 950mm to achieve compliance would have little perceivable effect with respect to scale from the public domain (including the playing fields) and adjacent private properties.
- The non-compliance is limited to a small part of the roofline of the buildings. The uppermost level of the building is recessed from the levels below by 3m and as such the actual part of the building that exceeds the standard will not be visually intrusive.
- The planting of canopy trees within the street, the front setback and within the playing fields to the rear will ameliorate the scale of the building.
- The non-compliant portions are located at the northern end of each building (or the centre of the building as in the case of Building's 2 lift overrun) and as such will not result in any additional overshadowing of adjacent residential properties.
- The proposal will have no impact on views of significance and the height non-compliance will not exacerbate any privacy impacts of the proposal.

10.2.2 Consistency with zone objectives

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

- *To provide for the housing needs of the community within a high density residential environment.*
- *To provide a variety of housing types within a high density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To encourage the supply of housing that meets the needs of the Sutherland Shire's population, particularly housing for older people and people with a disability.*
- *To promote a high standard of urban design and residential amenity in a high quality landscape setting that is compatible with natural features.*
- *To minimise the fragmentation of land that would prevent the achievement of high density residential development.*

The proposal will result in the provision of additional apartment stock, including affordable rental apartments, within a newly rezoned R4 High Density precinct. A variety of housing types are provided within the development and the urban design is of a high standard. The proposal does not offend the zone objectives and is generally consistent with them.

10.2.3 Assessment of Applicant's request for variation

The applicant has lodged a written request in accordance with the requirements of Clause 4.6 of SSLEP 2015. A full copy of this request is held at [Appendix E](#) and the most relevant points are reproduced below:

- *The proposed variation to the height is necessary to improve the amenity between buildings while considering the slope of the site.*
- *The proposed encroachment into the maximum building height is considered to be minor and will not substantially change the appearance of the proposal within the locality, nor will the additional height be readily apparent or obvious to the casual observer at street level.*
- *The minor variation to the building height will not impact on solar access to surrounding properties when compared to a fully compliant scheme because the non-compliance is located on the northern side of the building. As such, no overshadowing impacts will be created as a result of the non-compliance.*
- *The development overall (and the proposed height variation in particular) will not create any significant or noticeable environmental or amenity based impacts on the streetscape, surrounding properties or in the immediate locality.*
- *The proposed non-compliance will not have any additional or detrimental impacts on residential privacy within the proposed development or on surrounding properties due to the careful design of individual unit layout.*
- *There is no planning purpose to be served by limiting the height strictly to the maximum height allowable given the site constraints and absence of amenity related impacts.*

The applicant's objection satisfactorily demonstrates that compliance with the height development standard is unreasonable (no purpose would be served) or unnecessary (it is achieved anyway) on the basis that the proposal is generally consistent with the objectives of both the development standard and the zone, despite the numerical non-compliance.

The objection also satisfactorily demonstrates that there are sufficient environmental planning grounds to justify varying the development standard in the particular circumstances of this site. The height variation will result in a significantly improved central communal open space area compared to the original proposal considered during the Pre-Application Discussion. The communal open space is now a more functional area with an improved level of amenity and more relaxed ramp grades for increased social interaction. As stated within the objection, the proposal will not create any significant or noticeable environmental or amenity based impacts on the streetscape, surrounding properties or in the immediate locality and the non-compliance will not have any additional or detrimental impacts on residential privacy within the proposed development or on surrounding properties.

The proposal results in an improved relationship between the 2 buildings resulting in a higher quality central communal open space area that will be of benefit for the residents of this affordable rental housing development. There is found to be sufficient public benefit in permitting a height variation in the circumstances as the proposal is consistent with the objectives of both the development standard and the zone despite the numerical non-compliance. The height variation will not result in an

increased level of adverse impacts to neighbouring properties or the public domain.

The proposed variation also does not raise any matters of State or regional environmental planning significance.

In conclusion, the variation to the height development standard satisfies all relevant parts of Clause 4.6 and therefore the variation is supported.

10.3 General Urban Design

SEPP 65, the ADG, SSLEP 2015 and Chapter 5 of DSSDCP 2015 contain relevant matters of consideration relating to urban design and residential amenity for RFBs. The application was considered by the ARAP and amendments have been made generally in response to the recommendations made.

The proposed 2 building layout in particular is a good built form outcome for the site as it serves to break up the bulk and massing of GFA and provide opportunities to see the sky through the buildings from the public domain of both Willarong Road and the playing fields to the rear. This approach is supported by Council's ARAP. Landscaping within the front and rear setbacks will soften the building's appearance within the streetscape and appropriate fencing treatment is proposed subject to a condition of consent reducing the height of the rear fence.

The development incorporates a notably more modern aesthetic than surrounding buildings, but respects the desired future character of the area being the newly rezoned R4 Caringbah North Precinct. Many sites within this precinct are expected to be redeveloped for new apartment buildings in the near future, including the former Caringbah High School directly opposite the subject site to the west.

The Applicant has not adopted the ARAP's recommendation that individual access be provided to each building from Willarong Road. The Applicant's approach is supported. Doing so would compromise the useability of communal open space area within the front setback, which has a meandering pathway, deep soil planting and bench seating with reasonable privacy from the street and adjacent ground floor unit terraces provided by landscaping. This large area will receive a good level of direct sunlight each winter afternoon from midday on. Furthermore, eliminating the central shared access way between the buildings would likely result in that area becoming an underutilised marginal and stagnant area that receives little sunlight and warmth in winter. As such, the proposed central access way will achieve a more beneficial for both of the aforementioned communal spaces.

The proposal is generally of a density, height, bulk and scale anticipated in this new R4 High Density Residential zone and the development integrates appropriately with the proposed RFB immediately to the south. Minor variations to the ADG in terms of building separation are considered to be acceptable as discussed under "Building Separation and Setbacks" below.

Matters relating to ecologically sustainable development, energy efficiency and sustainable building techniques have been considered. Though not required in order to achieve BASIX compliance, an underground rainwater tank is recommended to be included by condition of consent (in line with the proposed OSD tank) for irrigation of all ground level and podium landscaped areas.

10.4 Interface to Laneway

The laneway to the north of the site has notably confining characteristics with 1.8m fences on both sides, extending over 40m from the street. The original proposal submitted with this DA had terraced retaining walls adjacent to the lane, albeit with a nil setback. This was considered to be a missed opportunity to vastly improve this marginal space.

The proposal now has an improved interface to the pedestrian lane on the northern side by virtue of a 1.5m landscaped setback. The landscaping will consist of turf and selected tree species that satisfy the CPTED surveillance principles.

10.5 Building Separation and Setbacks

The proposal (above ground) does not strictly comply with the minimum required rear setback of 6m from the playing fields. The balconies overlooking the oval are set back 5.5m, whilst the external wall itself is set back 6.5m. On balance, this compromise is acceptable as the non-compliance is caused by the balconies only, whilst the wall has a 500mm greater setback than necessary. All of the balconies with the exception of Level 4 are well in excess of 50% glazed, and the varying setback will provide good articulation to break up the massing. A 500mm variation to the rear setback of the balustrades will not be perceivable from the park and is therefore supported.

The north-facing balconies on Levels 3 & 4 and the south-facing balconies on Level 4 do not meet the minimum 9m setback of the Apartment Design Guide for 12 – 25m (habitable) as balconies are taken to be habitable areas for the purposes of the ADG. The visual impacts of these areas of non-compliance are minimal as the offending parts of the building are balconies created where the external walls of Level 4 step in to achieve a 9m setback. Numerical compliance with the ADG could be achieved for Level 4 at a minimum by shrinking the overall floor plate of that level and recessing the balustrades of the balcony so as to achieve a 9m setback. However, this would likely have adverse aesthetic consequences. Rather, to improve privacy to the backyard of 126B Willarong Road to the north, it is recommended that the proposed planter boxes on Level 4 be extended so that they provide additional separation and screening as marked in red on the approved architectural plans. In the case of Unit 2404, the planter box should extend to the eastern extremity of the balcony.

Improved privacy to the backyard of 126B Willarong Road from the remaining north-facing balconies at the mid and eastern end of Building 2 can be achieved by way of providing small canopy trees such as Cheese Trees, Lilly Pillies and Banksias, rather than the *Eucalyptus Pilularis* (Blackbutt, mature height 15-30m) shown on the landscape plan. When mature, these small canopy trees will be of a more appropriate height than the Blackbutt as they will provide good foliage spread and obscure views between the balconies and the backyard, whilst also being consistent with CPTED surveillance principles for the laneway. It is also noted that there is an opportunity for screening plants, such as Murrayas or Lilly Pillies, to be provided along the southern side of the backyard of 126B Willarong Road and which would not overshadow the yard, being along the southern edge.

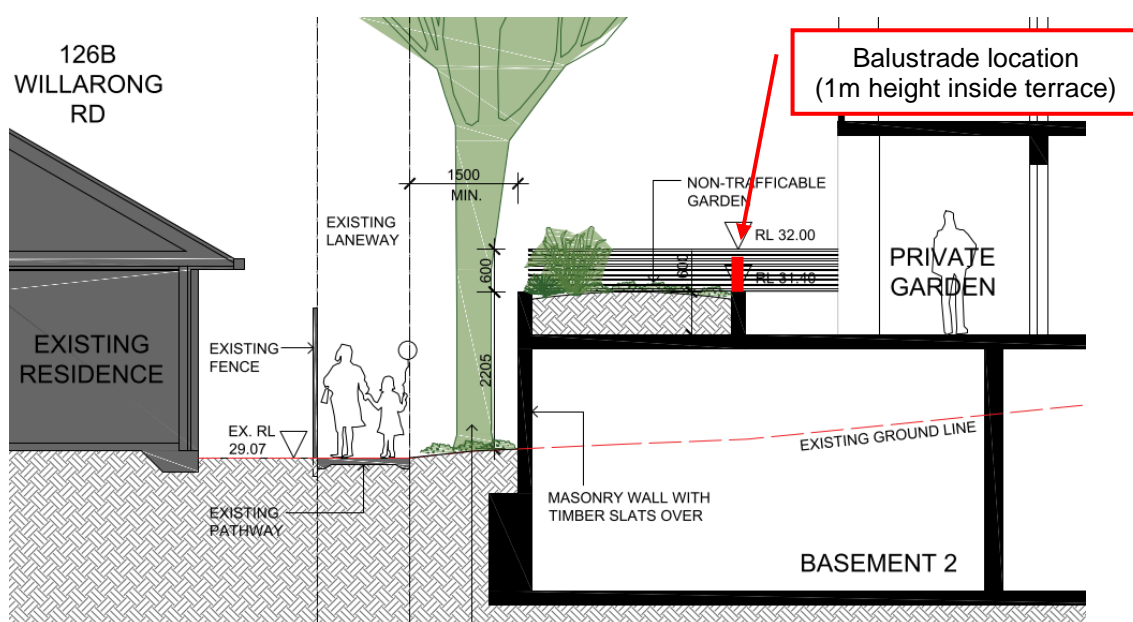
The ground level terraces at both the northern and southern ends of the site do not technically comply with the required 6m habitable setback specified by the ADG. On

the southern sides, there are 3 apartments (1G01, 1G02 and 1G08) with terraces. However, proposed screen planting along the boundary and any future dividing fence along the southern boundary will acceptably mitigate any visual and acoustic privacy concerns.

On the northern side, there are 4 apartments (2G01, 2G02, 2G07 and 2G08) with private terraces that are elevated between 1.5m and 2.2m above the laneway. The terraces of Units 2G01 and 2G02 are not of concern as the 2G01 terrace looks directly over the single storey roof form of 126B Willarong Road, whilst the 2G02 terrace is attached to a bedroom and is therefore unlikely to be the main entertaining terrace. Furthermore, the southern elevation of 126B is defensively composed, with grills on the second storey windows that obscure views in and roof form (where the second storey steps in) that provides privacy to the ground floor side entry door and windows.

The terraces of Units 2G 07 and 2G08 have elevated “non-trafficable gardens” of 3.2m width (inner wall to outer wall) as shown on Detail Section D, Drawing No. DA3.06. Providing a screen of 1.5m or more (measured from FFL of the units) along the outer edge of the garden would further increase the height of the walls along the balustrade, whilst providing a screen along the inner edge of the garden would overshadow the terrace during winter. The gardens have a proposed soil depth 600mm which is sufficient depth to sustain shrubs and small trees. An appropriate condition has been included to ensure these plants are of an appropriate species to minimise overlooking of the adjacent backyard. The planting will provide screening and also allow for some filtered sunlight to hit the terrace in winter.

A balustrade of some nature will be required. In order to avoid a 1m high balustrade being constructed at the northern edge of these non-trafficable gardens, a further condition of consent has been included requiring a balustrade to be provided along the southern wall of the gardens, as shown in the figure below. The gardens will then become common property and their maintenance will be the responsibility of the owners’ corporation.



10.6 Basement Setbacks

Chapter 6 of the DSSDCP 2015 requires a 3m basement setback from the laneway. The basement has a setback of 1.13m for 73% of the basement's northern wall, and 3m for the remaining 27%. Strict compliance is considered to be unnecessary on the basis that the private terraces of the ground floor units above will have sufficient deep soil over the podium to accommodate plants of reasonable height within the aforementioned elevated "non-trafficable gardens" of 3.2m width. These gardens are shown on Detail Section D (Drawing No. DA3.06). Pushing back the basement's northern wall to achieve 3m along its entire length would either not significantly improve the quality of these planter boxes, or would necessitate reducing the width of the planter boxes which would erode visual privacy to 126B Willarong Road from these terraces.

Chapter 6 of the DSSDCP 2015 also requires a 3m basement setback from the rear (eastern) boundary of the site. The proposed basement is setback 900mm from the playing fields and is therefore non-compliant. The relevant objective of this control is to "provide opportunities for deep soil zones for tree planting". Further, an additional control within Chapter 6 specifies that variations to the control may be considered if the basement does not protrude above natural ground level (so as not to cause overlooking of the adjacent property), and that opportunities for the planting of trees are provided in the setback area.

The two-fold intent of this additional control is met by the proposal on the basis that the site is immediately adjacent to the public playing fields. There is no risk of adverse privacy impacts to the park and whilst there is insufficient room in the setback for the planting of trees, the same outcome is achieved by the planting of trees within the playing fields adjacent to the eastern boundary of the site. A condition requires the provision of 11 new trees, with a Tree Location Plan to be provided to satisfy the objective of the control.

10.7 Residential Amenity

The proposal is very close to compliance with the ADG in relation to solar access and natural ventilation.

It is recognised that a sensible built form strategy has been adopted to maximise solar access. However, it is also apparent that a small number (4 units on Level 4) are dependent on skylights to achieve solar access to the living rooms (Units 1404 and 2404) and kitchens (Units 1405 and 2405). However, the development gets very close to the 70% required. In order to maximise winter sunlight into the kitchens of Units 1405 and 2405, a condition of consent is included that requires each skylight to be relocated so it is over the northern extremity of each kitchen.

Similarly, with respect to natural ventilation, the proposal is very close to achieving compliance through natural ventilation, being just 2 units short out of 74. However, 3 additional single aspect units will be supplied with passive vertical ventilation shafts.

One aspect of residential amenity in which the proposal performs poorly is the lack of natural light to the common circulation spaces (lift lobbies) of Levels 1 – 3. The ADG states that this should be achieved. Natural light is achieved to the Level 4 common circulation space through skylights over, whilst the Ground Floor will have some natural light through the entry doors. In order to provide natural light to Levels 1 – 3,

a design change condition of consent has been included requiring the creation of a windowed recess in each building towards the south of each lift on Levels 1 – 3. This will require a reduction in size of the adjacent unit on each level. The lifts are to then be reoriented to be accessed from the west. Refer to Condition 2 in Appendix A for full details of the required amendment.

The Applicant has argued that the benefit created to amenity within the lobby spaces through the provision of natural light would be disproportionate to the disadvantage created to the development and its occupants through the loss of habitable floor space. However it is countered that the anticipated loss of about 36m² per building (12m² per lobby) which equates to just 1.25% of the total GFA of the development is an inconsequential loss when it will significantly improve the residential amenity for the residents of the 48 apartments that are accessed from these lobbies.

10.8 Traffic and Parking

The submitted Traffic and Parking Assessment report has been reviewed by Council's Assessment Team Engineer.

In many streets throughout the Sutherland Shire, traffic volumes are increasing as higher density living and car ownership increases. The Caringbah North Precinct is no exception as the area has been “upzoned” from low density to high density residential. However, whilst these changes do have an effect on residential amenity, it is considered that they are within the capacity of the local street network and not dissimilar to many local roads in close proximity to high activity generators such as other schools, hospitals, playing fields and shopping centres.

A submission received by Council has requested that a traffic device be constructed at the corner of Willarong Road and Kingsway to assist motorists turning right from Kingsway into Willarong Road. This is a matter for Council's Traffic Committee to consider and it has been forwarded to the committee chair.

The proposal has provided residential car parking well in excess of both the Affordable Rental Housing SEPP and the ADG as detailed within the Compliance Tables held at Parts 8.1 and 8.2. Visitor parking is also supplied even though it is not strictly required by the Affordable Rental Housing SEPP. As the site is located within 800m walking distance of Caringbah railway station and less than 100m from a bus stop in Dianella Street, it is anticipated that some residents of some apartments will have fewer vehicles. As such, parking provision is considered to be acceptable, even with the deletion of a small number of “small car” visitor spaces to ensure that all spaces comply with AS2890.1:2004. A condition of consent specifies the required allocation of parking spaces and has been made on the basis of 1 space minimum per 2 and 3 bedroom unit, 15 visitor spaces (to meet the minimum requirement of the ADG) including 1 disabled visitor space and 2 car wash bays (which may be shared with visitor spaces, as discussed in further detail below).

The DSSDCP 2015 requires the provision of 3 dedicated car wash bays. The proposal includes 3 car wash bays that are shared with visitor parking spaces. Strict compliance could be achieved by the deletion of parking spaces but this would be an inferior outcome given that the proposal already has a reduced parking provision by virtue of being affected by the Affordable Housing SEPP. Visitor parking spaces also function as car wash bays, and that the number of car wash bays required can be

reduced to 2 in this instance given that there are fewer cars within the basement and because commercial car washes are becoming more common. An appropriate condition has been included within the consent.

10.9 Waste Management

The proposal includes a “Bin Collection Point” in the north-western corner of the site. The amended waste management plan submitted by the Applicant on 16 February 2016 states that garbage bin collection will occur on site (presumably from within the driveway adjacent to the collection point) and that turning circle diagrams would be provided within the Traffic Report. However, the Traffic Report implies that kerbside collection will occur in Willarong Road and does not include any turning circle diagrams. Kerbside collection is not permitted for developments having over 50 apartments. Regardless, the Applicant has indeed confirmed that the intention is for a private waste contractor to collect bins from within the site.

Since there is no dedicated area for a private contractor’s waste collection truck to stand whilst the bins are collection and since the basement has insufficient clearance for the likely size of trucks proposed to be used to collect the bins (as indicated by the Applicant), it is presumed that the truck will stand within the driveway during collection. This is not supported by Council as it will result in conflicts between the waste truck and residents or visitors entering or exiting the basement car parking levels. It is noted that Council wrote to the Applicant on 8 January 2016 and requested further information with respect to the proposed location of the collection vehicle and garbage bins during collection. The Applicant was also requested to “demonstrate that safe access to and from the basement is available to residents and visitors during collection” which was never provided.

As waste collection has not been adequately addressed by the Applicant in a safe manner, a condition of consent has been included requiring the provision of an appropriate Waste Collection Area (including temporary bin storage area) on the site. Two options have been provided; the area may be located either in the south-western corner of the site or within the basement where Visitor Parking spaces 1 and 2 are located. The former option will require the provision of a goods lift for transporting the bins from the basement levels up to the collection area and also modifications to the adjacent 2 bedroom unit (1G02) to ensure a reasonable level of amenity. The latter will require the lowering of the Basement 2 floor (with no increase to the external height of the building) and the deletion of 2 parking spaces as mentioned. Both options will permit the collection of bins by private contractor in a Medium Rigid Vehicle. The condition will also require the Bin Collection Point shown on the plans to be deleted and replaced with additional landscaping.

10.10 State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)

The land is affected by the provisions of SEPP 55. A search of Council’s records has not revealed any potentially contaminating previous use of the site and it has been used for continuous residential purposes since at least the 1940s. Therefore Council is satisfied that the site is suitable in its current state for the proposed use.

11.0 SECTION 94 CONTRIBUTIONS

The proposed development will introduce additional residents to the area and as such will generate Section 94 Contributions in accordance with Council’s adopted

Contributions Plans. These contributions are based upon the likelihood that the development will require or increase the demand for local and district facilities within the area.

The Applicant has requested an exemption from Section 94 Contributions for the affordable rental housing component of the development (*i.e.* the entirety of Building 1) on the basis that it will provide significant social, economic and environmental benefit to the local community in terms of providing housing that is affordable. This request is considered to be reasonable and therefore the exemption is supported.

The following Section 94 Contributions will remain payable for Building 2:

Open Space:	\$248,201.43
Community Facilities:	\$43,202.00

It has been calculated on the basis of 37 new residential apartments in Building 2 with a concession of 5 existing allotments.

12.0 DECLARATION OF AFFILIATION

Section 147 of the EP&A Act requires the declaration of donations or gifts in excess of \$1,000. In addition, Council's DA form requires a general declaration of affiliation. In relation to this DA, no signed declaration has been made.

13.0 CONCLUSION

The proposed development is for the demolition of all existing structures and the construction of an RFB under the provisions of the Affordable Rental Housing SEPP over 5 lots at 128 – 136 Willarong Road, Caringbah.

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

The proposal is generally consistent with the provisions of the Affordable Rental Housing SEPP, including the requirement that it be within 800m walking distance of the public entry to a railway station. In this instance, the proposal is 610m from Caringbah station.

In response to public exhibition, 9 submissions were received. The matters raised in these submissions have been reviewed by Council's Submissions Review Panel and have been dealt with by design changes or conditions of consent where appropriate.

The proposal includes a variation to the Building Height development standard of SSLEP 2015. This variation has been discussed within the Assessment Section of this report and is considered acceptable on the basis that the Applicant has submitted a Clause 4.6 Objection that satisfactorily demonstrates that strict compliance is unreasonable or unnecessary in the circumstances.

The application has been assessed having regard to the Heads of Consideration under Section 79C(1) of the Environmental Planning and Assessment Act 1979 and the provisions of the Affordable Rental Housing SEPP, SEPP 65, the ADG, SSLEP 2015, DSSDCP 2015 and all relevant Council Codes and Policies. Following detailed assessment it is considered that Development Application No. DA15/1278 may be supported for the reasons outlined in this report.

14.0 RECOMMENDATION

- 14.1 That pursuant to the provisions of Clause 4.6 of Sutherland Shire Local Environmental Plan 2015, the Objection submitted in relation to the requested variation of the building height development standard (16m) under Clause 4.3 of Sutherland Shire Local Environmental Plan 2015 is considered to be well founded and is therefore supported. Accordingly, the provisions of Clause 4.6 are invoked and this development standard is varied to 16.95m with respect to this development application.
- 14.2 That Development Application No. DA15/1278 for the demolition of existing structures and construction of a residential flat building under the provisions of SEPP (Affordable Housing) 2009 on Lots 1 - 5 in Deposited Plan 26537 (128 - 136 Willarong Road, Caringbah) be approved subject to the draft conditions of consent detailed in Appendix "A" of the Report.