

2015SYE149 – 128-136 Willarong Road, Caringbah

DA15/1278

ASSESSMENT REPORT APPENDICES

Appendix	A	Draft Conditions of Consent
	B	Pre-Application Discussion dated 9 June 2015
	C	Architectural Review Advisory Panel Report dated 19 November 2015
	D	NSW Police Comments dated 22 December 2015
	E	Clause 4.6 Objection to Building Height

**DRAFT CONDITIONS OF DEVELOPMENT CONSENT
Development Application No. DA15/1278**

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>
DA0.04 Rev B	Site Plan	Marchese Partners	Received by Council on 10 March 2016
DA1.01 Rev C	Basement 3 Plan	Marchese Partners	Received by Council on 10 March 2016
DA1.02 Rev C	Basement 1 and 2 Plan	Marchese Partners	Received by Council on 10 March 2016
DA1.03 Rev B	Ground Floor Plan	Marchese Partners	Received by Council on 10 March 2016
DA1.04 Rev B	Levels 1 - 3 Plan	Marchese Partners	Received by Council on 10 March 2016
DA1.05 Rev B	Level 4 Plan	Marchese Partners	Received by Council on 10 March 2016
DA1.06 Rev B	Roof Plan	Marchese Partners	Received by Council on 10 March 2016
DA2.01 Rev B	West Elevation	Marchese Partners	Received by Council on 10 March 2016
DA2.02 Rev B	North Elevation	Marchese Partners	Received by Council on 10 March 2016
DA2.03 Rev B	East Elevation	Marchese Partners	Received by Council on 10 March 2016
DA2.04 Rev B	South Elevation	Marchese Partners	Received by Council on 10 March 2016
DA2.05 Rev C	Building 1 North Elevation	Marchese Partners	Received by Council on 10 March 2016
DA2.06 Rev C	Building 2 South Elevation	Marchese Partners	Received by Council on 10 March 2016
DA2.07 Rev A	North Elevation	Marchese Partners	Received by Council on 10 March 2016
DA2.08 Rev A	East Elevation Part 1 of 2	Marchese Partners	Received by Council on 10 March 2016
DA2.09 Rev A	East Elevation Part 2 of 2	Marchese Partners	Received by Council on 10 March 2016
DA3.01 Rev C	Section A	Marchese Partners	Received by Council on 10 March 2016

DA3.02 Rev B	Section B	Marchese Partners	Received by Council on 10 March 2016
DA3.03 Rev B	Section C	Marchese Partners	Received by Council on 10 March 2016
DA3.04 Rev A	Detailed Façade Section	Marchese Partners	Received by Council on 10 March 2016
DA3.05 Rev A	Detail Section A	Marchese Partners	Received by Council on 10 March 2016
DA3.06 Rev A	Detail Section D	Marchese Partners	Received by Council on 10 March 2016
DA5.01 Rev B	Adaptable Unit Plan 01	Marchese Partners	Received by Council on 10 March 2016
DA5.02 Rev B	Adaptable Unit Plans 02	Marchese Partners	Received by Council on 10 March 2016
DA5.03 Rev B	Adaptable Unit Plans 03	Marchese Partners	Received by Council on 10 March 2016
SW02 Rev A, Project No. 20150140	Stormwater Concept Design - Basement 3 Plan	S&G Consultants Pty Limited	Received by Council on 27 October 2015
SW03 Rev A, Project No. 20150140	Stormwater Concept Design - Basement 1 & 2 Plan	S&G Consultants Pty Limited	Received by Council on 27 October 2015
SW04 Rev B, Project No. 20150140	Stormwater Concept Design - Ground Floor Plan	S&G Consultants Pty Limited	Received by Council on 27 October 2015
SW05 Rev A, Project No. 20150140	Stormwater Concept Design - Roof Plan + Road Drainage Plan	S&G Consultants Pty Limited	Received by Council on 27 October 2015
SW06 Rev A, Project No. 20150140	Sediment and Erosion Control - Plan and Details	S&G Consultants Pty Limited	Received by Council on 27 October 2015
SW07 Rev A, Project No. 20150140	Stormwater Concept Design - Details Sheet	S&G Consultants Pty Limited	Received by Council on 27 October 2015

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) The planter boxes on the balconies of Level 4 must be extended as marked in red on the approved architectural plans. (The affected planter boxes that must be extended are located on the balconies of Units 1401, 1405, 2402, 2404 and 2405.)
- ii) A recess is to be created in Building 1 towards the south of the lift (in Levels 1 - 3 only) in order to provide natural light to each lift lobby via a new window on the southern elevation. Units 1101, 1201 and 1301 are to be reduced in size from 2 bedroom units to 1 bedroom units. The lift is to be reoriented to be accessed from the west.
- iii) A recess is to be created in Building 2 towards the north of the lift (in Levels 1 - 3 only) in order to provide natural light to each lift level via a new window on the northern elevation. Units 2101, 2201 and 2301 are to be reduced in size from 1 bedroom units to studio units. The lift is to be reoriented to be accessed from the west.
- iv) Provide appropriate garbage collection facilities by one of the following two options:
 - A. Provide a hard stand Waste Collection Area for a garbage truck with associated driveway and crossing. The hard stand area shall be 8.8m long by 3.5m wide and provide an associated temporary garbage bin storage area. The temporary storage area must be roofed. A goods lift must be provided against the southern elevation of the building, accessed from the south-western corner of Basement 1, to enable the moving of garbage bins from the basement to the aforementioned temporary hard stand area for collection. Sign post and line mark the hard stand Waste Collection Area as being for garbage collection only ("No car parking permitted" or similar); or
 - B. Provide both a hard stand Waste Collection Area for a garbage truck and an adjacent temporary bin storage area within the basement, in the location of Visitor Parking spaces 1 and 2 in the north-eastern corner of Basement 2. Appropriate head height must be provided by lowering the basement floor (the external height of the building must not be increased). The vehicle accessway to the loading bay must comply with AS2890.2:2002 for a Medium Rigid Vehicle. Sign post and line mark the hard stand Waste Collection Area and temporary bin storage area as being for garbage collection only ("No car parking permitted" or similar).
- v) The existing "Bin Collection Point" within the front setback as shown on the approved architectural drawings must be deleted and replaced with additional landscaping.
- vi) The 3 proposed car wash bays along the eastern wall of Basement 2 Carpark must be deleted and replaced with dedicated residential and/or

- visitor parking spaces (and/or a Waste Collection Area if Option B is selected under *iv*) above).
- vii) Two (2) car wash bays must be provided in the north-western corner of Basement 2 adjacent to the driveway. These may also function as residential visitor spaces.
 - viii) Three (3) additional apartments within the development (i.e. 7 apartments in total) must be modified where necessary to meet the design requirements of Silver Performance Level of the Livable Housing Design Guidelines published by Livable Housing Australia.
 - ix) Tree species adjacent to the laneway (at the northern end of the site) must be restricted to small indigenous canopy trees such as Cheese Trees, Lilly Pillies and Banksias.
 - x) An additional 8 bins (total) must be provided within the basement waste storage areas. The storage areas must be enlarged if necessary.
 - xi) The skylights over the kitchens of Units 1405 and 2405 must be relocated so that they are located over the northern extremity of the kitchen rather than the centre.
 - xii) Each apartment must have the exclusive use of 4.2m³ of secure storage within the basement levels, with "over bonnet" or "over car" storage lockers to be provided if necessary.

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

3. Affordable Rental Housing - Restriction as to User and Ongoing Management

A. Before Occupation

Prior to the issue of any Occupation Certificate, a Restriction as to User must be registered against the title of the property in accordance with section 88E of the Conveyancing Act 1919. This restriction must:

- i) Limit the use of the entirety of Building 1 (which contains 37 apartments) for the purposes of affordable housing for 10 years from the date of issue of any Occupation Certificate; and
- ii) Specify that the affordable housing must be managed by a registered community housing provider, in accordance with Clause 17 of the State Environmental Planning Policy (Affordable Rental Housing) 2009.

B. Ongoing

The affordable housing component of the development must be managed by a registered community housing provider during the abovementioned 10 year period.

4. Future Parking Restrictions

A Ongoing

- i) An on-street parking permit or the like cannot be issued to current and / or future owners / occupiers of the development.
- ii) A notation must be added to the section 149(5) certificate advising future owners that their unit / property is burdened by a parking permit restriction.

5. 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 \$8,200.00

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.

6. 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 \$248,201.43 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 37 new apartments (excluding the affordable rental housing component) with a concession for 5 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.

7. Community Facilities, Shire Wide 2003 Plan

A. Before Construction

A monetary contribution of \$43,202.00 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 37 new apartments (excluding the affordable rental housing component) with a concession for 5 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

8. 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.

9. 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 a Detailed Frontage Works application under the Roads Act must be submitted to Sutherland Shire Council, prior to the release of the Construction Certificate. The form is available on Council's website. A fee applies for the relevant inspections, assessment, coordination, creation of design brief and the issue of permits providing consent to undertake frontage works. The design will be quoted separately by Council's Design Services unit.

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) Road pavement reconstruction where required,
- iv) Extend Council's stormwater drainage infrastructure, as detailed in the approved stormwater drainage design drawing,
- v) Remove 3 Brush Box street trees under wires,
- vi) Remove turf and grade, topsoil and landscape both sides of the footpath verge with native grasses to final design levels,
- vii) Adjust public services infrastructure where required,
- viii) Ensure there are adequate transitions between newly constructed and existing infrastructure.
- ix) Landscape or turf the strip between the front fence and footpath in the road reserve.

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.

10. 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.

11. 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.

12. 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.

13. Damage to Adjoining Properties

A. Before Works

To minimise vibration damage and loss of support to buildings / structures and properties in close proximity to the development site, a Geotechnical Engineers Report must be prepared detailing constraints to be placed on earth moving and building plant and equipment and the method of excavation, shoring, underpinning and support. This report must be provided to the person undertaking the excavation and the Principal Certifying Authority.

B. During Works

The constraints and recommendations of the Geotechnical Engineers Report must be implemented.

14. 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.

15. Demolition & Bulk Earthworks Security Bond

A Before Construction

At least two days prior to the commencement of demolition works the applicant shall provide security to Council to the value of \$80,000 against damage caused as a consequence of demolition and / or bulk excavation works. The security may be provided by way of a deposit or bank guarantee with the Council. Should neighbouring property sustain damage as a result of the demolition and / or bulk excavation works Council may carry out any works necessary to repair / stabilise the damage and the cost of these works will be deducted from the security.

This bond will be released upon satisfactory completion of the demolition, the bulk excavation and construction of the basement levels sufficient to ensure stability of the surrounding ground. Such request shall be submitted to Council on the '*Bond Release Request Form*' signed by the owner or any person entitled to act on the consent, together with Certification from an Accredited Certifier or a Chartered Structural Engineer, to the effect that the aforementioned works were completed to their satisfaction.

16. Parking Areas and Vehicle Access

A Design

The vehicular access-way and car park layout shall be designed and constructed to comply with the approved architectural design drawings, except where modified by the following;

- i) Align with Council's issued vehicular crossing levels,
- ii) Provide a maximum grade of 5% for the first 3 metres inside the property boundary,
- iii) Parking bays must not be enclosed or caged,
- iv) The vertical alignment of the vehicular access-way shall comply with AS2890.1:2004 to ensure a B85 vehicle will not scrape the surface of the driveway,
- v) All parking bays, other than adaptable bays, shall comply with figure 5.2 of AS2890.1:2004 and where the value of figure 2.2 is equals to 2.4m,
- vi) All adaptable bays shall have the minimum clear dimensions of 3.8m wide by 2.5m high by 5.4m deep,
- vii) 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,
- viii) The proposed security door fitted to the car parking area entrance must be independently mounted on rubber pads to prevent vibration noise transmission through the concrete walls and / or columns, and
- ix) The maximum longitudinal grade of the driveway shall be 25%.
- x) If Option B (Condition 2) garbage facility is provided, a sign must be installed in close proximity to the southern edge of the driveway near the front boundary and must state that a garbage collection facility is located in the basement and garbage trucks must reverse into the basement.

B Before Construction

Certification from an Accredited Certifier or a Chartered Civil Engineer or a Registered Surveyor, to the effect that the vehicle access-way design and the car park layout design was prepared having regard to the conditions of development consent and to their satisfaction, shall accompany the application for the Construction Certificate.

Note 1: Be advised that item iii) is based on a B85 vehicle (Ford Falcon Sedan). The recommended condition will not necessarily protect exotic or altered cars from “scraping” the vehicular access-way.

Note 2: Please be aware that the longitudinal grade of the driveway ramp is steep and that slip/traction may be an issue, it is recommended that you seek specialist advice in this regard.

17. Stormwater Drainage, Rainwater Harvesting & Reuse System

A Design

The stormwater drainage, rainwater harvesting and rainwater reuse systems shall be designed and constructed in accordance with the approved stormwater drainage design drawings Australian Standard AS3500.3:2003 and the BASIX Certificate issued against this development, except where modified by the following;

- i) Layout of the drainage system showing the alignment of all pipelines and associated structures, rainwater tanks, detention vessel and finished surface levels,
- ii) All levels reduced to Australian Height Datum,
- iii) The rate of discharge of stormwater from the site to a drainage system under Council's control must be controlled so that it does not exceed the pre-development rate of discharge,
- iv) The stormwater detention basin must be densely planted and mulched to augment the landscape character of the site. The mulch must be stabilised with a biodegradable material. The planting must not materially reduce the volume of the stormwater detention required by this development, and
- v) The stormwater harvesting and rainwater reuse system shall;
 - Have a minimum capacity of $2 \times 5\text{m}^3$ (i.e. 10m^3 total),
 - Capture rainwater from at least $1,500\text{m}^2$ roof,
 - Ensure suitable proofing for the prevention of mosquito breeding.
 - Harvested rainwater must be used for irrigation, car wash bays, provide a tap in the garbage rooms for bin washing and provide a tap in the laundry for clothes washing.

B Before Construction

Certification from an Accredited Certifier in Civil Engineering or a Chartered Civil Engineer, to the effect that the stormwater drainage, rainwater reuse and water harvesting systems design was prepared having regard to the conditions of development consent and to their satisfaction, shall accompany the application for the Construction Certificate.

C Before Occupation

- i) A Works-As-Executed drawing (WAED) of the stormwater drainage system shall be prepared by a Registered Surveyor. This drawing must detail the alignment of pipelines, pits, the rainwater tanks and the detention facilities. An original or a colour copy shall be submitted to Sutherland Shire Council.
- ii) The Supervising Engineer must certify the WAED of the stormwater drainage system that the stormwater drainage works, rainwater harvesting facility and rainwater reuse systems were constructed to their satisfaction and in accordance with the Development Consent. Prior to the occupation or use of the building the Applicant / Owner shall submit to Council a copy of the aforementioned letter of certification.

D Ongoing

- i) The operation of all devices or appliances installed within the development approved by this consent as required by conditions pertinent to rainwater harvesting and rainwater reuse shall be maintained in good operating order at all times.
- ii) The stormwater detention facility shall be:
 - Kept clean and free from silt, rubbish and debris.
 - Be maintained so that it functions in a safe and efficient manner.
 - Not be altered without prior consent in writing of the Council.

Note: Upon submission of the Works-As-Executed drawing for the stormwater drainage system a notation will be added to the section 149(5) certificate advising future owners that their property is burdened by a stormwater detention facility.

18. Endorsement of Linen Plan of Subdivision for Consolidation

A. Occupation

The Plan of Subdivision for the consolidation of Lot 1 to Lot 5 in Deposited Plan No.26537 into one lot shall be registered with the Land Titles Office.

19. Amended Landscape Plan

A. Design Changes

An amended landscape plan must be submitted to Council's Development Assessment Officer and/or Landscape Architect (Assessment Teams) for approval in writing prior to the issue of the Construction Certificate. The landscape plan must include the following amendments:

- i) All existing trees to be retained or removed, including trees within the road reserve, on neighbouring properties and the adjoining oval, must be shown on the landscape plans. Tree Protection Zones (TPZs) for trees to be retained and protected must also be shown on the landscape plans.
- ii) Coordinate proposed stormwater pipes and pits with existing trees to avoid damage to their roots.
- iii) Plant three (3) *Syncarpia glomulifera* (Turpentine), three (3) *Eucalyptus paniculata* (Grey Ironbark), two (2) *Eucalyptus punctata* (Grey Gum), two

- (2) *Eucalyptus resinifera* (Red Mahogany) and one (1) *Eucalyptus globoidea* (White Stringybark) in the grass on Council land between the eastern boundary and the oval as part of the landscape works. Trees shall be planted in informal groupings at irregular centres. The location of trees must be shown on the landscape plan and submitted to Council's Park & Reserve Assets Manager for approval.
- iv) Provide direct gate access and steps (as required) between the terraces of ground floor units 1G02, 1G03, 1G04, 2G02, 2G03 and 2G04 and the curvilinear gravel path in the Common Open Space (COS) within the front setback on Willarong Rd.
 - v) Relocate OSD tanks and RW tanks within the front setback away from deep soil areas to provide more space for planting in the COS.
 - vi) Increase the width of the central pedestrian walkway/ ramps to a minimum of 1800mm between the planter box walls for ease of walking and moving furniture.
 - vii) Provide direct gate access and steps (as required) between the terraces of the ground floor units 1G05, 1G06, 1G07, 2 G05 and 2G06 and the central walkway.
 - viii) Small indigenous canopy trees, informally spaced, must be provided on both sides of the central walkway to shade the path and seats while improving visual privacy in the adjoining units. Planter boxes for small trees in this location should have a minimum soil depth of 900mm.
 - ix) Relocate the BBQ and paved eating area at the northern end of the proposed COS overlooking the oval next to central entry gate and extend the roof structure over to create a larger and more central eating area that is directly connected to the oval.
 - x) A solid wall consisting of the 500mm podium and a 1m high balustrade shall be provided between the terraces of Units 2G06 and 2G07 to improve visual and aural privacy.
 - xi) The 3 seats and paved strips in the eastern communal open space area shall be deleted and the area simply grassed to provide an informal picnic area.
 - xii) Reduce the height of the palisade fence between the COS and the oval to 1000mm.
 - xiii) Provide a gate and steps (as required) between the terrace of Unit 2G07 and the adjoining COS.
 - xiv) To prevent overlooking of the adjoining house to the north, the balustrades to the terraces of Units 2G01, 2G02, 2G07 and 2G08 shall be relocated to the southern wall of the planter boxes / non-trafficable gardens and the planter boxes / gardens are to be maintained as part of the Common Open Space (COS) next to the laneway. The planter boxes / gardens referred to herein are the 4 planter boxes at the northern end of the site that are shown on the approved architectural plans as having a finished level of RL 31.40. The amended landscape plans must detail the species of plants / shrubs that will be planted within these planter boxes and must be suitable species to minimise overlooking of the adjacent backyard.
 - xv) Tree species within the laneway shall be restricted to small indigenous canopy trees such as Cheese Trees, Lilly Pillies and Banksias.
 - xvi) The site is located within a Greenweb 'Restoration' area. The proposed landscape is very formal and symmetrical - a less rigid approach to landscape that reflects the local biodiversity and indigenous plant form and

character of the Sutherland Shire is preferred. This can be achieved through irregular spacing and intermixing of canopy trees and understorey species.

- xvii) Fire fighting booster pipes, exhaust stacks from the basement carpark and substation (if required) must be coordinated as part of the landscape design.
- xviii) 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.
- xix) The private open space of each dwelling on the ground floor must be provided with one tap with a removable water key, connected to a pump and the rainwater tank.
- xx) Each ground floor unit shall be provided with a clothes line easily accessible from the laundry. 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

20. Trees on Private Land

A. Tree Removal

The removal of the following trees as numbered on the Site Plan (p17) of the revised arborist report prepared by Dr. Treegood (dated March 2016) is approved:

- i) All trees on the site EXCEPT FOR Tree 16 *Schinus molle* (Peppercorn) in the SW corner of the site.
- iii) Any declared noxious plant. The applicant is to ensure that all noxious plants are properly identified and controlled/removed.
- iv) Any tree species exempted by the Sutherland Shire Local Environmental Plan 2015.

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

21. 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 identified on the Site Plan (p17) of the revised arborist report prepared by Dr. Treegood (dated March 2016) and as listed below to ensure the installation and adequacy of all tree protection measures.

Tree No.	Tree Species (botanical and common name)	Location
16	<i>Schinus molle</i> (Peppercorn)	SW corner of site
22	<i>Callistemon</i> spp (Bottlebrush)	Council land, middle of eastern boundary
23	<i>Callistemon</i> spp (Bottlebrush)	Council land, middle of eastern boundary
24	<i>Hakea</i> spp.	Council land, middle of eastern boundary
25	<i>Brachychiton acerifolius</i> (Illawarra Flame Tree)	Council oval, SE corner
26	<i>Eucalyptus</i> spp.	Council oval, SE corner

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

- i) Protective fencing constructed of 1.8m high chain wire mesh supported by robust posts must be installed in accordance with the approved Landscape Plan at a minimum radius of 3m from the trunk of each tree referenced above. Signage must be erected on the fence with the following words clearly displayed "TREE PROTECTION ZONE, DO NOT ENTER".
- iii) 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.
- iv) 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.
- vi) 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

- i) The tree protection measures detailed in 'A' above must be maintained during construction.
- ii) 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;
- iii) 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.

22. Tree Planting in Playing Fields

B. Prior to Occupation

Before the issue of any Occupation Certificate, the following trees must be planted in the grass on Council land between the eastern boundary and the playing fields behind the site:

- Three (3) *Syncarpia glomulifera* (Turpentine)
- Three (3) *Eucalyptus paniculata* (Grey Ironbark)
- Two (2) *Eucalyptus punctata* (Grey Gum)
- Two (2) *Eucalyptus resinifera* (Red Mahogany)
- One (1) *Eucalyptus globoidea* (White Stringybark)

The trees must be planted in informal groupings at irregular centres in the locations as agreed in writing by Council's Park & Reserve Assets Manager.

23. 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.

24. Garbage, Recycling and Green-waste Storage Areas

To ensure the proper storage of waste from the premises:

A. Design

- i) The garbage and recycling storage areas (and any hard stand collection area and temporary storage area) within the basement must have a smooth impervious floor that is graded to a floor waste.
- ii) If the hard stand collection area and temporary storage area are not provided within the basement (*i.e.* external to the building), the temporary storage area must be roofed with a maximum internal clearance of 2.1m.
- iii) 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.

- iv) 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. All bins transferred to the temporary waste collection area for collection must be returned to the storage area within 24 hours of collection.

25. 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.

26. Noise Control - Residential Air Conditioning Unit / Heat Pump Water Heater

To minimise the noise impact on the surrounding environment:

A. Design

The unit 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) The unit 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.

27. 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.

28. Car-Park Ventilation

To ensure adequate ventilation for the car park:

A. Design

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.

29. 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.

30. Dilapidation Report - Adjoining Properties

A. Before Works

To assist in the resolution of any future disputes about damage to properties adjoining the development site, prior to commencement of any work on site the Applicant or principal contractor must provide dilapidation reports on the adjacent buildings at Nos 126A, 126B and 138 Willarong Road, Caringbah, including any basements and ancillary structures. The reports must be provided to the Principal Certifying Authority and to the owners of the properties that are the subject of the report.

The reports must be prepared by a suitably qualified and experienced person, such as a structural engineer.

31. 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.

32. 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.

33. 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.

34. 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.

35. 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.

36. 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.

On 8 occasions, and 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.

37. 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

38. Street Numbering and Provision of Letter Box Facilities

A. Before Occupation

- i) Street / unit / shop 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; proposed dwelling one on the ground floor of the northern tower shall be G01/128 Willarong Road, Caringbah, proposed dwelling one on the ground floor of the southern tower shall be G09/128 Willarong Road, Caringbah through to proposed dwelling one on level four of the northern tower shall be 401/128 Willarong Road Caringbah and proposed dwelling one on level four of the southern tower shall be 406/128 Willarong Road, Caringbah.

39. 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: Minimum 1 space per 2 and 3 bedroom dwelling
- Residential visitors: 14 spaces
- Residential “disable” visitor: 1 space
- Car wash bays: 2 spaces (may also be used as visitor 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.

40. Waste Collection

To preserve the amenity and ensure the safety of the public:

A. Ongoing

- i) All collection of garbage must be carried out within the hard stand Waste Collection Area upon the site and not from the public roadway. All garbage trucks must reverse onto the site.
- ii) All garbage collection services must be undertaken by a private contractor.

41. Basement Car Park Security Requirements

A. Design

The following design requirements must be satisfied:

- i) Security shutters / roller door must be installed at the main entry to the basement car park levels. An intercom system must be installed for visitors to gain entry.
- ii) Storage rooms within the basement car park levels must be fitted with deadlocks.
- iii) The basement car park levels must be painted in a light colour to reflect light (thereby improving security), appear larger and more spacious and reduce the number of lights required to illuminate the basement.

42. Closed Circuit Television (CCTV)

To increase resident safety and security, 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.

END OF CONDITIONS

Brad Harris - 9710 0859
File Ref: PAD15/0054

13 July 2015

Landmark Group Australia Pty Ltd
Level 22/2201
101 Grafton Street
BONDI JUNCTION NSW 2022

Dear Sir/Madam

Pre-Application Discussion No. PAD15/0054

Proposal: Demolition of 5 single dwellings, construction of 2 residential flat buildings comprising approximately 66 units and associated basement carparking and landscaped areas

Property: 126-134 Willarong Road, Caringbah

Council refers to the pre-application meeting (PAD) held on 9 June 2015 regarding the above development proposal. Carine Elias (Team Leader) and Brad Harris (development assessment officer) and Barbara Buchanan (Landscape Architect) attended the meeting on behalf of Council and Steve Zappia and Enrique Blanco de Cordova from Marchese Partners (architects) and Arash Tavakoli and Elie Trassieh from Landmark Group (consultants) 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 the relevant Environmental Planning Instrument, and the detailed planning controls contained in Draft Sutherland Shire Development Control Plan 2015 (Draft DCP).

The Site and Proposal:

The site is located on the eastern side of Willarong Road directly opposite the site of the former Caringbah High School and Caringbah Bowling Club. The development site 5 lots and is 77.69m wide, 43.4m deep and has an area of 3,376. m². The land slopes gently to the north eastern (rear) corner.

The proposal is to develop a 5 storey residential flat building containing 19 x 1 bedroom units, 41 x 2 bedroom units and 6 x 3 bedroom units. A two level basement car parking area provides 109 car parking spaces.

The Sutherland Shire Local Environmental Plan 2015 (SSLEP 2015) was gazetted on 23 June 2015. The subject land is located within Zone R4 High Density Residential pursuant to the provisions of SSLEP 2015. The proposed development being a RFB is permissible.

A Draft Development Control Plan (DCP) has been prepared to accompany SSLEP 2015. This Draft DCP was considered by Council and was on public exhibition between 28 April and 26 May 2015. Development Applications lodged under SSLEP 2015 will be assessed using the Draft DCP until the DCP is adopted. This approach was endorsed by council at its meeting held on 25 April 2015 (DAP092-15). The Draft controls and council resolution are available to view on Council's website.

Comments on the Proposal:

The following comments are provided with respect to the concept plans presented for consideration at the meeting in relation to SSLEP 2015 and Draft DCP.

1. Floor Space Ratio

The maximum floor space ratio (FSR) for the site as specified under SSLEP 2015 is 1.2:1. It is noted that your plans show a proposed FSR of 1.5:1. Your application will be required to comply with the FSR adopted by DSSLEP 2013. It is the expectation of Council that new development proposals will comply with the standards of the LEP. It is unlikely that Council will support a variation to this standard given the rezoning of the site under the LEP will provide a significant uplift in development potential.

2. Separation of Buildings

The intention to construct two separate buildings to reduce building bulk and provide improved solar access and amenity is supported. 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). In this case, a variation to this standard would need to be justified on the basis that it will allow improved amenity within the landscaped courtyard between the two buildings and will improve pedestrian access to the buildings from the street under Clause 4.6 of the SSLEP 2015.

3. Building Height and Setbacks

The submitted plans are compliant with the required height and setback controls under However, the Draft DCP requires basement parking to be setback 7m from the street frontage. This requirement is to allow for deep soil planting within the front setback. A variation to allow the basement to encroach into the articulation zone (refer to Clause 6.2 of Chapter 6 of the DCP) may be allowed if considered in conjunction with an overall landscape design.

4. Pedestrian Access and Linkages

Pedestrian access to the building appears unnecessarily convoluted and this may be improved by providing direct access to each building from Willarong Road. This would also allow residents of each building to have a sense of belonging to a smaller discreet development rather than one overall larger complex. Furthermore, it could also create greater potential for the ground floor of the southern building to be oriented north.

Your intention to widen the existing pathway from Willarong Road to North Caringbah Oval to improve the amenity of the existing pedestrian linkage is considered desirable. The proposed treatment of this pedestrian link will need to be fully detailed in your development application. It will need to include appropriate landscaping to provide privacy to residents from people using the pathway.

If it is intended to dedicate part of the development site to Council, this should be discussed with Council's Property Section in the first instance to establish whether this will be acceptable to Council and what processes will need to be undertaken to effect the land transfer.

5. Landscaped Area

The required landscaped area for the site under SSLEP 2015 will be 30% of the site area. The submitted plans do not appear to be compliant with this requirement. Increasing the setback of the basement will increase landscaped area. In addition 30% of the podium area not covered by building is required to be planted and a minimum soil depth of 600mm is required.

Conclusion:

The proposal is considered to be generally acceptable subject some design modifications as outlined in this letter. Your application should demonstrate full compliance with SSLEP 2015 and the Draft DCP and achieve compliance with the State Environmental Planning Policy 65 – Residential Flat Buildings and the associated Residential Flat Design Code.

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 Brad Harris (9710 0859) 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

Architectural Review Advisory Panel

Proposal:

Demolition of existing structures and construction of a residential flat building under the provisions of SEPP (Affordable Housing) 2009

Property:

128, 130, 132, 134 & 126 Willarong Road CARINGBAH NSW 2229

Applicant:

Landmark Group Australia Pty Ltd

File Number:

DA15/1278

The following is the report of the Architectural Review Advisory Panel Meeting held on 19 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. "DA15/1278 – Demolition of Existing Structures and Construction of a Residential Flat Development Comprising Seventy-Four (74) Residential Dwellings Above 3.5 Levels of Basement Car Parking Under the Provisions of SEPP (Affordable Rental Housing) 2009 at 128-136 Willarong Road, Caringbah – JRPP Application

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

Steve Zappia, Ally Aguas, Elie Trassieh, Ben Black and Hayden Green 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 demolition of the existing structures and construction of a residential flat development comprising 74 residential dwellings above 3.5 levels of basement car parking under the provisions of SEPP (Affordable Rental Housing) 2009.

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

The site is located at 128-136 Willarong Road, Caringbah.

Key Controls:

Sutherland Shire Local Environmental Plan 2015 (SSLEP 2015)

Sutherland Shire Draft Development Control Plan 2015 (SSDDCP 2015)

State Environmental Planning Policy - Affordable Rental Housing (ARHSEPP2009)

Applicant's Submission

The Panel noted that the proponent has attended a PAD meeting (PAD15/0054) and that the application will be assessed by the JRPP.

PRINCIPLE 1 – CONTEXT AND NEIGHBOURHOOD CHARACTER

The site is situated in Caringbah North within a R4 residential area transforming from low-density residential to new high-density development of up to 8 storeys.

The development is adjacent to a school across the street to the west (although the southern portion of the school site has been rezoned for high density residential development) and a public oval to the east. Contextually it must address the scale and characters of these large open green

spaces. A wider, considered analysis and drawing of the urban context would be of assistance in understanding the development's setting.

The scope of this development should include the upgrade of an existing public laneway adjacent to the northern boundary of the site. This is important, considering the valuable role the laneway will increasingly play in connecting Willarong Road with the oval.

The site sits within the Restoration Greenweb.

PRINCIPLE 2 – SCALE AND BUILT FORM

The scale is considered acceptable in the context of the future density proposed by Council for the precinct. The scheme proposes two buildings that relate to each other in a sensible and competent way.

The Panel expressed a number of views in relation to pedestrian access. The scheme proposes a central common access, however direct individual access to each building would activate the street, perhaps provide more legible access and daylight to the lift lobbies, and free up the central space for communal uses rather than access. This would require some re-planning of the typical floor unit layout.

There is a missed opportunity to address the scale and setting of the buildings with a conceptually different landscape proposal for the street setback (see Principle 5 - "Landscape")

PRINCIPLE 3 – DENSITY

The proposal appears to be code compliant provided that DCP and amenity requirements are met.

Whilst some relaxation may be acceptable given the oval frontage, the proposed boundary setback is only 800mm. Similarly, the setback beside the northern laneway is only 900mm for half of its length and this should be increased as described above.

PRINCIPLE 4 – SUSTAINABILITY

The buildings have been well considered for passive environmental design.

PV solar power should be included to power the laneway and central area lighting. Solar panels for hot water and rainwater tanks should be included in a development of this scale.

PRINCIPLE 5 – LANDSCAPE

Upgrade of the laneway (as noted in Principle 1) and the way the northern building defines it should be an integrated design effort. ARAP suggests that a 1.5m setback should be dedicated to Council for widening of the lane, which will be the best way of entrenching and protecting its public qualities.

In this context the lane should be appropriately paved and overlooked from the development for CPTED compliance. Continuous appropriate umbraceous trees should be lit at night, with low level lighting along a more articulated and considered continuous planter along your site boundary wall. More detailed design documentation is required.

Deep soil planting along the oval boundary edge for large screening deciduous trees is desirable, but presently the proposal does not provide species with the ability to grow to an appropriate height.

Willarong Road elevation

Given the overhead powerlines and their disfigurement of the brush box street trees, the proposal to remove and replace them with smaller trees will result in an ultimately disappointing street

character. By removing the damaged trees and the proposed hedge planting, it would be possible instead to create an attractive parkland setting for the buildings with large trees in grassland with integrated subtle, inconspicuous fencing and informal shrub clusters with seats as part of the communal open space provision. The proposed entry gate, no longer a high wall, could be a visually permeable portico with mailboxes.

Central axis

The central axis terminated by the proposed entry to the oval could be modified to achieve better social engagement by opening the tight hedged access way at the entries of each building to create a central grass 'square' with seats.

Lane way to the oval

As the oval is adding to the amenity of the communal open space of this development, it is recommended that the laneway along the northern boundary is opened up with a threshold as it reaches the oval. The landscape plan indicates stepping planter beds, but the sections indicate a high wall. This needs to be clarified.

Deep soil

The lack of setback to basements along the oval boundary will not allow for adequate growth of the proposed species. Similarly, the setback along the eastern boundary is inadequate. This is a major issue that will affect the basement design, and should be addressed in Council's assessment.

In order to achieve healthy tree growth in the central area, it is suggested that the soil depth in the eastern half of this space is increased by lowering the slab above Basement 1 by at least 600mm.

The existing jacaranda tree should be retained.

PRINCIPLE 6 – AMENITY

Apartment plans are generally well designed, however there are a number of important issues that should be addressed:

- The lobbies on typical floors do not have access to natural light or ventilation as required in the ADG.
- Access to lift lobbies at ground level is circuitous, with limited access to natural light and ventilation. The spaces at the entries, both externally and internally, feel too narrow for the corridor length.
- While the compliance table indicates 60% of the units achieve compliant natural cross ventilation, it is not yet clear how this is achieved.

Resolution of these issues may require considerable amendments to the proposal.

The central axis as proposed does not offer any amenity. The hedged communal open space across the street frontage similarly does not offer any communal amenity (see Principle 5 - Landscape).

PRINCIPLE 7 – SAFETY

Generally acceptable. The pedestrian laneway should be subjected to CPTED analysis.

PRINCIPLE 8 – HOUSING DIVERSITY AND SOCIAL INTERACTION

The unit mix is acceptable and the provision of affordable rental housing is supported by the Panel.

More focus on the range of communal open spaces should be undertaken, ensuring that there is good amenity and facilities provided for residents of this large development.

PRINCIPLE 9 – AESTHETICS

The building facades are simple and controlled in their composition and materiality, but may be further improved with some variation in expression. For example, all windows have horizontal hoods regardless of orientation, and solar protection for west facing balconies should be considered.

There was a general view that notwithstanding this competency, introduction of some finer grained elements and materials would provide some warmth and sense of nuanced detail.

The scheme offers the potential to achieve an attractive park-like setting for the development within a permeable open space context. This will however rely on the strength and scale of the tree planting, and hence complying areas of deep soil in the right locations is essential.

RECOMMENDATIONS/CONCLUSIONS:

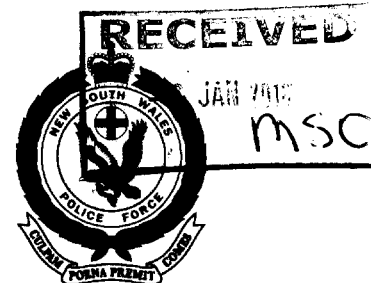
The Panel makes the following recommendations:

- Widening of the northern lane to be included in the project scope, with the detailed design to be agreed with Council.
- Incorporation of issues noted under “Amenity”.
- Consideration of improvements to the facades as noted in “Aesthetics”.
- A reconsideration of the allocation and design of communal open spaces across the development.
- Provision of adequate deep soil in areas where trees are proposed.”

Tony Caro
Acting ARAP Chairman

10 December 2015

Sensitive: Law Enforcement



NSW Police Force
www.police.nsw.gov.au

ISSUE:

Submission regarding Development Application No. DA15/1278 at 128 – 136 Willawrong Road, Caringbah, submitted by Senior Constable Christopher Shade Reg'd No. 27402.

BACKGROUND:

See attached file.

COMMENT:

Development Application No.: DA15/1278

Proposal: Demolition of 5 existing structures and construction of a residential building under the provisions of SEPP (affordable Housing) 2009.

Property: 128 – 136 Willawrong Road, Caringbah.

Police Ref: D/2015/627319

We refer to your development application which seeks approval for the development of 2 residential flat buildings containing 74 apartments for the purpose of affordable rental housing for a minimum of 10 years, as per State Environmental Planning Policy.

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

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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. All garage doors should be constructed of robust material and fitted with quality locks as per the Australian Standard to deter and delay any criminals.

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.

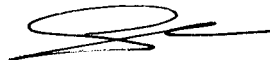


Christopher Shade
Senior Constable
Crime Prevention Officer
Miranda Local Area Command
22 December, 2015
Ph: 9541 3899

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

Agree for information and consideration of SSC. RHP - 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 STATEMENT 128-136 WILLARONG ROAD, CARINGBAH - HEIGHT (CLAUSE 4.3) – AMENDED MARCH 2016

1. General

Clause 4.3 of Sutherland LEP 2015 relates to maximum building height of development and prescribes a maximum height of 16m in relation to the subject site. Building height is defined as:

“ building height (or height of building) means the vertical distance between ground level (existing) and the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.”

As indicated in the extract of the section at Figure 1 and the eastern elevation at Figure 2, Building 2 has a minor breach in relation to the roof and fifth floor wall within the north eastern section of the building, as the site naturally slopes to the north east towards Willarong Road. In addition, the north eastern corner of Building 1 and north western corner of Building 2 exceeds the 16m height limit by approximately 100mm. At the greatest extent (Figure 2) the height breach is 0.93m (5.8%) within a small portion of the building indicated at Figures 1 and 2.

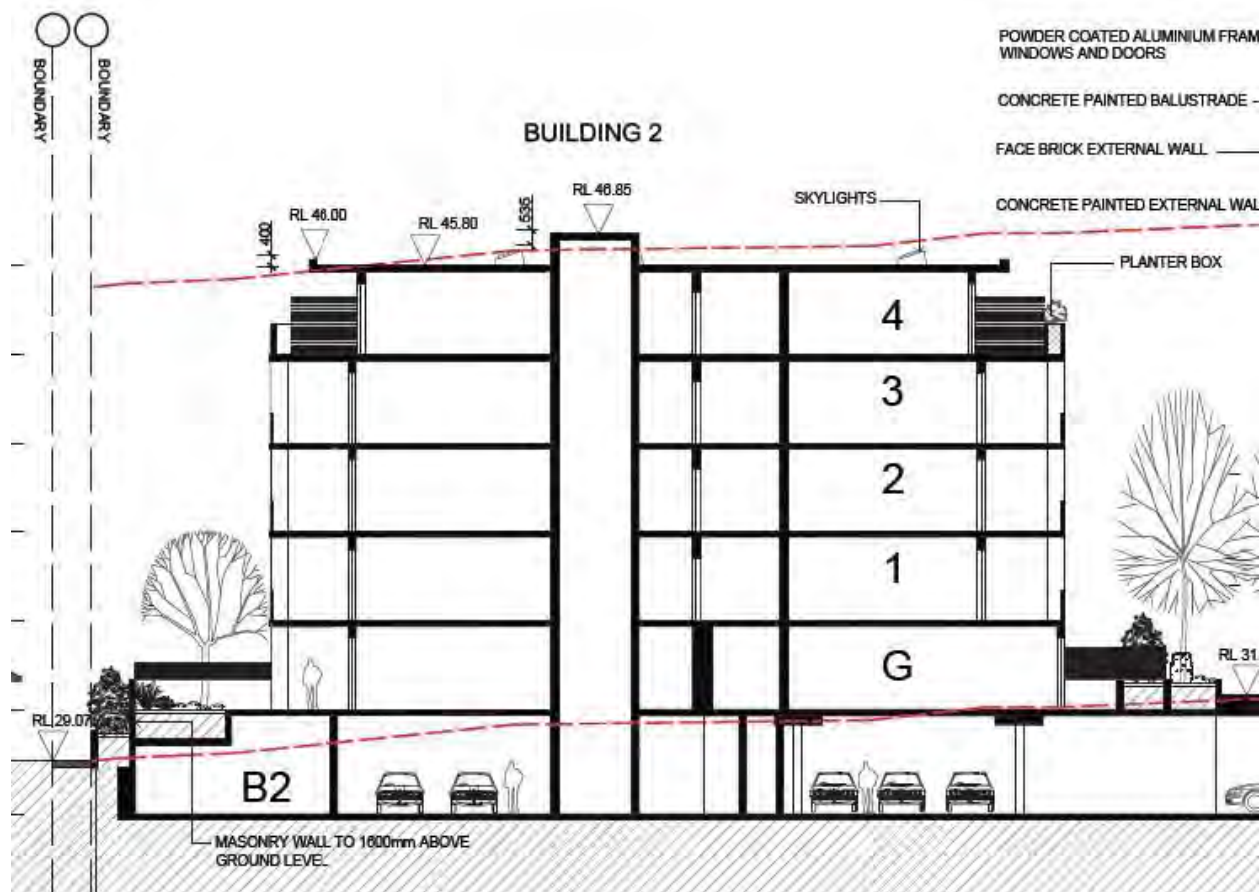


Figure 1: Height non-compliance in section of Building 2

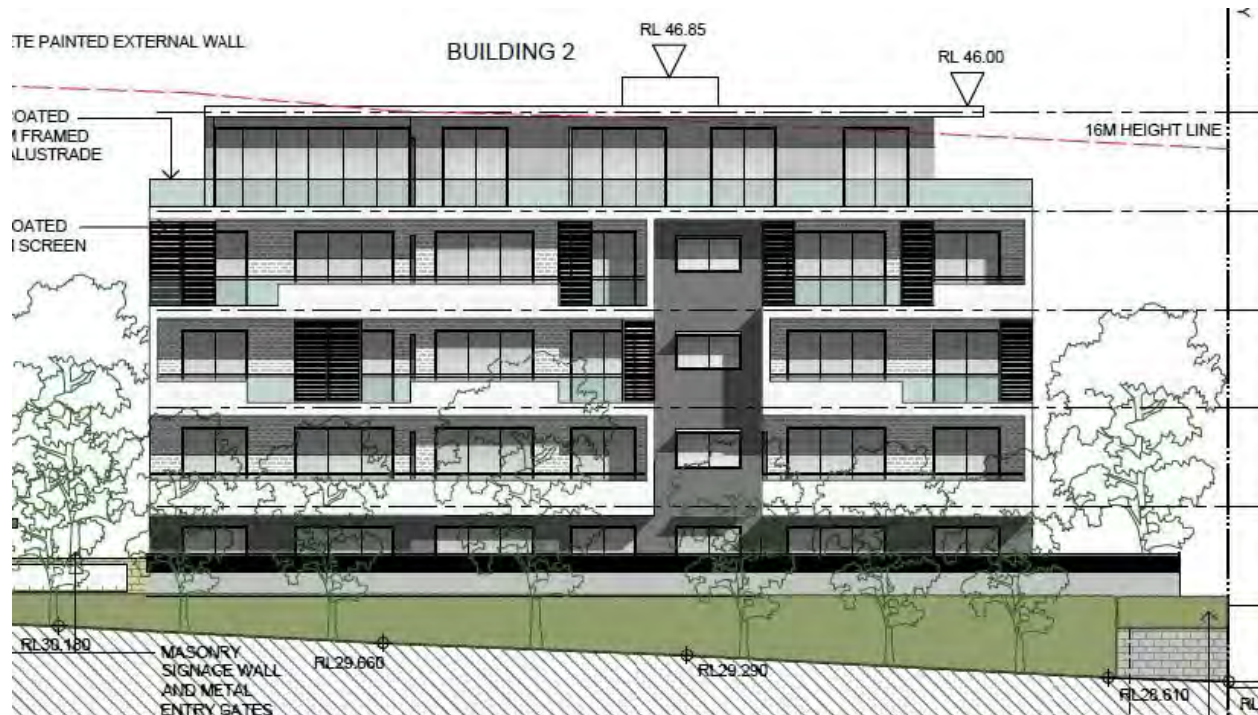


Figure 1: Height non-compliance on eastern elevation of Building 2

The relationship between the two buildings and the common area between them was discussed at the Pre-DA meeting with council staff. It was suggested that:

“...the ground floor level of Building 2 be raised to improve amenity between buildings, which may result in Building 2 exceeding the 16m height limit and so a Clause 4.6 variation would be required.”

The plans propose a height difference of around 1m between the ground floors of each building to take account of the fall in the land towards the north eastern corner of the site. As a result, a small sections of each building exceed the height limit.

It is hereby requested that an exception to this development standard be granted pursuant to clause 4.6 of the LEP so as to permit the proposed building height of 16.93m, being the maximum extent of the proposed non-compliance.

The objectives and provisions of clause 4.6 are as follows:

4.6 Exceptions to development standards

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

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

(3) 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 by demonstrating:

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

- (4) *Development consent must not be granted for development that contravenes a development standard unless:*
 - (a) *the consent authority is satisfied that:*
 - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) *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, and*
 - (b) *the concurrence of the Secretary has been obtained.*
- (5) *In deciding whether to grant concurrence, the Secretary must consider:*
 - (a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
 - (b) *the public benefit of maintaining the development standard, and*
 - (c) *any other matters required to be taken into consideration by the Secretary before granting concurrence.*
- (6) *Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if:*
 - (a) *the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or*
 - (b) *the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.*

Note. When this Plan was made it did not include all of these zones.
- (7) *After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).*
- (8) *This clause does not allow development consent to be granted for development that would contravene any of the following:*
 - (a) *a development standard for complying development,*
 - (b) *a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,*
 - (c) *clause 5.4.*

The development standards in clause 4.3 are not “expressly excluded” from the operation of clause 4.6.

This submission will address the requirements of subclauses 4.6(3) & (4) in order to demonstrate that the exception sought is consistent with the exercise of “an appropriate degree of flexibility” in applying the development standard, and is therefore consistent with objective 1(a). In this regard, it is noted that the extent of the discretion afforded by subclause 4.6(2) is not numerically limited, in contrast with the development standards referred to in, for example, subclause 4.6(6).

The balance of this request will be divided into the following sections, each dealing with the nominated aspect of clause 4.6:

- consistency with the development standard objectives and the zone objectives (clause 4.6(4)(a)(ii));
- sufficient environmental planning grounds to justify contravening the development standard (clause 4.6(3)(b)); and
- compliance is unreasonable or unnecessary in the circumstances of the case (clause 4.6(3)(a)).

2. Consistency with the development standard objectives and the zone objectives (clause 4.6(4)(a)(ii))

Development standard objectives

The relevant objectives of clause 4.3 are as follows, inter alia:

" (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,"

In order to fulfil the requirements of subclause 4.6(4)(a)(ii), each of the objectives of clause 4.3 are addressed in turn below:

Objective (a) relates to the **scale of buildings**.

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 proposed building has been designed to a high architectural standard. It has also been designed to relate to the sloping site topography and to minimise visual bulk along the street frontage. The proposed design provides a well resolved building, despite the constraints of the site.

The proposed non-compliant portion is solely related to small portion of the upper level, which has been minimised as far as practical. It would be counter-productive to the architectural resolution to reduce the floorplate of the upper level to achieve height compliance.

Objective (b) relates to **daylight access** to all buildings and the public domain.

It is considered that the proposal responds appropriately to the site and results in impacts that could be expected of the applicable planning controls. 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.

As demonstrated in the shadow diagrams, the proposed development will maintain acceptable levels of sunlight to the adjoining site. In addition, it has been demonstrated that the development will achieve compliant solar access to the units proposed within the development.

Objective (c) relates to the impact of the development on **view loss, privacy, overshadowing and visual intrusion** of the building.

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 are no existing scenic views from surrounding neighbours gained across the site (as discussed within Section 4.3.6) and overshadowing has been discussed in relation to Objective (b) above.

Objective (d) relates to **minimising the visual impact** of buildings from adjoining properties and public areas.

The proposed design avoids any significant adverse visual impacts relating to building bulk and scale, and impacts on neighbouring properties. The central communal open space area separates the two buildings and reduces the bulk of the development as viewed from Willarong Road.

The proposed building is well articulated, incorporating varied setbacks, alternation between horizontal and vertical modulation and use of varied materials, colours and detailing to provide a highly articulated built form with a contemporary external appearance. Extensive landscaping will further soften the development's appearance and balance the built form.

Zone objectives

The objectives of development in the 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.*

In response to the above zone objectives, the proposed development is entirely consistent with the relevant zone objectives in that the residential flat buildings will provide a range of suitable dwelling types that meet the housing needs of the community within an appropriate high density residential environment. A high quality landscape scheme which responds to the existing natural features forms part of the proposed development. The number of adaptable dwellings proposed provides suitable housing for the elderly and people with a disability and the building clearly promotes a high quality urban outcome with minimal environmental impacts. 50% of the development is provided as affordable housing. The proposed scheme is considered to be the most suitable in terms of residential amenity and bulk and scale whilst providing for economic redevelopment of the site.

The development provides a range of housing types in the form of one, two and three bedroom units, adaptable dwellings, and affordable rental housing.

The buildings are located in a well-designed landscaped setting using locally endemic species that will complement the buildings and the streetscape, and soften the built form of the development. The variation to the height limit does not detract from the development's consistency with the zone objectives.

3. Sufficient environmental planning grounds to justify contravening the development standard (clause 4.6(3)(b))

As outlined above, the proposed variation to the height is necessary to improve the amenity between buildings while considering the slope of the site. The associated environmental planning benefits of the design can be briefly re-stated as follows:

- The proposal is the first redevelopment within the Caringbah North Precinct in accordance with the Draft SSDCP 2015;
- The development provides increased housing choice close the Caringbah Centre and public transport options;
- The development assist in meeting a significant demand for housing in the Shire, in terms of both availability and affordability;
- 50% of the development is provided as affordable housing;
- The non-compliance is located on the northern side of Building 2 and will have no adverse impacts on adjoining properties with regard to visual impacts or overshadowing; and
- To require strict compliance would mean removing parts of the building without resulting in a real planning benefit.

The proposed height encroachment will enable the orderly and economic redevelopment of the subject site in accordance with the intentions of the Environmental Planning and Assessment Act, 1979. 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.

In short, we consider that there are sufficient environmental planning grounds to justify the applicant's proposed variation to the height standard.

4. Compliance is unreasonable or unnecessary in the circumstances of the case (clause 4.6(3)(a))

In *Wehbe V Pittwater Council (2007) NSW LEC 827*, Preston CJ sets out ways of establishing that compliance with a development standard is unreasonable or unnecessary. It states, inter alia:

An objection under SEPP 1 may be well founded and be consistent with the aims set out in clause 3 of the Policy in a variety of ways. The most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding

non-compliance with the standard.”

However, in *Four2Five v Ashfield Council* [2015] NSWLEC 90 the Land and Environment Court said that whether something was ‘unreasonable or unnecessary’ is now addressed specifically in clause 4.6(4)(a)(ii), with separate attention required to the question of whether compliance is unreasonable or unnecessary. Accordingly, while the objectives of the standard are achieved despite non-compliance with the standard, this request goes further. It seeks to demonstrate that requiring strict adherence to the standard would be ‘unreasonable or unnecessary’ for reasons **that are additional** to mere consistency with the development standard.

Preston CJ in *Wehbe* expressed the view that there are four additional ways in which an objection may be well founded and that approval of the objection may be consistent with the aims of the policy:

1. ...
2. *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
3. *The underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*
4. *The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*
5. *The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard that would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.*

This list was not exhaustive.

Additionally, in an analogous context, in *Botany Bay City Council v Saab Corp* [2011] NSWCA 308, Court of Appeal said that a requirement may be unreasonable when ‘the severity of the burden placed on the applicant is disproportionate to the consequences attributable to the proposed development’ (at paragraph 15).

Having regard to all of the above, it is considered that compliance with the building height development standard is unreasonable or unnecessary in the circumstances of this case for the reasons set out below:

- Strict compliance with the height control will inevitably have one or more of the following consequences:
- reduced visual attractiveness of the development and a less satisfactory relationship with the street/adjoining properties;
- the omission of apartments, or a bedroom/living room from the development.

Each of these consequences carries a social, economic and environmental cost and would lead to a suboptimal environmental planning outcome (in comparison with the proposed development).

- To the extent that strict compliance must be achieved by reducing visual attractiveness of the development and adopting a less satisfactory relationship with the street/adjoining properties:

- the height control aim set out in clause 4.3(1)(a)(i) of the LEP (*'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,'*) would be **thwarted** as adverse environmental effects (scale of development) would not be **minimised**; and
- a burden will be imposed on the applicant, future occupiers of the development, occupiers of neighbouring sites and the wider community and this burden will be disproportionate to the consequences attributable to the proposed development.
- To the extent that strict compliance must be achieved by omitting dwellings:
- the R4 zone objective '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' would be thwarted as an opportunity to **maximise** the number of affordable housing dwellings would be lost.
- the LEP aim set out in clause 1.2(2)(i) ('to meet the future housing needs of the population of Sutherland Shire') would be undermined;
- a burden would be imposed on:
- the applicant (in the form of lower development revenue);
- the future occupants of the development (as the fixed costs of running the building lifts, car parking and other facilities will have to be defrayed over a smaller number of dwellings); and
- the community (because of the reduced access of potential homebuyers/renters to a precinct intended to support public transport patronage),

and these burdens would be disproportionate to the consequences attributable to the proposed development.

The proposal is compliant with the relevant objectives, will have no (or negligible) adverse environmental impacts and will provide for additional housing within a highly suitable location.

The proposed variation to the maximum height for the site will enable recommendations made by Council to be implemented, whilst creating a better planning outcome for the site.

In light of the above reasons demonstrating compliance with the relevant objectives it would be unreasonable and unnecessary to insist on strict compliance with the subject standard. Furthermore, to insist on strict compliance with the subject height control would frustrate the orderly and economic development of the site thereby hindering the attainment of the objectives of the Environmental Planning and Assessment Act, 1979. Therefore, the variation to the maximum building height standard is considered reasonable and consistent with the requirements of Clause 4.6(3) of the LEP.

Conclusion

The development proposal will provide diverse and additional housing choice with superior amenity. This is achieved by well-planned and functional apartments with high solar and cross ventilation performance, and access to common open space. Variation to Clause 4.3 of the SSLEP 2015 is therefore justified and in accordance with the requirements of Clause 4.6 of the LEP.