

JOINT REGIONAL PLANNING PANEL
(Sydney East Region)

JRPP No:	2016SYE008
DA No:	DA15/1586
Local Government Area:	Sutherland Shire Council
Proposed Development:	Demolition of existing structures and construction of a residential flat development under the provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009
Street Address:	316 to 320 Taren Point Road, Caringbah (Lot 1 DP 660822, Lot 11 DP 19885, Lot A DP 358784)
Applicant/Owner:	Landmark Group Australia Pty Ltd
Number of Submissions:	NIL
Regional Development Criteria (Schedule 4A of the Act)	The residential flat building will comprise Affordable Housing
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"> • State Environmental Planning Policy (Affordable Rental Housing) 2009 • State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (SEPP 65) • Sutherland Shire Local Environmental Plan 2015 (SSLEP2015) • State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 • Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment • Draft Sutherland Shire Development Control Plan 2015 (DSSDCP2015) • 2005 Shire Wide Open Space and Recreational Facilities Contribution Plan • 2003 Community Facilities Plan
Recommendation:	Approval
Report By:	Meredith Alach - Environmental Assessment Officer Sutherland Shire Council

1. EXECUTIVE SUMMARY

1.1 Reason for Report

Pursuant to the requirements of State Environmental Planning Policy (Major Development) 2005, this application is referred to the Joint Regional Planning Panel (JRPP) as the development is for affordable housing under the State Environmental Planning Policy (Affordable Rental Housing) 2009 and is nominated under Schedule 4A(6)(b) of the Environmental Planning and Assessment Act 1979.

1.2 Proposal

The application is for demolition of all existing structures and the construction of a residential flat building (RFB) comprising 48 units (50% to be used as affordable housing) over 5 levels with basement car parking for 69 vehicles at 316 to 320 Taren Point Road, Caringbah.

1.3 The Site

The subject site is located on the eastern side of Taren Point Road, just south of the intersection of Taren Point Road and Kingsway. The site comprises 3 individual lots with a dwelling house and ancillary structures situated on each lot. Caringbah Centre and railway station is approximately 670m to the south east.

The site has recently been rezoned from low density to high density residential R4 under SSLEP 2015 and is situated within the North Caringbah Precinct.

1.4 The Issues

The main issues identified are as follows:

- Non compliance with SSLEP 2015 - Building Height
- Non compliance with SSLEP 2015 - Building Density
- Building Layout
- Setbacks
- Waste Management

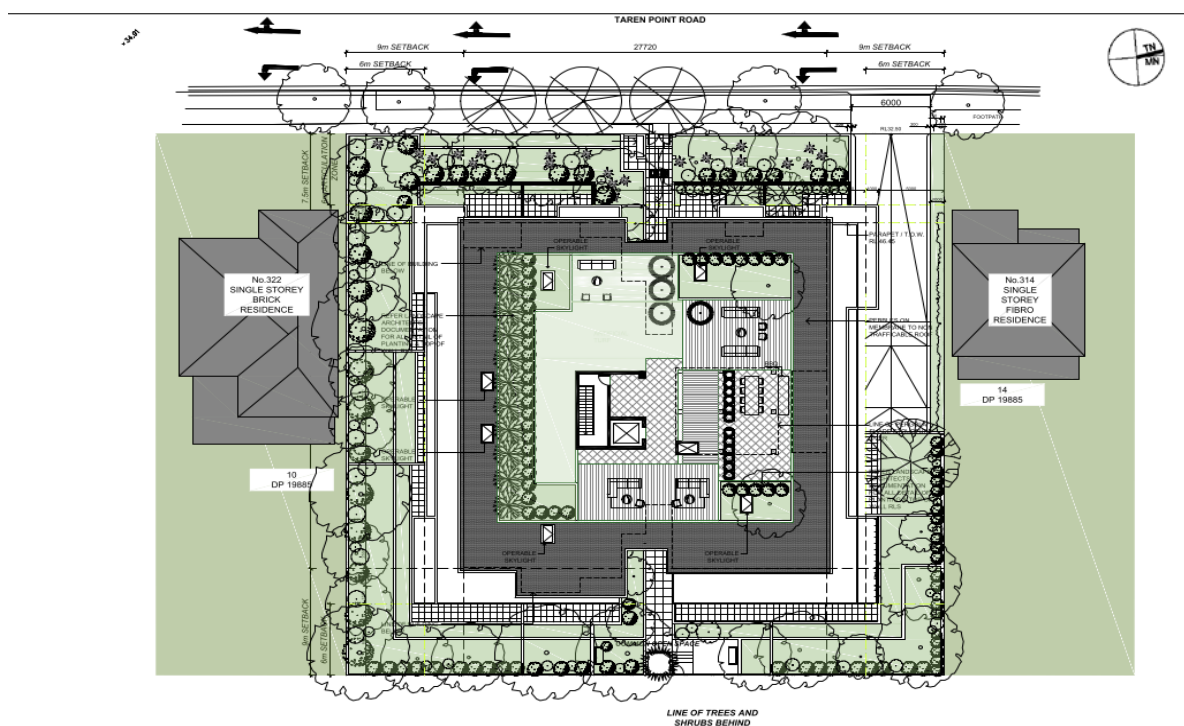
1.5 Conclusion

Following detailed assessment of the proposed development the current application is considered worthy of support, subject to conditions of consent requiring the removal of 2 units on the ground floor.

2.0 DESCRIPTION OF PROPOSAL

The proposal is for demolition of all existing structures on the site and the construction of a residential flat building comprising the following:

- 1 x 5 storey residential flat building comprising 48 units;
- 50% of the gross floor area is to be used as affordable housing;
- An apartment mix of 15 x 1 bedrooms, 28 x 2 bedrooms and 5 x 3 bedrooms (including the provision of 10 adaptable units);
- A split level basement that will accommodate 59 car parking spaces, including 10 visitor spaces, 2 car wash bays, bicycle and motorcycle parking and the storage of waste.
- The provision of communal open space is provided on the roof and at the rear at ground level.
- Vehicular access is proposed from Taren Point Road into the basement.
- Waste is to be stored within two storage rooms within the basement and collected by a private contractor from within the basement.



3.0 SITE DESCRIPTION AND LOCALITY

The subject land is located at 316 to 320 Taren Point Road, Caringbah. Taren Point Road is an arterial road with 6 lanes of traffic (three lanes each way).

The site has an east – west orientation and is square in shape. It has a frontage and depth of 45.72 metres with a total site area of 2,086.7m². The site has a cross fall of approximately 4m falling from the rear south eastern corner to the front north western corner of the site. The site will drain to the street.

Development that exists upon the site comprises 3 single dwelling houses and ancillary outbuildings. No significant trees are proposed to be removed with the development.

The streetscape in the immediate vicinity of the subject land is characterised by single dwelling houses on the western side (opposite the site) and adjoining the site to the north and south are single storey dwelling houses. The western side is zoned R2 low density residential.

The eastern side of Taren Point Road is zoned R4 high density residential and forms part of the North Caringbah Precinct within Draft Sutherland Shire Development Control Plan 2015 (DSSDCP 2015). The site is 670m from Caringbah railway station and Caringbah Centre. Sutherland Hospital is located 300m to the west of the site on the Kingsway.

To the east (rear) there is vacant land which once formed part of the Caringbah High School. A master plan is currently being assessed by Council for redevelopment of this site to include new infrastructure, 17 residential flat buildings comprising 143 units, community spaces and a new bowling club.



4.0 BACKGROUND

A history of the development application is as follows:

- The current application was submitted on 14 December 2015.
- The application was placed on exhibition with the last date for public submissions being 27 January 2016. No submissions were received.
- Council officers met with the applicant on 29 March and 18 April 2016 and requested that additional information be provided addressing the following:
 - *Building Density*
 - *Building Height*
 - *Affordable Housing*
 - *Streetscape*
 - *Basement Setback*
 - *Solar Access*
 - *Apartment Design/Architectural matters*
 - *Architectural Review and Assessment Panel (ARAP) Report*
 - *Storage Areas*
- Amended plans were lodged on 27 April 2016.
- The applicant was emailed (12 May 2016) requesting additional information be provided addressing the following:
 - *Building Density*
 - *Waste Management*
 - *Solar Access*
 - *Cross Ventilation*
 - *Building Height*
- Amended plans were lodged 17 May 2016.

5.0 ADEQUACY OF APPLICANT'S SUBMISSION

In relation to the Statement of Environmental Effects, plans and other documentation submitted with the application or after a request from Council, the applicant has provided adequate information to enable an assessment of this application, including a Clause 4.6 requesting a variation to the building height standard and additional information addressing waste management, solar access and cross ventilation of the development.

6.0 PUBLIC PARTICIPATION

The application was advertised in accordance with the provisions of Chapter 12 of Sutherland Shire Draft Development Control Plan 2015 (SSDCP 2015).

14 adjoining or affected owners were notified of the proposal and no submissions were received.

In accordance with the requirements of draft SSDCP2015 the revised plans were not publicly exhibited as, in the opinion of Council, the changes being sought did not intensify or change the external impact of the development to the extent that neighbours ought to be given the opportunity to comment.

7.0 STATUTORY CONSIDERATIONS

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

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

Zone R4 High Density Residential

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

The application has been made using the incentives contained within State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARH SEPP). The ARH SEPP permits a higher building density and lesser parking standards, than permitted by SSLEP 2015.

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

- State Environmental Planning Policy (Affordable Rental Housing) 2009
- State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (SEPP 65)
- Sutherland Shire Local Environmental Plan 2015 (SSLEP2015)
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment
- Draft Sutherland Shire Development Control Plan 2015 (DSSDCP2015)
- 2005 Shire Wide Open Space and Recreational Facilities Contribution Plan

- 2003 Community Facilities Plan

8.0 STATEMENT OF COMPLIANCE

The statement of compliance below contains a summary of applicable development standards and controls:

8.1 SEPP (Affordable Rental Housing) 2009

The Applicant seeks consent for the RFB pursuant to the Affordable Rental Housing SEPP, Under Part 2, Division 1. In-fill affordable housing in the form of residential flat building is permitted if it is located in an “accessible area”. The site satisfies these criteria as it is located within 800m walking distance of the public entrance to Caringbah railway station (670m). Further, an RFB is permitted with consent under SSLEP 2015.

SEPP (Affordable Rental Housing) 2009			
Floorspace Ratio	0.5:1 bonus (if the existing max FSR is less than 2.5:1) 1.2 (SSLEP 2015) + 0.5 (SEPP) = 1.7:1 3,553.5m ²	50% of the floor area is to be used as affordable housing. 3,691.1m ² (137.6m ² over)	Yes – condition Yes – see assessment report
Standards that cannot be used to refuse consent (if compliant)			
Site area	450m ² min	2,090.3m ²	Yes
Landscaped area (podium and deep soil combined)	30% min is to be landscaped area (627m ²)	33% (695.4m ²)	Yes
Deep soil zones	15% of the site area (313m ²)	26% (554m ²)	Yes
	3m minimum dimension	3m min within front, southern and rear setbacks.	Yes
Solar access	Min 3 hrs of sunlight to living rooms and POS for 70% of units between 9am and 3pm.	34 (70%) receive required solar access	Yes – see assessment
Car Parking	1 bed (15) – 0.5 spaces 2 bed (28) – 1 spaces 3 bed (5) – 1.5 spaces	8 spaces 28 spaces <u>8 spaces</u>	Yes – 59 provided (15 in excess)

SEPP (Affordable Rental Housing) 2009			
		44 spaces required	

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

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

Design Quality Principles	Assessment
Principle 1: Context and neighbourhood character	The site has been rezoned from low to R4 high density residential under SSLEP 2015 and now forms part of the North Caringbah Precinct within DSSDCP 2015. The proposal is generally an appropriate response to the new development standards applicable under SSLEP 2015 and bonus FSR permitted under the Affordable Rental Housing SEPP. Once the adjoining sites are redeveloped, the building will sit within the higher density streetscape. The development is consistent with the desired future character of the Caringbah North Precinct as envisaged by SSLEP 2105 and DSSDCP2015.
Principle 2: Built form and scale	The built form and scale is acceptable in the context of the area, given that the area has been upzoned to allow for greater height and density under SSLEP 2015. The scale will be compatible with new development that maybe constructed in the future upon adjoining properties. The built form is a modern design that is adequately articulated and whilst a minor height variation is proposed as discussed in the Assessment Section the proposal is acceptable.
Principle 3: Density	The density for the development is permitted under the affordable housing SEPP. The building is adequately articulated and the setbacks provided minimise the bulk of the building when viewed from the street and adjoining properties. Appropriate conditions will be imposed addressing the excess in FSR.
Principle 4: Sustainability	The development incorporates BASIX requirements and sustainability measures into its overall design to enhance water and energy efficiency and to provide suitable amenity to the building's future occupants.
Principle 5: Landscape	The proposed development includes deep soil areas in accordance with the Affordable Rental Housing SEPP. The south, east and front setback of the site and within common areas will be adequately landscaped to enhance the site and be consistent with the character of the locality.

Principle 6: Amenity	<p>The proposal generally satisfies the provisions of the ADG with respect to including appropriate floor plan layouts, solar access, and visual/acoustic privacy. Natural ventilation whilst not strictly compliant is acceptable and is very close to achieving compliance.</p> <p>However, due to the fall of the land and that a single floor plate is proposed for the building, three of the south eastern units are up to 2m below ground level that will receive no solar access and 1 unit cross ventilated. This is not an ideal outcome and is discussed further in the assessment section of the report.</p>
Principle 7: Safety	The proposed development incorporates suitable Crime Prevention Through Environmental Design (CPTED) Principles in the design.
Principle 8: Housing diversity and social interaction	The proposal provides a mix of apartment types, which encourages diversity including adaptable, livable and 50% affordable housing. Communal open space areas are provided with facilities that encourage social interaction amongst residents.
Principle 9: Aesthetics	An appropriate composition of building elements, textures, materials and colours within the development has been generally achieved.

8.3 Apartment Design Guide (ADG)

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

Apartment Design Guide (ADG) – Key Controls			
Objective	Design Criteria	Proposal	Complies
Building Separation	Up to 12m high Habitable: 6m Non habitable: 3m	<p><i>Ground Floor:</i></p> <p>6m to south 6.5m to north 6m to rear</p> <p><i>First/ second/third floors:</i></p> <p>South and North: 5m to balcony / 6m to wall of building Rear: 6m to balcony/building</p>	<p>Yes</p> <p>No</p> <p>Yes</p>
	12 - 25m high Habitable: 9m Non habitable: 4.5m	<p><i>Fourth Floor:</i></p> <p>South: 6m to balcony/9m to rooms) North: 6.55m to balcony/9m</p>	No

		to rooms) Rear: 6m to balcony/9m to room)	(see assessment report)
Natural ventilation	60% of apartments to be cross ventilated (29)	58% 20 cross ventilated 5 dual aspect units 3 skylights	No – (1 short) See assessment report
Solar access	Living rooms and POS for 70% of the units are to receive 3hrs direct sunlight between 9am and 3pm. Maximum 15% of units received no sunlight to habitable rooms.	34 units 70% receive required solar access 4 units 8.3%	Yes – see assessment section Yes
Apartment Size	1br bedroom – 50m ² 2br Bedroom – 70m ² 3br Bedroom - 90m ²	1br bedroom – 50m ² 2br Bedroom – 70m ² 3br Bedroom 90m ²	Yes
Ceiling heights	2.7m	2.7m	Yes
Private open space	Primary balconies 1br = 8m ² / depth 2m 2br = 10m ² / depth 2m 3br = 12m ² / depth 2.4m Ground level apartments (or on podium) 15m ² with min 3m depth	8m ² / depth 2m 10m ² / depth 2m 12m ² / depth 2.4m 15m ² with min 3m depth	Yes
Communal Open Space –size	25% of the site area (522.5m ²)	470m ² provided on roof top and 52.5m ² at ground level at rear Total: 522.5m ² (25%)	Yes- see assessment report (condition)
Communal Open Space –solar access	50% to receive for 2 hours min between 9 am and 3 pm on 21 June (mid winter)	The communal space provided on the roof level will receive adequate sunlight.	Yes
Residential Storage	1br apartment = 6m ³ 2br apartment = 8m ³ 3br apartment = 10m ³ At least 50% of storage to be located within the	Revised plans show storage within units and garages	Yes – condition

	apartments		
Car Parking	1 bed (15) – 0.6 spaces 2 bed (28) – 0.9 spaces 3 bed (5) – 1.4 spaces	9 25 7 41 spaces required	Yes – 59 provided (18 in excess)
Visitor car space	1 per 5 units (10 spaces required)	10 spaces	Yes

8.4 Local Controls – SSLEP 2015 and DSSDCP2015

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

Sutherland Shire Local Environmental Plan 2015			
Building Height	16m	18.9m	No – 18.12%
Building Density	1.2:1	1.7:1	No – relies on SEPP
Landscaped Area (deep soil)	30% (627m ²)	26% (554m ²)	No – relies on SEPP
Draft Sutherland Shire Development Control Plan 2015			
Streetscape and Building Form			
Lot width	26m	45.72m	Yes
Basement	To be located at or near ground level	1m out of ground within the north western corner.	Yes - See assessment
Landscape strip	1m along the driveway to basement car parks	1m	Yes
Street setbacks			
Street setback	7.5m	7.5m	Yes
Articulation Zone	1.5m articulation zone permitted for max 1/3 of the facade width.	14% of façade utilises 6m articulation zone	Yes
Private Open space within front setback	3m landscape strip	4.5m	Yes
Side and Rear Setbacks			
Side and rear setbacks	Up to 12m high Habitable: 6m Non habitable: 4.5m	Ground floor: 6m to south 6.5m to north 6m to rear First/	Yes

	Up to 12 – 25m high Habitable: 9m Non habitable: 4.5m	Second and third floors: South and North: 5m to balcony / 6m to wall of building Rear: 6m to balcony/building Fourth Floor 6m to south (to balcony/9m to rooms) 6.55m to north (to balcony/9m to rooms) 6m to rear (to balcony/9m to room)	No Yes No
Basement setback	Street: May extend into front articulation zone (6m) 3m (beyond building footprint)	5.32m 3m (rear) 0.6m – 3m (northern side) 5.46m (southern side)	No – see assessment report Yes No – see assessment report Yes
Adaptable and Livable Housing			
Adaptable units	20% (10 Units)	10	Yes
Livable units	10% (5 units)	6	Yes
Car parking	Visitor – 1 per 4 units / 12 required	10 provided	No – 16% (complies with ADG)
Car Parking			
RFB	1 bed – 1 space / 15 2 bed – 1.5 spaces 42 3 bed – 2 spaces / 10 Min 67 spaces required	59 spaces provided	No – 11% (complies with SEPP)
Bicycle Parking	1/10 car parking spaces = 6 required	20	Yes
Waste Management Requirements			
Waste Management	1br unit (15 units)	44 x 240L bins provided	Yes

	Garbage: 80L Recycling: 80L <i>2br unit (28 units)</i> Garbage: 100L Recycling: 120L <i>3br unit (5 units)</i> Garbage: 120L Recycling: 120L 9,760L total = 41 x 240L bins	within 2 storage areas	
	Bins must not take up more than 50% of the street front frontage (22.86m)	38.72m	No – 69.3% (15.86m over) – See assessment

9.0 SPECIALIST COMMENTS AND EXTERNAL REFERRALS

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

9.1. NSW Police Force

The proposal was referred to the NSW Police Force and no objection was raised to the development and a Crime Risk Assessment was considered to be unnecessary. The crime in the local area is currently low and it is expected that the development will have minimal impact on current police resources.

9.2. Roads and Maritime Service (RMS)

The proposal was referred to the RMS together with the following two options to address potential waste removal from the site:

- collection of 660L bins placed along the street frontage for collection by a private contractor;
- allow a truck to reverse from Taren Point Road into the site to collect waste.

The RMS advised that neither of these two options are not acceptable and waste management should be in accordance with Council's controls or carried out within the site.

9.3. Architectural Review Advisory Panel

The proposed development was considered by Council's Architectural Review Advisory Panel and the panel recommended that the following matters be considered further:

- *Resolution of issues raised with regards to setbacks, refinement of roof structures, deep soil planting, ground level conditions and built form.*
- *Adjustments to the proposal to include common circulation spaces in GFA.*
- *Resolution of issues with regards to deep soil zones.*
- *Resolution of issues with regards to “Amenity” to improve solar access and cross ventilation to some of the units, room sizes, privacy of balconies, entry ramp, facilities on the roof for common open space and that 1 lift is provided for 48 units given that the RFB will contain affordable housing .*
- *Consideration of refinement to the aesthetic character of the building.*

The resolution of these issues requires a fair amount of revision to achieve a more acceptable outcome.”

Revised plans were provided that have attempted to address some of the issues raised by ARAP.

9.4. Architect

Council's Architect considered the revised plans provided to address the ARAP comments and concluded the following:

‘Detail development has occurred to address many of the issues raised, however the basic strategy of a single flat floor plate containing 10 units per floor and serviced by a single lift remains. Though in many ways the proposal is a reasonable building with a competent and inoffensive aesthetic there remain issues associated with the strategy outlined above:

- *Unit 10 is now in excess of 2m below natural ground level and unit 2 is approximately 1m below the level of the adjacent street.*
- *Unit sizes should also be developed to comply with the minimum area requirements of the ADG and bedroom and living room dimensions should also comply with the minimum requirements of the ADG.’*

Revised plans were provided demonstrating the unit and room sizes satisfy the requirements of the ADG, however no change is proposed to a single deep floor plate including 1 lift for 48 units.

9.5. Engineering

Council's development engineer has undertaken an assessment of the revised plans provided. No objection is raised, subject to conditions of consent for waste removal to be carried out by a private contractor within the site.

9.6. Landscape Architect

The proposed development was referred to Council's Landscape Architect who raised concerns with regards to the lack of deep soil zones provided and the landscape design. Revised plans were provided and are acceptable, subject to conditions of consent.

9.7. Community Services

The proposed development was referred to Council's Community Services Unit and no significant concerns were raised, subject to minor conditions of consent.

10.0 ASSESSMENT

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

10.1 Building Height

The proposed development fails to comply with the development standard for height. Clause 4.3(2) of SSLEP 2015 stipulates a maximum height of 16m for this site. The lift over run, stairs and pergola exceed the maximum height permitted by 2.9m, resulting in a variation to the standard of 18.1%.

The objectives for the building height development standard set out in clause 4.3 (1) of SSLEP 2015 are as follows:

- (a) *to ensure that the scale of buildings:*
 - (i) *is compatible with adjoining development, and*
 - (ii) *is consistent with the desired scale and character of the street and locality in which the buildings are located or the desired future scale and character, and*
 - (iii) *complements any natural landscape setting of the buildings,*
- (b) *to allow reasonable daylight access to all buildings and the public domain,*
- (c) *to minimise the impacts of new buildings on adjoining or nearby properties from loss of views, loss of privacy, overshadowing or visual intrusion,*
- (d) *to ensure that the visual impact of buildings is minimised when viewed from adjoining properties, the street, waterways and public reserves,*
- (e) *to ensure, where possible, that the height of non-residential buildings in residential zones is compatible with the scale of residential buildings in those zones,*
- (f) *to achieve transitions in building scale from higher intensity employment and retail centres to surrounding residential areas.*

The non complying elements of the building are the result of the lift over run, lobby area, pergola and north western corner of the communal open space (balustrade) provided on the roof. A height of 18.9m is proposed to the highest point of the building, being the lift over run.

The lift over run and stairs are situated within the centre of the building and the pergola is a light weight open form structure that is setback 4.3m from the roof edge provided for improved amenity for

residence. Allowing the lift over run to extend above the maximum height permitted allows for equitable access to be provided to the communal open space area and will also allow for occupants of the units to transport goods to the roof for recreational use, therefore benefiting all occupants of the building.

The non compliant portions of the building are unlikely to result in significant impacts upon the amenity of adjoining properties and the streetscape, in terms of overlooking, privacy and visual impact.

A height up to 30m is permitted upon the adjoining land to the rear. A master plan is currently being assessed by Council to include new infrastructure and 17 residential flat building with heights of 6-9 storeys. The non compliant portions of the proposed building will sit below the height of the development that maybe constructed on the rear adjoining property and therefore will sit comfortably within the overall locality.

The site forms part of the Caringbah North Precinct under draft DCP2015 which aims to develop an area close to the centre, schools and hospital comprising of medium to high residential development and therefore the scale of the development is consistent with the vision of the DCP.

The redevelopment of the site is of the desired future character for the local area as envisaged under SSLEP 2015 and draft DCP2015 and once the surrounding properties are re developed in the future, the proposal will be compatible with the expected scale of development for the local area.

The applicant has lodged a written request in accordance with the requirements of clause 4.6 of SSLEP 2015. **Appendix B**

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

“The non complying portions of the building extend to a maximum height of 18.9m, resulting in a 2.9m departure from the applicable control. The non compliance is isolated to the central part of the building on the roof level and does not add to the visual bulk of the building when viewed from the adjacent street frontage.

These elements of the building are functional requirements to enable disabled access to and enjoyment of the roof terrace which results in obvious amenity benefits for future residents. The ability to provide access to the roof by way of a pedestrian lift allows for equitable access as opposed to providing a stairway where a lift overrun would not be required.

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.”

The Clause 4.6 provided has been assessed against clause 4.6 (3)(a) and (b) as follows:

a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

Compliance with the development standard is considered to be unnecessary, as the non compliant portions of the building are adequately setback from the roof edge and will provide equitable access to the communal open space area for all occupants of the building encouraging social interaction with the development.

The applicant has demonstrated that compliance with the development standard is unreasonable and unnecessary as the proposal is consistent with both the objectives of the development standard and zone and therefore will unlikely result in significant impacts upon the street and adjoining properties in terms of visual intrusion, privacy and overshadowing.

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

The non compliant portions of the building are the result of providing equitable access to the communal open space area on the roof and ancillary structures required for this space that will improve the amenity of the space allowing for positive social interaction.

The proposal will unlikely create significant impacts upon adjoining properties, streetscape and the character of the locality, as the non compliant portions are adequately setback from the roof edge and boundaries of the site.

The applicant's written submission demonstrates that compliance with the height development standard is unreasonable or unnecessary in the circumstances of the case. It also demonstrates sufficient environmental planning grounds to justify varying this development standard.

The proposed development is in the public interest as the proposal complies with the objectives for both height and the R4 zone.

The proposed variation does not raise any matters of State or regional environmental planning significance. In addition there is no public benefit to maintain the building height development standard in the circumstances of this case.

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

10.2 Floor Space Ratio

Clause 4.4(2) of SSLEP 2015 stipulates a maximum floor space ratio (FSR) of 1.2:1 for the site. Clause 13 of the Affordable Housing SEPP permits an additional FSR of 0.50:1, as 50% of the units

will be used for affordable housing. The development proposes an FSR of 1.76:1 (3,691.12m²), which exceeds the maximum allowed by approximately 3.8% (137.6m²).

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

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

The proposal fails to comply with the max FSR permitted, as the corridors on all five levels have been excluded from the GFA calculations. A corridor is proposed on each level of the building with 1m high balustrades provided at each end. The applicant has put forward an argument that due to the corridors being open at each end, the walls of the corridors act as external walls, not internal walls of the building and therefore are excluded from GFA.

The applicant's interpretation comes from a recent court case between GGD Danks Street P/L and CR Dank Street P/L v Council of the City of Sydney [2015] NSWLEC1521 where the court ruled in that case that the corridors were excluded from the definition of GFA, saying:

"...the area of the corridor, open at both ends, does not form part of the GFA. The definition of GFA in LEP 2012 requires the floor area of each level to be measured from the internal face of external walls, measured at a height of 1.4m above ground. The corridor is contained on either side by the external face of walls that form the external walls of the units on either side of the corridor (except for the courtyard of units 7, 20 and 32 on each floor, as the corridor is contained next to these units by the outer fence or wall that forms the edge of the private courtyard). The external face of the wall cannot be characterised as an internal face, because of an external wall must provide the weatherproofing that maintains the internal wall or face as a dry wall, in other words, an external wall has a specific function that distinguishes it from an internal wall. In full brick construction, where the wall forms the façade of a building, the outer skin of brickworks is wet during inclement weather and the purpose of the cavity between the brickwork skins is to maintain the inner or internal wall as dry. The internal face of an external wall in the definition of GFA must refer to the interior surface of the wall that forms the façade or exterior of a dwelling, being the wall that weatherproofs the interior space, and cannot

refer to the exterior surface of the outer wall. Therefore, the sum of the floor area of each floor of a building measured from the internal face of external walls requires the floor area that is included in the GFA calculation to be internal floor space.”

The applicant provided additional information advising that the corridors have been designed as ‘external wall/space’ ensuring that there is no weather penetration into the residential units and the design includes the following:

- *Breezeway floors will include a paver/tile with an appropriate external slip rating for an external space in accordance with Australian Standards;*
- *The walls of the breezeways will consist of brick which is to be rendered, which is used commonly for external spaces due to its weather protection properties;*
- *The ceiling of the breezeway will consist of either render or weatherproof plasterboard to ensure it can withstand any inclement weather;*
- *The breezeways will include appropriate weather seals to doors to ensure no water to service cupboards or to units;*
- *All electrical fittings will be designed to be weatherproof, such as lights, power points and switches, to avoid any wet weather issues within the space; and*
- *Stormwater outlets will be provided in appropriate areas to ensure any moisture which enters the breezeway from the openings either end will have a point to drain to and therefore will avoid water entering the units.’*

Council’s interpretation is that the corridors are not breezeways and are therefore calculated towards GFA. The corridors are predominantly enclosed and contained within the footprint of the building and the area of the corridors adds bulk to the building that equates to two additional residential units.

The objectives of the Building Density control are to ensure that the bulk and scale of the building is compatible with the context of the locality and to control the intensity of the use of land. The additional floor area the building gains from excluding the corridors from GFA adds bulk to the overall built form and intensity. The extent of the breach in floor area is considered to be excessive in this case, resulting in the amenity of particular units being compromised for the sake of yield. A strategy to reduce GFA would be to focus on the areas with poor amenity. On this basis, Units 9 and 10 have been identified as the poor performing units relating to solar access, internal amenity and privacy from the development site to the rear significant design modification would be required to bring these units up to an acceptable level. Therefore, removal of these units is recommended which will also assist in resolving the FSR issue.

10.3 Streetscape

The objectives for streetscape contained within the R4 Caringbah North Precinct Draft DCP aim to ensure that development is proposed on sites that are of a sufficient size to accommodate a well designed development and ensure building elements visible from the street make a positive contribution to the streetscape and locality.

The site has a cross fall of 4m falling from the rear south eastern corner to the front north western corner. To reduce the height difference/visual impact of the wall at the front of the site, the extent of the ground floor level out of ground has been reduced by 550mm. The deep flat floor plate results in the north western corner of the building being 1m out of ground and the south eastern units adjoining the Caringbah School site up to 2m and the south western corner units of Taren Point Road up to 1m below ground level at the worst point.

To soften the appearance of the development when viewed from the street, retaining walls with a mixture of materials and landscaping are proposed stepping back from the front boundary to the front courtyards. The landscaping will contain a mixture of vegetation that will aid in screening the development when viewed from the street and improve the amenity of the ground floor units from pedestrians and traffic noise.

10.4 Building Layout

Clause 9 of chapter 6 within draft DCP2015 sets out objectives and controls for building layout and private open space provided with an RFB in the Caringbah North Precinct.

The RFB has been designed with a deep flat floor plate on a sloping site, resulting in the ground floor units in the south eastern and western corner below natural ground level and the front north western unit above natural ground level. To improve the presentation of the development to the street the finished level was lowered closer to natural ground level at the north western corner of the building, however this results in units 1, 9 and 10 within the south eastern corner up to 2m below ground level. These units will not receive 2hrs solar access and only one will be cross ventilated. They have particularly poor amenity and are contrary to good planning objectives. To ensure the building complies with the max FSR permitted and relates better with the natural ground level of the site in the south eastern corner, it is recommended that units 9 and 10 on the ground floor are deleted from the proposal.

In addition, a master plan is currently being assessed for new infrastructure and RFB's upon the rear adjoining property. A new road is proposed with the master plan to run adjacent to the rear boundary of the subject site. Given that the natural ground level to the east is up to 2m above the ground floor level of the proposed building, this may result in potential amenity impacts upon the ground floor units in the future. Therefore removing units 9 and 10 on the ground floor of the proposal removes potential amenity impacts in the future and will improve the relation of the development with the natural ground levels of the site.

Unit 2 within the front south western corner will remain approximately 1m below natural ground level, however will benefit from landscaping wrapping around the corner of the building.

The deep soil area that will be maintained around the south eastern corner of the building will provide additional communal open space at grade level for the occupants, will be adequately landscaped and improve the outlook from the upper floor units.

10.5 Setbacks

Clause 2F of the ADG requires buildings up to 4 storeys to be setback a minimum 6m and 4-8 storeys to be setback a minimum 9m from the boundary. The balconies on the upper levels fail to comply.

Levels 1-3 have been designed with corner balconies where a portion of the balconies on the northern and southern sides encroach into the required setback by 1m. These areas are not large usable areas and provide articulation to the building without creating significant impacts upon adjoining properties. Level 4 has been designed with setbacks of 6m to the balconies and 9m to the habitable rooms of the units, except the living area of unit 7 is proposed setback 7m from the rear boundary.

To minimise potential privacy impacts upon adjoining properties to the north and south, planter boxes are proposed on the fourth floor extending for the whole length of the building setback 5 – 6m from either side boundary. The planting treatment provided to the edges of level 4 will aid in minimising significant visual and acoustic impacts upon adjoining properties and will soften the appearance of the building when viewed from adjoining properties and the streetscape and therefore is acceptable.

10.6 Basement Setback

DSSDCP2015 (Clause 7.2.4) requires a 3m basement setback from side and rear boundaries and are to be at or close to natural ground level, includes a landscape setback 1m wide between the boundary and driveway.

Revised plans were provided increasing the setback of the basement from the side and rear boundaries to comply, however due to the grade of the land, the basement is approximately 800mm out of ground at the worst point, setback 1m from the northern boundary. The portion out of ground will be screened by the 1.8m fence provided on the boundary adjacent to the driveway. To alleviate potential impacts upon the northern adjoining property from the ground floor courtyards, a garden bed 1.5m deep will be provided with screen planting. The treatment provided to minimise potential visual and privacy impacts upon the northern adjoining property is acceptable.

10.7 Communal Open Space

The ADG (Clause 3D) requires 25% of the site area to be communal open space. Communal open space is provided on the site in two areas, on the ground level at the rear and a large area provided on the roof level. Approximately 470m² is provided on the roof and 31m² on the ground level at the rear, resulting in a shortfall of 20m².

Given that the development will comprise of 48 units in a location that is distant from public open space. The provision of a quality compliant space is essential. The communal open space areas will

be adequately landscaped and fitted out with facilities, such as seating and BBQ facilities. No provision has been made for a toilet and given that communal space provided for the building is predominantly on the roof, a toilet is to be provided. Conditions will be imposed requiring a toilet to be provided on the roof adjacent to the lift and the space provided at ground level is to be increased to 52.5m² min.

10.8 Urban Design

The proposal is very close to compliance with the ADG with regards to natural ventilation, with 58% or 28 out of the 48 units are proposed as being cross ventilated, which is only 1 unit short of the development complying with the minimum 60% requirement. A condition will apply for an operable skylight to be provided within unit 5 on the fourth floor and therefore 60% of the building will be cross ventilated.

10.9 Parking

The proposal has provided residential car parking complying with the Affordable Rental Housing SEPP as detailed within the Compliance Table. Visitor parking is also supplied even though it is not strictly required by the Affordable Rental Housing SEPP, which is of great benefit to the site as there is no parking on Taren Point Road directly in front of the site.

DSSDCP 2015 requires the provision of 2 dedicated car wash bays. The proposal includes 2 car wash bays that are shared with visitor parking spaces. Strict compliance could be achieved by the deletion of parking spaces but this would be not an ideal outcome given the site location. The retention of parking is considered to be more valuable than providing two spaces only dedicated to being car wash bays.

10.10 Overshadowing

Clause 10.2 within Chapter 6 of draft DCP 2015 stipulates that *direct sunlight to north facing windows of habitable rooms and 10m² of useable private open space areas of adjacent dwellings should not be reduced to less than 2 hours between 9am and 3pm on 21 June.*

The new development will overshadow windows that exist along the northern elevation of the dwelling to the south, however 10m² of the private open space within the rear yard will receive adequate sunlight.

The DCP states that consideration will be given to reduced solar access where the proposed dwelling is generally compliant with all development standards and controls, and the extent of impact is the result of orientation and areas that are undergoing change. The site is an east west block and therefore overshadowing is inevitable due to the orientation of the site. The development is permissible within the zone and will comply with the maximum FSR permitted under the Affordable Rental Housing SEPP. Whilst the height is non compliant, the non compliant portions of the building is unlikely to contribute to significant overshadowing impacts upon the southern adjoining property.

10.11 Waste Management

Clause 15.2.8 within chapter 6 of the DCP stipulates that *'for wheeled bins, a kerbside garbage collection point must be nominated that has sufficient space where they will not pose a traffic hazard. Wheeled bins should be placed near intersections, roundabouts, slow points or busy arterial roads, or take up more than 50% of the street frontage when presented in single file to the kerbside for collection'* The proposal fails to comply, as the amount of bins required for the development will take up more than 50% of the site frontage.

Access and manoeuvrability down to and within the basement is not adequate for a medium or heavy rigid vehicle. To address the above, the following two options were put forward to the RMS:

- Provide 660L bins instead of 120/240L bins to minimise the amount of bins stored along the frontage of the site and be collected by a private contractor.
- The option of a garbage truck reversing from Taren Point Road to a loading area at grade.

Both options were put forward to the RMS and the RMS advised that reversing a truck off Taren Point Road is not acceptable and given the location of the site waste management is to be in accordance with Council's Policy which is for bins no greater than 120/240L bins when loading from the street, alternatively to be picked up on site (in the basement).

Revised plans and information was provided demonstrating that potentially 3 private contractors have trucks that are a suitable size that can access the basement of the building for waste collection which is acceptable for Council under the circumstances of the case. Appropriate conditions will be included to ensure that a private contractor is chosen who can access the basement for waste collection.

10.12 Affordable Housing

Fifty percent of the floorspace ratio of the development is to be used as affordable housing. Additional information was provided indicating which units are proposed to be used as affordable housing, however 2 more units are required to be used as affordable units to achieve 50% of the floorspace ratio. A condition will be included to ensure that 50% of the floorspace is available as Affordable Housing.

10.13 Road Noise

The site is situated on an arterial road. To minimise the impact of noise from the road on the future occupants of the development, a condition will be imposed requiring the building to be designed in accordance with State Environmental Planning Policy (Infrastructure) 2007 and 'Development near Rail Corridors and Busy Roads – Interim Guidelines' produced by the NSW Department of Planning.

11.0 SECTION 94 CONTRIBUTIONS

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

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

The Applicant has requested an exemption from Section 94 Contributions for the affordable rental housing component of the development (*i.e.* 50% of residential floorspace ratio) on the basis that it will provide significant social, economic and environmental benefit to the local community in terms of providing housing that is affordable. This request is considered to be reasonable and therefore the exemption is supported.

The following Section 94 Contributions will remain payable for 20 units:

Open Space:	\$129,872.84
Community Facilities:	\$22,772.56

It has been calculated on the basis of 20 residential apartments with a concession of 3 existing allotments.

12.0 DECLARATION OF AFFILIATION

Section 147 of the Environmental Planning and Assessment Act, 1979 requires the declaration of donations/gifts in excess of \$1000. In addition Council's development application form requires a general declaration of affiliation. In relation to this development application no declaration has been made.

13.0 CONCLUSION

The proposed development is for a RFB comprising 48 units at 316 - 320 Taren Point Road, Caringbah.

The subject land is located within *Zone R4 – High Density Residential* pursuant to the provisions of Sutherland Shire Local Environment Plan 2015 and the proposed development includes 50% affordable housing under the provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009. The proposed development, being a RFB, is a permissible land use within the zone with development consent.

In response to public exhibition no submissions were received.

The proposal includes variations to building height and setbacks. These variations have been discussed and are considered acceptable. The non compliance with the maximum building density permitted has been resolved with conditions requiring the deletion of 2 units on the ground floor. The proposed development is of the desired future character for the North Caringbah Precinct area. Once the adjoining sites are redeveloped in the future the development will fit comfortably within the streetscape.

The application has been assessed having regard to the Heads of Consideration under Section 79C (1) of the Environmental Planning and Assessment Act 1979 and the provisions of Sutherland Shire Local Environmental Plan and all relevant Council DCPs, Codes and Policies. Following detailed assessment it is considered that Development Application No. DA15/1586 may be supported for the reasons outlined in this report.

14.0 RECOMMENDATION

- 14.1 That pursuant to the provisions of Clause 4.6 of Sutherland Shire Local Environmental Plan 2015, the Objection submitted in relation to the requested variation of the building height development standard (16m) under Clause 4.3 of Sutherland Shire Local Environmental Plan 2015 is considered to be well founded and is therefore supported. Accordingly, the provisions of Clause 4.6 are invoked and this development standard is varied to 18.9m with respect to this development application.
- 14.2 That Development Application No. DA15/1586 for the demolition of existing structures and construction of a residential flat building under the provisions of the SEPP (Affordable Housing) 2009 Lot 1 DP 660822, Lot 11 DP 19885, Lot A DP 358784 (316 - 320 Taren Point Road, Caringbah) be approved, subject to the draft conditions of consent detailed in **Appendix A** of the Report.