

## SYDNEY SOUTH PLANNING PANEL

Panel Reference	2016SYE051
DA Number	DA16/0388
LGA	Sutherland Shire
Proposed Development:	Staged development for concept master plan for construction of up to 23 residential flat buildings with infrastructure and a detailed design for construction of 6 residential flat buildings consisting of 131 dwellings
Street Address:	Lot 3 DP 31460, Lot 6 DP 31460, Lot 7 DP 31460, Lot P DP 413007, Lot 102 DP 868930, Lot 1 DP 31460, Lot 4 DP 31460, Lot 5 DP 31460, (Nos 103, 105-107, 109 & 113) Willarong Road, Caringbah
Applicant/Owner:	Caringbah Pty Ltd
Number of Submissions:	50 submissions
Regional Development Criteria (Schedule 4A of the Act)	The development has a capital investment value of more than \$20 million and as such is nominated under Schedule 4A (3) of the <i>Environmental Planning and Assessment Act 1979</i> .
List of all relevant s79C(1)(a) matters	<ul style="list-style-type: none"> <li>• State Environmental Planning Policy (State and Regional Development) 2011</li> <li>• State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (SEPP 65)</li> <li>• State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</li> <li>• Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment</li> <li>• Apartment Design Guide (ADG)</li> <li>• Sutherland Shire Local Environmental Plan 2015 (SSLEP 2015)</li> <li>• Draft Sutherland Shire Development Control Plan 2015 (Draft SSDCP 2015)</li> <li>• Section 94 Developer Contributions Plans: <ul style="list-style-type: none"> <li>- Shire-Wide Open Space and Recreation Facilities 2005</li> <li>- Section 94 Community Facilities Plan</li> </ul> </li> </ul>
Is a Clause 4.6 variation request required?	Yes <ul style="list-style-type: none"> <li>• Building Height</li> </ul>
Does the DA require Special Infrastructure Contributions conditions (S94EF)?	No
Have draft conditions been provided to the applicant for comment? Have any comments been considered by council in the assessment report?	No. Refusal recommendation.
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> <li>• Architectural Review Advisory Panel (ARAP) comments</li> <li>• Clause 4.6 Variation to Building Height</li> <li>• RMS correspondence dated 13 May 2016</li> <li>• RMS correspondence dated 2 May 2017</li> </ul>
Recommendation:	Refusal
Report prepared by:	Jai Reid, Major Development Assessment Officer Sutherland Shire Council
Report date	4 May 2017

**Summary of s79C matters**

Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report? **Yes**

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**Legislative clauses requiring consent authority satisfaction**

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? **Yes**

*e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP*

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**Clause 4.6 Exceptions to development standards**

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **Yes**

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**Special Infrastructure Contributions**

Does the DA require Special Infrastructure Contributions conditions (S94EF)? **Not Applicable**

*Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions*

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**Conditions**

Have draft conditions been provided to the applicant for comment? **No**

*Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report*

## **EXECUTIVE SUMMARY**

### **REASON FOR THE REPORT**

Pursuant to the requirements of State Environmental Planning Policy (Major Development) 2005, this application is referred to the Sydney South Planning Panel (SSPP) as the development has a capital investment of more than \$10,000,000. The application submitted to Council nominates the value of the master plan is \$116,178,877 inclusive of a detailed design of 6 buildings known as Stage 1 with a value of \$31,632,758.00.

### **PROPOSAL**

An application was lodged on 4 April 2016 for a master plan concept containing up to 23 building envelopes ranging from 3 to 9 storeys, indicative future land uses of residential, child care centres, retail tenancies and the retention of an existing bowling club. Concept public domain works including new private roads are also proposed. The master plan is to be constructed in 5 stages. Separate development applications will be lodged for each stage.

The subject application also seeks consent for the first stage (Stage 1) containing 6 buildings ranging in size from 4 to 8 storeys along the southern edge of the development site. The Stage 1 plans do not include either an access road to the proposed buildings or the north – south road which is inconsistent with the separate staging master plan provided as part of the master plan.

### **THE SITE**

The subject site is located on the western side of Willarong Road, Caringbah between Captain Cook Drive and the Kingsway. The site comprises the land at 113 Willarong Road Caringbah (the former high school site), which is privately owned and lands at 105-107 Willarong Road Caringbah, which are owned by the Caringbah Bowling Club.

The consolidated site is an irregular site of 41,083.4sqm with a primary frontage of 235m to Willarong Road and a depth of up to 173m. The site faces east and has a maximum fall up to 13m.

### **ASSESSMENT OFFICER'S RECOMMENDATION**

THAT:

Development Application No. 16/0388 for a master of plan mixed use development and detailed design of Stage 1 at Lot 3 DP 31460, Lot 6 DP 31460, Lot 7 DP 31460, Lot P DP 413007, Lot 102 DP 868930, Lot 1 DP 31460, Lot 4 DP 31460, Lot 5 DP 31460, (Nos 103, 105-107, 109 & 113) Willarong Road, Caringbah, , be refused for the following reasons:

- (a) Non-compliance with the height standards that apply to the site;
- (b) Inconsistency in the information provided;

- (c) Insufficient information has been provided to make a complete assessment of the master plan or Stage 1 application;
- (d) Potential traffic impacts;
- (e) Potential flooding impacts on downstream properties;
- (f) Insufficient amenity for the intended occupants; and
- (g) Potential impact on the amenity of adjoining residential development.

## ASSESSMENT OFFICER'S COMMENTARY

### 1.0 DESCRIPTION OF PROPOSAL

#### Master Plan

The application is for a concept master plan for a mixed use development containing up to 23 buildings ranging in height from 3 to 9 storeys, potentially up to 656 apartments, provision for approximately 1184 car parking spaces and indicative uses of a child care centre, retail uses and retaining an existing bowling club / greens. New private roads are to be constructed throughout the site.

The overall development is to be divided into 5 stages with each stage allocated a number of buildings and uses. The submitted information contains conflicting information regarding the final number of buildings with some plans showing an additional building and variations in the number of storeys of the selective buildings.



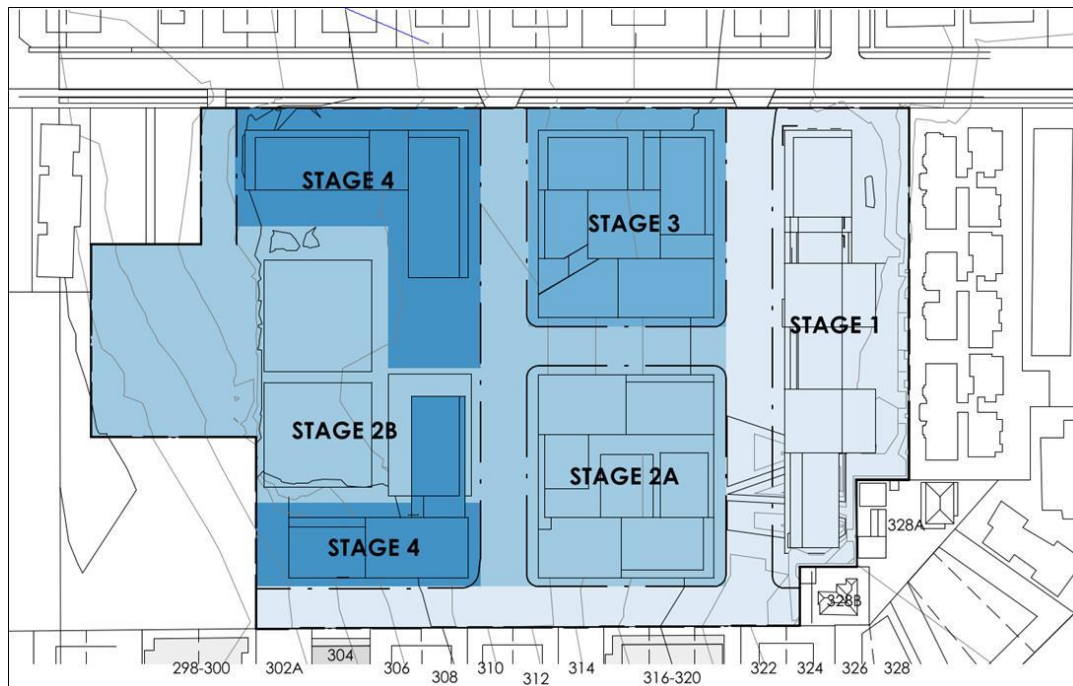
'Master Plan' submitted as part of amendment E dated 31 March 2017



'Building Separation Diagram' submitted as part of amendment E dated 31 March 2017.  
 Note red highlighted differences identified by planning officer between the 'master plan'  
 and detailed design documents.

Specifically the following table highlights the difference in documentation:

Building	Master plan drawing 105	Building separation drawing 210
E1	8 storeys	7 storeys
H1	6 storeys	5 storeys
I2	No building I2 shown on plan	4 storeys
L	7 storeys	8 storeys
O	5 storeys	6 storeys



'Staging Plan'

The master plan seeks to distribute the maximum permitted GFA and the minimum required landscaping across the site. GFA is proposed to be harvested from the bowling club site and distributed to the high school site as the bowling club site contains significant open areas with bowling greens. This will result in some of the individual stages not complying with the applicable development standards, if they were assessed independently of the master plan. In particular Stage 2B will feature the majority of the deep soil as it includes new bowling greens for the existing club.

A breaking down of the proposed stages based on estimates from the submitted information follows. Note that the following table is based on the plan sheet referred to as 'master plan' which contradicts other plans provided to Council which contain an additional building and varying heights.

Stage	Site area (approximate)	GFA	Landscaping	Number of buildings
1	11482.3 sqm <sup>#</sup>	1,2018sqm*	3,342 sqm*	6
2A/2B	17270.7 sqm <sup>#</sup>	16,602sqm*	4,117sqm*	6
3	4,871.3sqm <sup>#</sup>	12,155sqm*	1,617sqm*	5 – 6 *
4	7475.8sqm <sup>#</sup>	15,318sqm*	3,293sqm*	5
	41,100.1sqm <sup>#</sup>	56,093sqm*	12,349sqm*	22-23*

# Estimates only as stage site area breakdowns have not been provided

\* Conflicting information has been provided relating to GFA, number of buildings, landscaping and storeys proposed

The following breakdown of stages is based on the building separation diagram, the deep soil diagram and the tree identification plan. The 'master plan' document and the elevations show building masses which are inconsistent with the following breakdowns.

Stage 1 (part of the subject application)

2 x 8 storey buildings (buildings B1 and C1)

1 x 6 storey building (building A1)

3 x 4 storey buildings (buildings A2, B2 and C3)

New north to south internal road

New east to west internal road along stage boundary

Stage 2A

2 x 9 storey buildings (buildings F and G)

1 x 8 storey building (building D1)

1 x 7 storey building (building E1)

1x 5 storey building (building D2)

1 x 3 storey building (building E2)

Stage 2B

Club house building and greens

Stage 3

2 x 9 storey building (buildings J and K)

1 x 6 storey building (building I1)

1 x 5 storey building (building H1)

1 x 4 storey building (building I2)

1 x 3 storey building (building H2)

Stage 4

1 x 9 storey building (Building M)

1 x 8 storey building (Building L)

2 x 6 storey buildings (Buildings O and N)

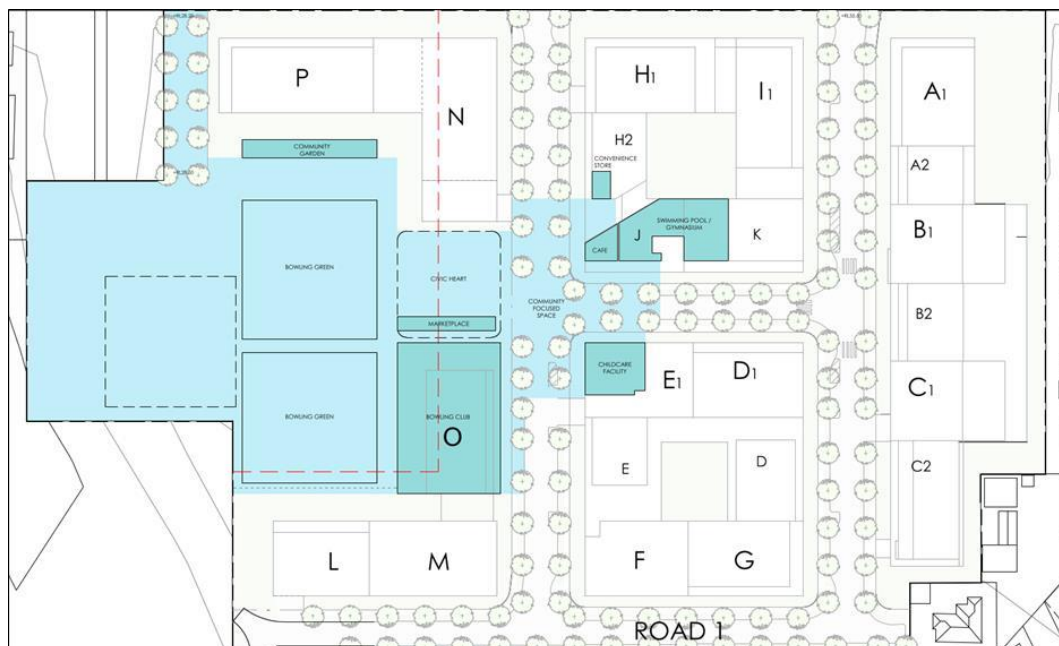
1 x 5 storey building (Building 5)

Consent is sought as part of the master plan for a new internal road network and three site entries from Willarong Road.

The master plan includes indicative 'community facilities' of bowling greens, a bowling club, a driveway, a 'civic heart', a convenience store, café, a child care centre, swimming pool/ gymnasium, market place and community garden. No GFA allocations have been provided for these uses as part of the master plan documentation.



Extract of public domain plan



Extract of communal facilities plan (note no legend provided by applicant)

It is estimated that approximately 656 dwellings with a total gross floor area of 56,093 sqm are proposed across all stages, resulting in an FSR of 1.36:1. Approximately 1181 car parking spaces are to be accommodated on site. Two on street car share spaces and a dedicated delivery bay have been provided as part of the last master plan revision at Council Officers request. Information regarding car parking for the reconfigured bowling club has not been provided.

## Stage 1

In addition to the above the applicant has submitted the detail design of Stage 1 of the development which includes 6 buildings along the southern side of the site.



Stage 1 plan

The proposed Stage 1 plan (extract above) shows Stage 1 to include buildings and works to the immediate frontage. The plan does not include either an access road to the proposed buildings or the north – south road which is inconsistent with the separate staging master plan provided as part of the master plan.

More specifically Stage 1 works consist of:

- 3 common basements accommodating 237 car parking spaces (200 residential spaces, 34 visitors, 3 car wash bays).
- Approximately 2,459 sqm of deep soil. The Stage 1 plans do not appear to include the construction of an access road or a nature strip.

### Buildings A1 and A2

- A1 six storeys with an approximate height of 21.7m\*
- A2 four storeys with an approximate height of 13.6m\*
- 15 x One bedroom apartments
- 19 x Two bedroom apartments
- 5 x Three bedroom apartments
- Total apartments: 39

#### Buildings B1 and B2

- B1 eight storeys with an approximate height of 27.9m\*
- B2 four storeys with an approximate height of 13.6m\*
- 1 x Studio apartment
- 3 x One bedroom apartments
- 32 Two bedroom apartments
- 8 x Three bedroom apartments
- 1 x Four bedroom apartment
- Total apartments: 45

#### Building C1 and C2

- C1 eight storeys with an approximate height of 27.9m\*
- C2 four storeys with an approximate height of 13.6m\*
- 1 x Studio apartment
- 6 x One bedroom apartments
- 34 x Two bedroom apartments
- 6 x Three bedroom apartments
- Total apartments: 47

\*Approximate heights only are given as finished ground levels have been provided rather than existing natural ground levels.

Conflicting information is provided regarding the top floor of each of the 8 storey buildings within Stage 1. The master plan indicates the top levels to be plant, the floor plans show the top levels to be open communal space without plant and the elevations show fully roofed spaces with heights of 3.1m for buildings B1 and C1 which read as a ninth storey.

## **2.0 SITE DESCRIPTION**

The development site consists of 8 individual lots comprising one large lot formerly part of the adjacent Caringbah High School (113 Willarong Road) and 7 smaller lots to the north east of the site (105 - 107 Willarong Road) owned by the Caringbah Bowling and Recreation Club. These lots combine to form an irregular shaped site located off the western side of Willarong Road in Caringbah. The site has a frontage to Willarong Road of 235m and a depth of up to 173m for a total area of 41,083.04sqm.



Aerial view of the site

The site has a maximum fall of approximately 13m to the north with a 9m fall along the Willarong Road frontage. While there is little cross fall, there is a sharp fall from Willarong Road into the southern portion of the site followed by a 2m retaining wall resulting in a raised platform toward the western corner.

The former school site consists largely of lawn with old school buildings having been demolished. There are several mature trees on and adjacent to the site, notably a large collection of mostly eucalypts in the south eastern corner as well as in the south western corner along the retaining wall and rear boundary. There are two large fig trees to the north adjacent to the existing bowling green.

The northern portion of the site accommodates the Caringbah Bowling Club, which currently includes 3 bowling greens, club house, car park and access road. The Bowling Club land includes the freestanding brick dwelling at 103 Willarong Road and the freestanding fibro dwelling at 107 Willarong Road Caringbah (street numbering indicates 109 Willarong Road). There is an existing narrow one-way vehicle access handle located between 99 and 101 Willarong Road. Further north of the site is a small area of low density residential dwellings.

The site is located less than 250m from Caringbah train station and commercial centre to the south, less than 1km from Sutherland and Kareena Hospitals, 2km from Miranda Westfield shopping centre to the west, and less than 1km to the bulky goods retail and industrial areas of Taren Point to the north. The site is within the Caringbah North Precinct which has recently been “up zoned” under Sutherland Shire Local Environmental Plan 2015 (SSLEP 2015) from low density residential and Special Uses to R4 High Density Residential.

Residential properties are located directly to the south and west of the site and off the eastern side of Willarong Road. These are within the new precinct and several are under various stages of assessment for higher density development. The site is largely bound by the Caringbah High School to the north.



*Aerial view of the locality*

### **3.0 BACKGROUND**

The land at 113 Willarong Road was formally owned by the Department of Education and Training and accommodates the former Caringbah High School buildings. In 2011, the site was identified by the Department of Education and Training as surplus land to the Caringbah High School and underwent a Site Compatibility Certificate approval process by the Department of Planning. The Department of Education and Training divested the site in late 2011.

Development application 13/0862 was granted on 17 October 2013 for the demolition of all structures at the existing school. This consent has been acted upon.

A number of discussions regarding the development of this site have been held with Council relating to various schemes presented to both Council and the Architectural Review and Advisory Panel (ARAP). Options presented ranged in building mix, density and height and were used to inform the final density and height allowance now permitted under SSLEP 2015.

Concurrently, at the time, the Draft LEP also proposed to up-zone the neighbouring single dwelling lots fronting Taren Point Road to R4 High Density Residential. However, vehicle access for high density developments to Taren Point Road, particularly near and at the intersection with Kingsway,

was not supported by NSW Roads and Maritime Services (RMS). To resolve this constraint, SSLEP 2015 provides for a bonus in height of 14m and a bonus floor space of 0.3:1 if the development of 113 Willarong Road incorporated vehicle access through the site and along the western boundary for each of the adjacent single dwelling lots fronting Taren Point Road.

The subject development application was lodged on 4 April 2016. A briefing on the project was presented to the Joint Regional Planning Panel (JRPP) on 15 June 2016. The briefing found the proposal unacceptable requiring the resolution of several fundamental issues prior to any further assessment. Specifically concerns were raised with:

- Non-compliance with setback controls;
- Car parking deficiency;
- Issues raised by ARAP;
- Unresolved issues of height and FSR distribution across the site, loss of trees, provision of internal access roads and isolation of properties at 99 and 101 Willarong Road;
- Overshadowing of properties to the south;
- Poor internal floor plans; and
- Relationship with streets.

Several issues raised remain unresolved and are discussed in detail within the assessment section of this report.

#### **4.0 ADEQUACY OF APPLICANT'S SUBMISSION**

At this point in time, the applicant has not provided adequate information to enable a thorough assessment of this application. The application includes Clause 4.6 variation to the development standards for height to the Bowling Club lands, (which does not enjoy the benefits of the bonus height and FSR) however it is likely that variations to the height standard will occur across the site as the applicant has provided finished ground levels rather than existing natural ground levels. In some cases it appears the new buildings will be raised up to 3m above the proposed road levels.

In addition to the above the following information is missing from the application or is inadequate:

- Inconsistencies within the master plan documentation;
- Incorrect measurement of height;
- Insufficient stormwater assessment;
- Insufficient traffic impact assessment;
- Insufficient information regarding site amalgamation;
- Insufficient information regarding vehicular access to properties fronting Taren Point Road;
- Poor resolution of internal levels and streetscapes.

#### **PUBLIC PARTICIPATION**

The application was publicly exhibited until 11 May 2016. An information session between Council Officers and interested residents was scheduled during the exhibition period for 3 May 2016. The

session was attended by 42 parties. Revised plans were notified on 5 December 2016 and further revised plans were made available to objectors in early 2017. Council received 50 submissions in relation to the proposal.

The relevant issues identified in these submissions are below. Other issues raised in the submissions included development exceeding available infrastructure including internet availability, social impacts, demolition and construction issues.

#### ***Land ownership from the Bowling Club***

**Comment:** The bowling club provided land owners consent by letter dated 21 March 2016.

#### ***Neighbourhood character/Overdevelopment/Bulk/Scale***

**Comment:** Concern has been raised with regards to the proposed scale of the development up to 9 storeys being out of character with the existing streetscape and neighbourhood. The locality is in the Caringbah North Precinct as defined by the Draft DCP 2015 as an area of transition from low density housing to high density residential development.

The surrounding sites have a height standard of 16m and an FSR standard of 1.2:1 pursuant to the SSLEP 2015. The subject site has specific controls that have been developed in response to the site context and the need to address vehicular access to adjoining sites facing Taren Point Road. The suitability of the proposed master plan is discussed throughout this report. However the proposal generally meets the requirements within the SSLEP 2015.

#### ***Views***

**Comment:** Concern has been raised by residents to the south of the site within a 3 storey development that outlook and views will be lost. Building envelopes cannot be determined at this stage given that final heights are uncertain. A view loss analysis therefore cannot be made. Notwithstanding this, given the adjoining apartments face an undeveloped vacant lot and the development standards permit up to 9 storeys, it is evitable that any outlook and views would be reduced.

#### ***Overshadowing***

**Comment:** Concerns regarding the level of solar access to be retained have been raised by residents to the south of the site. Overshadowing of apartments to the south of the site (131-135 Willawong Road) is inevitable given the orientation of the site. The applicant has submitted shadow diagrams which demonstrate that approximately 80% of north facing apartments to the south of the site will receive the minimum requirement of 2 hours of solar access at the winter solstice.

Additional amendments could be made to the proposed Stage 1 scheme to assist in increasing solar access. These potential amendments are discussed later in this report.

### **Privacy/Setbacks**

**Comments:** Concerns have been raised the proposal will overlook existing residential flat developments and dwelling houses. Amended Stage 1 plans for building C2 have reduced potential privacy and overlooking concerns by removing balconies and windows from the western elevation closest to the remaining residential dwelling at 328B Taren Point Road. All buildings within the Stage 1 scheme meet the minimum ADG setback requirements to afford an appropriate level of separation.

Issues such as loss of trees, traffic/car parking and compliance with Council's LEP/DCP are discussed in the assessment section of this report.

### **Revised Plans**

The applicant lodged revised plans and additional information on 12 August 2016, 10 October 2016, 11 November 2016, 23 November 2016, 24 November 2016, 29 November 2016, 8 December 2016, 11 January 2017, 1 February 2017, 21 February 2017, 1 March 2017 and 31 March 2017. The application was renotified on 5 December 2016. In March 2017 revised information was available for comment to those who had made a submission.

## **5.0 STATUTORY CONSIDERATIONS**

The subject land is located within Zone R4 High Density Residential pursuant to the provisions of SSLEP 2015. The proposed development, includes residential flat buildings, a potential child care centre and a potential retail premises are permissible land uses within the zone with development consent from Council.

The proposed retained use of a bowling club is prohibited within the zone however Clause 2.5 and Schedule 1 Additional Land Uses within the Sutherland Shire LEP 2015 permits a recreation facility (indoor), recreation facility (outdoor) and registered club is permitted with development consent within 103-107 and 113 Willarong Road Caringbah.

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

- State Environmental Planning Policy (State and Regional Development) 2011
- State Environmental Planning Policy No. 55 – Remediation of Land
- State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (SEPP 65)
- State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP)
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment
- Sutherland Shire Local Environmental Plan 2015 (SSLEP 2015)
- Draft Sutherland Shire Local Environmental Plan 2015 (Draft SSLEP 2015)

## 6.0 COMPLIANCE

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

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

The proposal is subject to the provisions of 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 is part of the North Caringbah development area as defined by the Draft DCP 2015. The submitted master plan has not been developed to an extent that it could be adopted to provide site specific controls. The plans provided contain conflicting information and a number of outstanding issues are yet to be addressed.
Principle 2: Built Form and Scale	<p>The proposed master plan relies on the application of Clauses 4.3 (2E)(e) and 4.4 (2A) (a) which permit a significant uplift in height and FSR subject to providing vehicular access to the adjoining sites with a frontage to Taren Point Road.</p> <p>The Bowling Club owned land does not receive the bonus in height or floor space and therefore the proposal fails to satisfy the new development standards within SSLEP 2015 of a maximum height of 16m by up to 14m to that part of the Bowling Club building which the higher building are located on. A written Clause 4.6 request to vary the development standard has been made by the applicant.</p>
Principle 3: Density	The building envelopes proposed are uncertain as conflicting information regarding the number of buildings and heights has been provided.
Principle 4: Sustainability	The development incorporates BASIX into its overall design. Additional sustainability initiatives could be incorporated into the overall master plan given the scale of the development.
Principle 5: Landscape	<p>The master plan relies on the inclusion of the bowling greens to meet deep soil requirements across the amalgamated sites. Individual stages will not comply in isolation with the landscaping requirement.</p> <p>The applicant has requested to remove two substantial fig trees to relocate a bowling green. Given the proposal is for a master plan and the significant contribution the trees make to the landscape setting, the removal is considered avoidable and not warranted.</p>

	<p>Suggestions for retaining more of the existing trees have been made by Council's Landscape Architects but are yet to be incorporated into the master plan.</p> <p>The proposed deep soil calculations have not excluded paving and walkways. It is likely the actual level of deep soil provided would be lower.</p>
Principle 6: Amenity	<p>Uncertainty regarding the proposed building envelopes does not permit a full assessment of the amenity for future occupants to be determined.</p> <p>Approximately 42% of apartments contain at least 1 'snorkel' bedroom where a window will not be visible from all points in a room. This is inconsistent with Objective 4D-1 of the Apartment Design Guide (ADG).</p>
Principle 7: Safety	The proposed development considers Crime Prevention Through Environmental Design (CPTED) Principles in the design.
Principle 8: Housing Diversity and Social Interaction	The proposal provides a mix of apartment types and sizes, which encourages diversity including adaptable and garden apartments.
Principle 9: Aesthetics	A materials sample board has been provided for the Stage 1 development. A reasonable aesthetic expression is achieved. Concern is raised however that residential amenity for the intended occupants is compromised as it is dictated by the proposed external form. This results in several apartment typologies with internal dining rooms, inadequate glazing and deep 'snorkel' bedrooms.

## 6.2 Apartment Design Guide (ADG)

The ADG applies to the proposal. 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- Master Plan			
Building separation	<p>Up to 4 storeys: 9m non habitable 12m habitable</p> <p>Five to 8 storeys: 12m non habitable 18m habitable</p> <p>Nine storeys and above 18m non habitable 24m habitable 18</p>	The proposed master plan envelopes generally comply with the separation requirements. Several areas of non-compliance are identified however this could potentially be resolved as part of detailed design development applications.	TBA

Solar access	Living rooms and private open space, 2 hours direct sunlight between 9am and 3pm, mid winter to 70% of apartments.	Solar access diagrams provided by the applicant show 77% of apartments will receive the required solar access.	Yes
Maximum depth of open plan layout apartments	8m	To be determined as part of detailed design	TBA
Natural ventilation	60% of apartments to be naturally cross ventilated.  Max. Depth 18m	Cross ventilation diagrams provided by the applicant show 68% of apartments will be naturally cross ventilated	Yes  Yes
Apartment size	1br: 50sqm 2br: 70sqm 2br: 75sqm (2 bathrooms) 3br: 90sqm 3br: 95sqm(2 bathrooms)	Indicative apartment typologies provided by the applicant indicate appropriately sized apartments can be accommodated.	Yes
Ceiling heights	2.7m	2.7m	Yes
Private open space: 1 br apartment 2 br apartment 3 br apartment  Ground level apartments (or on a podium)	Primary balconies:  8sqm, min. 2m depth 10sqm, min. 2m depth 12sqm, min 2.4m depth  15sqm with min 3m depth	Indicative apartment typologies provided by the applicant indicate appropriately sized private open space can be accommodated	Yes
Communal open space (COS):  Size:  Solar Access:	25%  Direct sunlight to at least 50% of COS for 2 hours, 9am – 3pm	Calculations for communal open space have not been provided for each stage	Unknown
Residential storage	6m <sup>3</sup> per 1br apartment 8m <sup>3</sup> per 2br apartment 10m <sup>3</sup> per 3br apartment  At least 50% of storage to be located within the apartments	Storage allocations will need to form part of future detailed design development applications	Yes

Apartment Design Guide (ADG) – Key Controls- Stage 1			
Building separation	Up to 12m: 9m non habitable 12m habitable	Building A – Building B = 15.5m (habitable)	Yes
		Building B – Building C = Min 20.8m (habitable)	Yes
	12 – 25m: 12m non habitable 18m habitable	Building A – Building B =15.5m (habitable)	No
		Building B – Building C = 20.8m (habitable)	Yes

Solar access	Living rooms and private open space, 2 hours direct sunlight between 9am and 3pm, mid winter to 70% of apartments.	Approximately 74% of apartments will receive the required solar access.	Yes
Maximum depth of open plan layout apartments	8m	10m max	No
Natural ventilation	60% of apartments to be naturally cross ventilated.	68% of apartment are naturally cross ventilated	Yes
Apartment size	1br: 50sqm 2br: 70 sqm 2br: 75 sqm (2 bathrooms) 3br: 90 sqm 3br: 95 sqm (2 bathrooms)	All apartments comply with the minimum apartment size	Yes
Ceiling heights	2.7m	2.7m	Yes
Private open space: 1 br apartment 2 br apartment 3 br apartment  Ground level apartments (or on a podium)	Primary balconies:  8 sqm, min. 2m depth 10 sqm, min. 2m depth 12 sqm, min 2.4m depth  15 sqm with min 3m depth	All apartments comply with the minimum private open space requirements	Yes
Communal open space (COS):  Size:  Solar Access:	Based on a site area of 6801.6m  Min 25% (1,700.25sqm)  Direct sunlight to at least 50% of COS for 2 hours, 9am – 3pm	30.5% (2077.2sqm)  >50%  Only estimates can be given as no calculations have been provided	Yes  Yes
Residential storage	6 sqm per 1br apartment 8 sqm per 2br apartment 10 sqm per 3br apartment  At least 50% of storage to be located within the apartments	Storage has been provided in both the basement and within apartments	Yes

### 6.3 Local Controls – SSLEP 2015 and Draft SSDCP 2015

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

Standard/Control	Required	Proposed	Complies? (% variation)
<b>Sutherland Shire Local Environmental Plan 2015 – Master Plan</b>			
Building Height	Bowling Club land: 16m 113 Willarong Rd: 30m	29.4m 29.4m  Note the heights identified on the submitted plans are taken from finished ground levels rather than existing ground levels.	Unlikely to comply

Standard/Control	Required	Proposed	Complies? (% variation)
		The proposed apartment ground levels are up to 3m higher than the proposed road levels.	
FSR	Bowling club lands $11,343.4\text{sqm} \times 1.2:1 = 13612.08\text{sqm}$  Former high school lands $29740\text{sqm} \times 1.5:1 = 4,4610\text{sqm}$  Total = 58,222.08sqm	GFA has been distributed over 4 stages with a total GFA proposed of 56,096sqm	Complies
Landscaped Area  These figures do not consider paths, driveways etc. Actual deep soil areas will be lower than stated herein.	Bowling club land $11,343.4\text{sqm} \times 30\% = 3,403\text{sqm}$  Former high school lands $29,740\text{sqm} \times 30\% = 8,922\text{sqm}$  Total = 12,325.02sqm	Deep soil landscape area has been distributed over 5 stages with a total landscape area of 12,349sqm	Yes

#### Sutherland Shire Local Environmental Plan 2015 – Stage 1

Building Height	30m	Building A = 17.4m Building B = 29.4m Building C = 29.4m  Note the heights identified on the submitted plans are taken from finished ground levels rather than existing ground levels.	Yes Yes Yes
FSR	GFA allocation 12,018sqm	GFA proposed GFA 11,855sqm.  GFA has been incorrectly calculated by excluding an internal corridor and excluding private vertical circulation within units.	Insufficient information to determine
Landscaped Area	The master plan allocates 3,342 sqm of deep soil to be provided within Stage 1	2,459sqm has been provided which does not exclude paving or decking.  Street verges have not been included as they are not shown on the Stage 1 plans.	No

#### Sutherland Shire Development Control Plan 2015 – Stage 1

Street setbacks	7.5m from Willarong Road (+6m articulation zone)	7.5m + articulation zone	Yes
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Basement street setbacks (deep soil)	6m	6m	Yes
Basement setbacks side/rear (deep soil) * Limited tree planting opportunity to rear setback	3m	>3m basement setback	Yes
Setback to side boundary	6m up to 12m & 9m over 12m	Building A = 19m & 19m Building B = 11m & 11m Building C = Min. 6m & 11m	Yes Yes and No Yes and No
Adaptable units (20%)	26	27	Yes
Livable units (10%)	13	14	Yes
Car parking	193 residential 33 visitor Total =226 3 wash bays	Total = 237 in basement	Yes
Solar access: Open space	Direct sun between March and September	Yes	Yes

## 7.0 SPECIALIST COMMENTS AND EXTERNAL REFERRALS

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

### 7.1 NSW Police (Miranda Local Area Command)

The DA was referred to the Miranda Local Area Command Crime Prevention Officer in accordance with Council's adopted policy for RFBs over 50 units. The comments made by the Crime Prevention Officer have been taken into account in the assessment of the DA.

### 7.2 Architectural Review Advisory Panel

A development proposal for the site was considered by Council's ARAP on 12 May 2016. The Panel expressed concern that an application for 3 of the buildings had been received in conjunction with the master plan. It was felt that the master plan had to resolve some fundamental issues prior to the application of any stage of the development.

The comments regarding the master plan largely echo the comments made in 2015 as part of a panel meeting for a pre-development application for the site. Fundamental re-consideration of the process involved was recommended, and significant improvement and amendment to the master plan were suggested with regards to the need to undertake a thorough site analysis and to use the attributes of the site to inform the development.

The panel stressed that a master plan should precede any Stage1 DA application for individual buildings.

Many of the issues raised by ARAP continue to be concerns that are yet to be addressed by the applicant. A copy of the Report from ARAP is attached at Appendix "A".

### **7.3 Architect (Assessment Team)**

The application was referred to Council's Architect who raised concerns with the proposed master plan and Stage 1 development which are covered in the assessment section of this report. Specifically the concerns relate to:

- Master plan and distribution of GFA;
- Inconsistencies;
- Solar access; and
- Residential amenity.

The basic master plan concept is reasonable however a coordinated and cohesive set of master plan documents has not been provided. Further development of the Stage 1 proposal is required to comply with the ADG and to reduce overshadowing of the southern neighbour.

### **7.4 Landscape Architect**

The application was referred to council's Landscape Architect for comment. Concern has been raised that several established trees are being removed which could easily be incorporated into the development. Specifically two established figs more than 60 years old are to be removed for a relocated bowling green. Given the subject application is a master plan with no fixed constraints it is unacceptable that an alternative arrangement has not been provided to retain the established trees.

In addition to the above the applicant has not adequately demonstrated how the trees which are to be retained can be fully protected. Specifically the limited information regarding cut and fill across the site suggests significant intrusions into tree protection zones that would severely compromise the potential retention of these trees.

### **7.5 Traffic Unit**

The application was referred to Council's Traffic Unit who raised concern with the proposed impact of the master plan on the surrounding road network. Specifically concern is raised that the traffic report submitted clearly indicates that the proposed development will have a significant impact on the current road network system. This is further discussed in the assessment section of this report.

### **7.6 Engineering (Assessment Team)**

The application was referred to council's Assessment Team Engineer who has raised concern with the master plan car parking in terms of:

- Separation of bowling club car parking from residential car parking
- Provision of on street drop off and pick up for the bowling club
- The width of the internal road

Concern has also been raised with the submitted stormwater plan. The proposed stormwater drainage design proposes to rely on 3 separate OSD tanks for the entire development. The applicant has provided calculations detailing the catchment areas and volumes of the tanks. Controlled release from tanks 1 and 2 are shown to be connected to the Willarong Road drainage network and OSD tank 3 connected to the Taren Point Road drainage system via a private drainage easement.

#### **7.7 Building (Assessment Team)**

The application was referred to council's Building Inspector who has no objection to the proposal, subject to relevant standard conditions which could be included in any consent granted.

#### **7.8 Contamination**

The site is listed on Council's contamination land register as being potentially contaminated due to the previous historical land uses, land excavation, mining and landfilling. The applicant has supplied a Phase 1 Contamination Assessment as part of a larger report which also deals with geotechnical, salinity and acid sulphate soil matters.

Sufficient information has been supplied to confirm that the site is fit for the proposed purpose in accordance with SEPP 55 subject to conditions of consent relating to a minor area of investigation which can be achieved through a soil management plan with a Construction Environmental Management Plan (CEMP).

### **9.0 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 plan, codes and policies, the following matters are considered important to this application.

#### **9.1 Master plan and distribution of GFA**

The proposal requires the resolution of several fundamental issues largely associated with the master plan including the distribution of floor space and height across the site, proposed levels and the consideration of existing site features. The master plan presented is far too underdeveloped to be acceptable with more work required to demonstrate that a range of options have been properly explored with the best option selected. This has resulted in a series of envelopes that have been maximised for GFA with little consideration to streetscape design, pedestrian experiences, community development or reducing car reliance.

The applicant has provided a breakdown of the proposed GFA allocations across the stages but has also included a clause allowing unallocated GFA to be taken up in subsequent stages.

Concern is raised with this approach and the current efficiency provided as it appears a significant amount of GFA would be moved to the later stages without any assessment of the potential impact of the additional bulk and scale.

The applicant has also incorrectly calculated GFA within the Stage 1 proposal as internal private vertical circulation and a corridor have been excluded.

## **9.2 Inconsistencies within master plan**

A consolidated consistent set of plans has not been provided for the master plan. At present submitted plans contain conflicting information with some plans containing an additional building (building I2) and variation in the number of storeys of several building's (buildings E1, H1, L and O). An allocation of GFA for each stage cannot be accurately determined until a consistent set of other documentation is proposed.

## **9.3 Incorrect measurement of height**

The submitted master plan and Stage 1 plans show heights measured from the finished ground levels rather than the existing ground levels. The SSLEP 2015 defines building height as *the vertical distance from ground level (existing) to the highest point of the building*. Insufficient information has been provided to determine the proposed final building heights. It is unclear if the submitted shadow diagrams have taken into account the proposed raised ground levels.

The applicant has submitted a written 4.6 request to vary the height standard for buildings on the Bowling Club site only, however due to the incorrect measurement of height it is likely that buildings on the high school site also breach the height limit. Based on the survey provided as part of the application it appears that at least buildings B1, M and K will breach the 30m height limit. A detailed survey would be required to confirm site levels.

Concern is also raised that accurate levels have not been provided as part of the master plan documentation. The submitted plans show the proposed ground levels of apartment buildings raised up to 3m above the proposed road levels.

Given the inaccuracies within the submitted documentation regarding height, a full assessment cannot be made regarding the application.

## **9.4 Height and variation to the development standard**

In accordance with Clause 4.3 (2E)(e) and Clause 4.4 (2A)(a) of the SSLEP 2015 the former high school site has a potential height uplift of 14m and a potential FSR uplift of 0.3:1 if the development incorporates vehicular access to adjoining lots facing Taren Point Road. The applicant has provided a north south road through the site but has not provided details of how vehicular access will be provided to lots facing Taren Point Road. Detailed information is lacking as to how the level differences could be accommodated.

The subject application seeks to take advantage of this uplift but also to distribute additional height across the adjoining bowling club lands. The master plan proposes buildings 5 to 9 storeys on the bowling club lands. The submitted master plan documents show the maximum height of the buildings O to be 22m, N to be 21.7m and P to be 18.6m which exceeds the 16m height standard by 8m, 5.7m and 2.6m respectfully. It is noted these heights are not based on existing natural ground level and the true heights as defined by the SSLEP 2015 may be greater.

The applicant has submitted a written 4.6 request to vary the height standard within the bowling club lands which is considered against the applicable zone and development standards below:

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

- a) *to ensure that the scale of buildings:*
  - i. *is compatible with adjoining development, and*
  - ii. *is consistent with the desired scale and character of the street and locality in which the buildings are located or the desired future scale and character, and*
  - iii. *complements any natural landscape setting of the buildings,*
- b) *to allow reasonable daylight access to all buildings and the public domain,*
- c) *to minimise the impacts of new buildings on adjoining or nearby properties from loss of views, loss of privacy, overshadowing or visual intrusion,*
- d) *to ensure that the visual impact of buildings is minimised when viewed from adjoining properties, the street, waterways and public reserves.*

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

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

The applicant has lodged a Clause 4.6 Variation to the building height which is at Appendix B of this report and the most relevant section is reproduced below:

*The proposal provides housing to meet the needs of local population and retains a community facility. Further, the proposal does not compromise the fragmentation of land given it provides an integrated design approach to the combined sites.*

*The proposed height variation generates no discernible environmental planning impact.*

*The height variation does not result in an FSR departure, but rather enables the combine site to achieve the FSR standard prescribed under the Sutherland Shire LEP 2015. Therefore, the height departure allows for a better rationalisation of the height and FSR standards.*

The applicant has not provided accurate heights as the existing ground level has not been taken into consideration. The submitted 4.6 written request to vary the development standard is therefore deficient and a full assessment cannot be made.

### **9.5 Residential amenity**

Concern is raised within the Stage 1 development that insufficient amenity is provided for the intended occupants. Specifically:

- Approximately 42% of all apartments contain at least 1 bedroom with a 'snorkel' window that will restrict access to light and ventilation which is inconsistent with the ADG. Particular concern is raised with the use of snorkel windows at the lower ground levels on the south side of the development.
- Approximately 14% of apartments contain at least one bedroom with a window within 2.6m of an adjoining apartment window;
- Four apartments contain windows within internal common lobbies;
- Five apartments contain windows that directly face roof top communal terraces;
- Several apartment layouts contain internal dining rooms without access to natural light;
- Several apartment layouts contain unnecessarily restrictive glazing that will severely reduce the amount of light available to occupants;
- Several apartment layouts have kitchens more than 8m from a window; and
- Natural cross ventilation could be achieved to a greater number of apartments with minor alterations to existing layouts and the inclusion of more appropriate window locations.

In general the internal layouts have been primarily reactive to the external form of the buildings and could be better laid out to improve residential amenity.

### **9.6 Stormwater**

The applicant has not provided sufficient information to demonstrate that the proposed stormwater dispersal design will not have an effect on downstream flood affected properties.

Concern has been raised that a drainage capacity assessment has not been prepared. The report would justify the discharge to Taren Point Road, comment on the OSD tanks, detail design measures

and consider that whilst the site is not flood affected, downstream areas of the catchment are flood effected and the proposal should not contribute to any adverse impacts downstream.

Given the scale of the proposed master plan and the applicant's unwillingness to address Council's concerns in relation to potential adverse impacts of stormwater discharge on the downstream flooding area, the proposal cannot be supported.

#### **9.7 Traffic / Car parking**

The applicant has been requested on numerous occasions to demonstrate how traffic within the locality will be managed. The applicant has relied on correspondence from RMS dated 13 May 2016 which raises 'no objection' to the proposal (Attachment B).

The 13 May 2016 letter makes reference to 3 residential flat buildings but not the submitted master plan. Council officers have experienced difficulty contacting RMS. In April 2017 contact was made with RMS who has since confirmed in writing on 2 May 2017 (Attachment C) that the earlier letter dated 13 May 2016 did not relate to the master plan proposal. RMS has requested Council Officers seek additional information from the applicant to allow a full assessment to be made.

Given the scale of the proposed master plan and the applicant's unwillingness to address the potential traffic impact issues raised by Council, the proposal cannot be supported.

#### **9.8 Site consolidation**

The master plan relies on the amalgamation of the bowling club lands and the former high school lands to comply with the FSR and deep soil requirements. The applicant has not specifically sought to amalgamate the sites however this would be required before any consent is granted.

### **10.0 SECTION 94 CONTRIBUTIONS**

The following Section 94 contributions apply to development on the subject site.

- Shire-Wide Open Space and Recreation Facilities 2005
- Section 94 Community Facilities Plan 2003

### **11.0 DECLARATION OF AFFILIATION**

Section 147 of the *Environmental Planning and Assessment Act, 1979* requires the declaration of donations/gifts in excess of \$1,000. In addition Council's development application form requires a general declaration of affiliation. In relation to this development application a declaration has been made that there is no affiliation.

### **12.0 CONCLUSION**

The proposed development is for a master plan concept containing up to 23 building envelopes ranging from 3 to 9 storeys, and indicative future land uses. The master plan is to be constructed in 5 stages with Stage 1 for 6 buildings forming part of the subject application.

The subject land is located within Zone R4 High Density Residential pursuant to the provisions of SSLEP 2015. The proposed mixed use master plan contains uses which are permissible within the zone or are an additional permissible use in accordance with the SSLEP 2015.

The proposal seeks an uplift in height and FSR which is afforded by Clauses 4.3(2E)(e) and 4.4(2A)(a) of the SSLEP 2015 subject to providing vehicular access to adjoining sites which have a frontage to Taren Point Road. The subject application has not demonstrated how this access can be provided and as such the uplift cannot be applied.

The applicant has submitted a 4.6 written requires to vary the height standard of 16m which applies to the bowling club lands. The above uplift applies to the former high school site only.

The submitted plans show final heights within the former high school lands which do not take into account existing natural ground levels as prescribed by the definition of height within the SSLEP 2015. Given the level of fill proposed, it is unlikely the higher level buildings will comply with the 30m height limit (should the uplift be awarded). A full assessment of the application cannot therefore be made.

In response to public exhibition 50 submissions were received. The matters raised in these submissions have been discussed in this report.

Council Officers have consistently attempted to work with the applicant to provide an acceptable solution to the site. The same issues have repeatedly been raised with the applicant and continue to remain outstanding. Given the length of time the application has been with Council and the unsuccessful attempts at obtaining adequate information, the only recommendation that can be made is refusal.

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 SSLEP 2015 and relevant Council Draft DCP, Codes and Policies. Following detailed assessment it is considered that Development Application No. 16/0388 should be refused for the reasons outlined in this report.

#### **RESPONSIBLE OFFICER**

The officer responsible for the preparation of this Report is the Manager, Major Development Assessment (JR).