

JOINT REGIONAL PLANNING PANEL (Sydney East Region)

JRPP No:	2016SYE061
DA No:	DA16/0602
Local Government Area:	Sutherland Shire
Proposed Development:	Demolition of 2 dwellings and structures, construction of an Affordable Rental Housing residential flat building containing 38 units and 2 levels of carpark
Street Address:	298 to 300 Taren Point Road, Caringbah (Lot 1 DP 414932, Lot 2 DP 503264)
Applicant/Owner:	Landmark Group Australia Pty Ltd
Number of Submissions:	Seven (7)
Regional Development Criteria (Schedule 4A of the Act)	The residential flat building will comprise Affordable Rental 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:	Lauren Franks - Environmental Assessment Officer Sutherland Shire Council

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 Rental 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 38 units (50% to be used as Affordable Rental Housing) over 5 levels with basement car parking for 47 vehicles at 298 to 300 Taren Point Road, Caringbah.

1.3 The Site

The subject site is located on the eastern side of Taren Point Road, south of the intersection of Taren Point Road and Kingsway. The site comprises 2 individual lots with a dwelling house and ancillary structures situated on each lot. Caringbah Centre and railway station is approximately 785m 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:

- Isolation of No. 302 and 302A Taren Point Road
- Non compliance with SSLEP 2015 - Building Height
- Non compliance with SSLEP 2015 - Building Density
- Building Layout
- Setbacks
- Waste Management

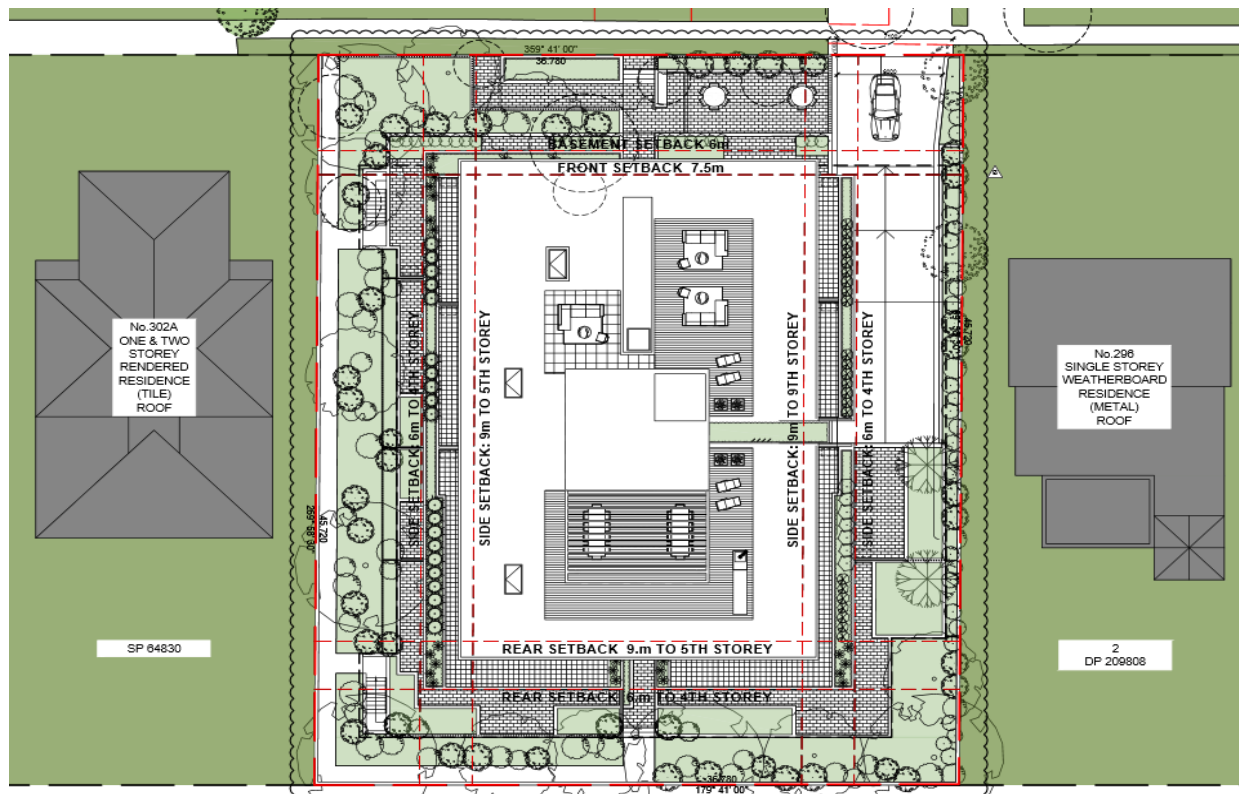
1.5 Conclusion

Following detailed assessment of the proposed development the current application is considered worthy of support, subject to conditions of consent requiring an additional unit to be included as Affordable Rental Housing.

2.0 DESCRIPTION OF PROPOSAL

The proposal is for demolition of all existing dwelling houses and ancillary structures on the site and the construction of a residential flat building comprising the following: 1 x 5 storey residential flat building comprising 38 units;

- 50% of the gross floor area is to be used as Affordable Rental Housing;
- An apartment mix of 13 x 1 bedroom, 23 x 2 bedroom and 2 x 3 bedroom units (including provision of 8 adaptable units).
- A split level basement that will accommodate 47 car parking spaces, including 7 visitor spaces, 3 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 front of the ground level.
- Vehicular access is proposed from Taren Point Road into the basement.
- Waste is to be stored within a 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 298 to 300 Taren Point Road, Caringbah. Taren Point Road is an arterial road with 6 lanes of traffic (3 lanes each way).

The site has an east – west orientation and is rectangle in shape. It has a frontage of 36.78m and a depth of 45.72m with a total site area of 1,681.5m². The site has a cross fall of approximately 3m falling from the rear south eastern corner to the front north western corner of the site. The site will

drain to the street. Existing development on the site comprises 2 single dwelling houses, 1 pool and ancillary outbuildings and vegetation. The site is 785m from Caringbah Railway Station and Caringbah Centre. Sutherland Hospital is located 440m to the south-west of the site on Kingsway.

The streetscape within the immediate vicinity of the site is primarily characterised by single dwellings. This predominate building form is interspersed by 1 dual occupancy, which adjoins the southern side boundary. The western side of Taren Point Road 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). Commencing from the adjoining property at No. 302 and No. 302A Taren Point Rd and continuing south, properties along Taren Point Rd have a rear boundary with an unoccupied site that has been rezoned under SSLEP 2015 to R4 High Density Residential.

The rear north west boundary of the site adjoins Caringbah High School which has a zoning of SP2 Educational Establishment under the SSLEP 2015 and is the last property to adjoin the school along Taren Point Road.





4.0 BACKGROUND

A history of the development proposal is as follows:

- The current application was submitted on 16 May 2016.
- The application was placed on exhibition with the last date for public submissions being June 2016. Seven (7) submissions were received.
- The application was considered by Council's Submissions Review Panel on 16 August 2016.
- An Information Session was held on 22 June 2016 and 7 parties attended.
- On 15 July 2016 a letter was issued requesting that a significant amount of additional information be provided as the development was largely non-compliant.
- Council officers met with the Applicant and their consultants on 25 July 2016 to discuss the contents raised in the Council's issued letter.
- Amended plans and additional information were lodged on 15 August, 22 August 2016 and 23 August 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 Draft Sutherland Shire Development Control Plan 2006 (DSSDCP).

Adjoining or affected owners were notified of the proposal and 7 submissions were received as a result.

Submissions were received from the following properties:

Address	Date of Letter/s	Issues
296 Taren Point Road	27 June 2016	2, 5, 9, 10
302 Taren Point Road	28 June 2016	1, 2, 3, 4, 5, 6, 7, 10
302A Taren Point Road (3 submissions)	28 June 2016	1, 2, 3, 4, 5, 6, 7, 10
287 Taren Point Road	29 June 2016	3
Caringbah High School	June 2016	5, 8, 9, 10

The issues raised in these submissions are as follows:

Issue 1: Isolation of No. 302 & 302A Taren Point Road

Comment: This matter is addressed below in the “Assessment” section of this report.

Issue 2: Operational noise

Comment: This issue relates to noise generated from the increased density of the site and includes cars entering / exiting the basement, people utilising their balconies and gates opening / closing.

It is accepted that replacement of a low density form of development with a high density development will increase resident movements within the site. However, noise generated from residents undertaking their day to day activities is to be expected and acceptable.

A condition relating to the opening / closing of gates and use of the car park has been imposed to minimise disturbance to surrounding properties:

Issue 3: Traffic & parking

Comment: A total of 47 car spaces (including 7 visitor spaces) are to be provided within the basement and is compliant with the Affordable Rental Housing SEPP.

Roads and Maritime Services (RMS) have reviewed the traffic generation of the proposal and the subsequent impact on Taren Point Road and surrounding streets.

Issue 4: Solar access

Comment: This matter is addressed below in the “Assessment” section of this report.

Issue 5: Privacy

Comment: This matter is addressed below in the “Assessment” section of this report.

Issue 6: Non-compliant with Apartment Design Guide, Sutherland Shire LEP & Draft DCP

Comment: This matter is addressed below in the “Assessment” section of this report.

Issue 7: Impact on existing infrastructure

Comment: The RMS has assessed the impact of the development on Taren Point Road and surrounding roads and is supportive of the proposal pursuant to conditions of consent.

Council’s Development Engineers have assessed Hydraulic Plans submitted with the DA and concludes that the details provided are satisfactory and subject to conditions of consent.

Issue 8: Disruption through the construction phase

Comment: It is acknowledged that during the construction phase, disruption to the amenity of surrounding properties may occur. The disruption caused during the construction of the development will be temporary and mitigated through conditions of consent relating to noise.

Issue 9: Damage to property during excavation

Comment: A condition of consent has been imposed requiring the applicant to obtain a dilapidation report and geotechnical report prior to issue of a Construction Certificate for adjacent properties at No. 296, No. 302, No. 302A Taren Point Road and Caringbah High School. These conditions appear as follows:

Issue 10: Adverse impact on property values

Comment: Development proponents have a right, under the provisions of the Environmental Planning and Assessment Act, 1979, to apply for developments that achieve the aim of orderly and economic use and development of land. Concerns about possible decreases in surrounding property values do not constitute a reasonable ground for refusal. This position has been reinforced by planning and development decisions in the Land and Environment Court.

Issue 11: Caringbah High School – interruption of day to day school activities and examinations

Comment: Caringbah High School have requested that a noise and vibration assessment be undertaken by the applicant ensure the health and learning environment of students are not adversely

affected. A condition of consent has been included which restricts the hours of building and demolition work and also the sound pressure level emitted during this period.

Submission Review Panel (SRP)

Submissions received were discussed at Council's SRP which acknowledged that the uplift in zoning of the area and the transition from low density to high density development has resulted in a 'substantive' impact in relation to privacy, solar access, overshadowing, issues regarding amalgamation of properties. Each issue has been raised to the applicant as a concern and addressed as per the comments in this report.

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 2006. 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 have been considered in the assessment of the 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 reduced parking standards, than permitted by SSLEP 2015.

The following Environmental Planning Instruments (EPIs), Development Control Plans (DCPs), 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 and a compliance checklist relative to these:

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 Rental Housing in the form of a 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 (785m). Further, a residential flat building is permitted with consent under SSLEP 2015.

Standard / Control	Required	Proposed	Complies
State Environmental Planning Policy (Affordable Rental Housing) 2009			
Land to which Division applies	Accessible Area - must be within 800m of a Railway Station	785m to Caringbah Railway Station	Yes
Floor Space Ratio	0.5:1 bonus (if the existing max FSR is less than 2.5:1 and 50% used as Affordable Rental Housing)	50% of the gross floor area is to be used as Affordable Rental Housing. 1.2 (SSLEP 2015) + 0.5 (SEPP) = 1.7:1 2,858.5m ² allowed 2,585.5m ² 1.7:1	Yes
14. Standards that cannot be used to refuse consent (if compliant)			
Site area	450m ² min	1,681.5m ²	Yes
Landscaped area (podium and deep soil combined)	30% min is to be landscaped area (504.3m ²)	36.6% (615.9m ²)	Yes
Deep soil zones	15% of the site area (252.2m ²) Min. 3m dimension	18.7% (315.4m ²) 3m minimum within front and rear setbacks	Yes Yes
Solar access	Min. 3 hrs of sunlight to living rooms and POS for 70% of units between 9am and 3pm.	26 of 38 units (68%) receive solar access.	No – see Section 10 of report.
Car parking	1 bed (13) – 0.5 spaces 2 bed (23) – 1 spaces	6.5 spaces req'd 23 spaces req'd	Yes – 47 (14 in excess)

	3 bed (2) – 1.5 spaces	<u>3 spaces</u> req'd 32.5 spaces required (33 rounded up)	
Sutherland Shire Local Environmental Plan 2015			
Building Height	16m	19m	No – 18%

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	<p>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.</p> <p>It is acknowledged that a DA (subject to a decision by the Land and Environment Court) was lodged for No. 304 Taren Point Road for a residential flat building. Should approval be issued for both this DA and No. 304 Taren Point Road, isolation of the dual occupancy development at No. 302 and No. 302A Taren Point Road would result and subsequently, this was raised to the applicant as an issue. There is a concern that this allotment will be isolated should the developments on No. 304 and No. 298 to 300 Taren Point Road be approved. The applicant has submitted information detailing the correspondence that occurred with each owner within the dual occupancy which has included telephone calls and sms. However, there is concern that this alone is not sufficient evidence demonstrating that all reasonable attempts to acquire this adjoining lot have been undertaken.</p>

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 surrounding properties. The built form is a modern design that is adequately articulated and whilst a height variation of 3m 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 Rental 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.
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	<p>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, screen the building bulk of the development and be consistent with the character of the locality.</p> <p>However, the provision of additional paved communal open space within the front setback inhibits the opportunity for additional deep soil planting which would thicken the vegetation provided between the streetscape and residential flat building. Further, the proximity of this space to Taren Point Road will discourage its frequent use. This is not ideal and is discussed further in the assessment section of the report and has been resolved by way of a condition of consent imposed by Council's Landscape Architect.</p>
Principle 6: Amenity	The proposal generally satisfies the provisions of the ADG with respect to appropriate floor plan layouts, solar access, and visual/acoustic privacy. Whilst natural ventilation is not strictly compliant, it is considered acceptable and very close to achieving compliance.
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 Rental 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 (% variation)
3D Communal Open Space	<p>25% of the site area (420.2m²)</p> <p>50% to receive for 2 hours min between 9 am and 3 pm on 21 June (mid winter)</p>	<p>395m² provided on roof top and 30m² at ground level at the front adjacent to letterboxes Total: 425m² (25.2%)</p> <p>The communal space provided on the roof level will receive adequate sunlight. Communal open space at ground level will receive min. 2hrs sunlight in afternoon.</p>	<p>Yes</p> <p>Yes</p>
3E Deep Soil Zones	Min. 6m dimension & 7% (117.6m ²) deep soil area	338.4m ² in total (no 6m dimension proposed)	No – 6m dimension not achieved.
2F Building Separation / 3F Visual Privacy	<p>Up to 12m high (4 storeys)</p> <p>Habitable/balconies: 6m</p> <p>Non-habitable: 3m</p>	<p><u>Ground Floor:</u></p> <p>4m to courtyard / 6m to bedroom wall to south 1m to courtyard / 6m to bedroom wall to north 3m to courtyard / 6m to wall to rear</p> <p><u>1-3rd Floor:</u></p> <p>6m to balcony / 6m to wall of building to south 5.45m to balcony / 6m to wall to north 4.85m to balcony / 6m to wall to rear</p>	<p>No – see Section 10 of report.</p> <p>No – see Section 10 of report.</p>

	<p>additional bathroom.</p> <p>Every habitable room to have a windows in an external wall with a total min. glass area of $>10\text{m}^2$ of the floor area of the room. Daylight and air may not be borrowed from other rooms.</p>	Each habitable room with an external wall provided with a window.	Yes
4E Private Open Space	<p>Primary balconies</p> <p>1br = 8m^2 / depth 2m 2br = 10m^2 / depth 2m 3br = 12m^2 / depth 2.4m</p> <p>Ground level apartments (or on podium) 15m^2 with min 3m depth</p>	<p>8m^2 / depth 2m 10m^2 / depth 2m 12m^2 / depth 2.4m</p> <p>8m^2 to ground level unit - G.03 (1B)</p>	<p>Yes</p> <p>No – see Section 10 of report.</p>
4F Common Circulation & Spaces	Max. number of apartments off a circulation core on a single level is 8.	8 units	Yes
4G Residential Storage	<p>1br apartment = 6m^3 2br apartment = 8m^3 3br apartment = 10m^3</p> <p>At least 50% of storage to be located within the apartments</p>	Allocation of storage lockers not shown in basement, however more lockers than units are provided. Storage acceptable within each unit.	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:

Draft Sutherland Shire Development Control Plan 2015 – Key Controls			
Chapter 6 R4 Caringbah North Precinct			
Objective	Design Criteria	Proposal	Complies (% variation)
Lot width	26m	36.78m	Yes

Street setbacks	7.5m (1.5m encroachment for 1/3 façade)	4.9m to courtyard on ground floor. In excl. ground floor courtyard, 7.5m to building wall & 6m to balconies within articulation zone for approx. 1/3 façade.	Yes
Side / rear setbacks	<p><u>Up to 12m:</u> 4.5m (where façade contains windows from bathroom, laundry, storage or highlight windows).</p> <p>6m (where façade contains windows from habitable rooms inc. living rooms, kitchens, bedrooms, studies or balconies).</p> <p><u>12-25m:</u> 6.5m (where façade contains windows from bathroom, laundry, storage or highlight windows).</p> <p>9m (where façade contains windows from habitable rooms inc. living rooms, kitchens, bedrooms, studies or balconies).</p>	<p>N side 1m (courtyard-ground) S side: 4m (courtyard - ground) Rear: 3.2m (courtyard - ground)</p> <p>N side: 6.08m (balcony) S side: 5.97m (balcony) Rear: 6m (balcony)</p>	<p>No – see Section 10 of report.</p> <p>No – see Section 10 of report.</p>
Basement setbacks	3m from side / rear boundary	N side: 814mm S side: 2.56m Rear: 3m	No – see Section 10 of report.
Adaptable units	20% (8 units)	8 units	Yes
Livable units	10% (4 units)	6 units	Yes

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

The NSW Police provided a response on 27 July 2016 and is supportive of the proposal pursuant to provision of adequate lighting in common areas, CCTV monitoring in the basement car parking, location of letterboxes inside the front property boundary and adequate signage. These recommendations have been addressed through conditions of consent.

9.2. Roads and Maritime Service (RMS)

The RMS is supportive of the proposal pursuant to conditions of consent. Specifically, the RMS deemed the development's impact on the road network to be acceptable and the applicant's proposed waste arrangement for a private contractor to collect 660L bins from the street kerb to be unacceptable, requiring the collection of bins this size to be collected wholly within the site.

9.3. Architectural Review Advisory Panel (ARAP)

The proposed development was considered by Council's ARAP and the panel recommended that the following changes to the proposal be considered to improve its design quality:

- *“Changes to the built form as outlined in Scale & Form (and Density)*
- *The FSR measurement should be reviewed to include the “breezeways” as noted in Density*
- *Refinements to internal plans as detailed in Amenity (and Scale & Form)*
- *Consideration of sustainability initiatives noted in Sustainability*
- *Suggestions to improve aesthetics as noted in Aesthetics*
- *Improved landscape response, specifically:*
 - *the basement should be set back as appropriate to ensure the retention, protection and long term performance of the mature trees on the adjoining site to the rear*
 - *additional communal open space should be provided at ground level*
 - *the extent of solid masonry walls presenting to the public domain should be minimized*
 - *other improvements as generally noted in other principles”*

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, concluding that:

“Though some minor developments have been made, the proposal does not meet the minimum requirements of the ADG. The proposal is reminiscent of a pre-SEPP65 building

with a large corridor loaded with a large number of single aspect apartments. To address this fundamental issue unit numbers should be decreased and / or an additional vertical circulation core added.

The proposal is struggling to accommodate the additional FSR allowed by the Affordable Rental Housing SEPP whilst complying with the minimum requirements of the ADG.”

Revised plans and additional information were provided demonstrating that unit sizes including balcony size and storage requirements satisfy the minimum requirements of the ADG, however no reduction to unit numbers or change to the vertical circulation core is proposed.

9.5. Development Engineer

Council's Development Engineer has undertaken an assessment of the amended plans and support for the application was given subject to conditions of consent

9.6. Traffic Engineer

The proposed development was referred to Council's Traffic Engineer who was supportive of the proposal.

9.7. Landscape Architect

The proposed development was referred to Council's Landscape Architect who supports the amended proposal subject to conditions of consent.

9.8. Community Services

The proposed development was referred to Council's Community Services Unit and no significant concerns were raised, subject to 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 Isolation of No. 302 and No. 302A Taren Point Road

Adjoining the subject site to the south is an attached dual occupancy development situated on No. 302 and No. 302A Taren Point Road. It is acknowledged that on the southern side of this property (No. 304 Taren Point Road) a residential flat building development is proposed and currently, pending at the Land and Environment Court. The issue of isolation was also raised with that development.

The applicant was informed by letter on 15 July that insufficient evidence has been submitted with the DA to satisfactorily demonstrate that all reasonable attempts have been made to acquire No. 302 and No. 302A Taren Point Road, which has the potential to be isolated.

The principles to be considered when a development will contribute to the isolation of land through redevelopment were set out by Brown C in *Melissa Grech v Auburn Council* [2004] NSWLEC40.

As specified by Brown C, where no satisfactory result is achieved from negotiations:

“the development application should include details of the negotiations between the owners of the properties. These details should include offers to the owner of the isolated property. A reasonable offer, for the purposes of determining the development application and addressing the planning implications of an isolated lot, is to be based on at least one recent independent valuation and may include other reasonable expenses likely to be incurred by the owner of the isolated property in the sale of the property.”

This case law also states that the level of negotiation and any offers made for the isolated site are matters that can be given weight in the consideration of a DA.

In response to Council's request for evidence of attempts to acquire No. 302 and 302A Taren Point Road, the applicant has responded by arguing that the proposed development on No. 304 Taren Point Road occupies a single allotment and subsequently, fails to achieve the 26m street frontage required by the DSSDCP for a residential flat building development. Therefore, No. 304 Taren Point Road should be forced to amalgamate with No. 302 and No. 302A Taren Point Road. In saying this, it is also noted that the applicant has stated that:

“the owner of the subject property has made attempts in the past to procure the properties located at No. 302 and No. 302A Taren Point Road, but unfortunately could not come to a commercially feasible position to meet the expectations of the vendors.”

Following receipt of this submitted information, the applicant was re-informed of a concern that no evidence of attempts to acquire this adjoining lot had been provided. In response, the applicant has submitted a document detailing how negotiations and efforts to acquire No. 302 and No. 302A were made and their correspondence with No. 302 and No. 302A Taren Point Road, which has been in the form of SMS and telephone conversations to the applicant provided by the real estate agent. No Independent Property Valuation has been undertaken and no formal letter of offer has been given to these adjoining properties.

Whilst a determination on the development at No. 304 Taren Point Road has yet to be made by the Land and Environment Court, should approval of both this DA and No. 304 Taren Point Road occur, it

is recognised that the isolated site may become unattractive for future development due to its reduced allotment width and potential return on investment.

Council's desire for sites to be amalgamated is reflected in both the objectives of the R4 High Density Residential zone within SSLEP and within the strategy of Chapter 6 of DSSDCP. As noted within Section 7 of this report, a key aim of the zone objectives is *"to minimise the fragmentation of land that would prevent the achievement of high density residential development"*. In relation to the DSSDCP, the strategy behind the development controls is that *"the area will be developed with well designed residential flats alongside other multi-dwelling developments."*

The level of information submitted by the applicant demonstrating that a reasonable attempt to acquire No. 302 and No. 302A Taren Point Road is insufficient. Whilst there is merit in the applicant's argument that the subject site achieves the minimum site width required for a residential flat building development, approval of the DA could potentially isolate No. 302 and No. 302A as it achieves a site width of only 18.3m. It is noted there are examples throughout Sutherland Shire of sites achieving a residential flat building development which are less than 18.3m in width. However, this is a far less desirable and inefficient outcome and both sites are compromised if dealt with separately. Further evidence is required to be provided by the applicant. Therefore, the application is recommended as a deferred commencement consent pending the submission of this outstanding information.

10.2 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, mechanical services room, pergola, bathroom and planter boxes forming the balcony balustrade exceeds the maximum height permitted by 3m, resulting in a variation to the standard of 18.75%.

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.*

A height of 19m is proposed to the highest point of the building, being the lift and lift over run. The height breach is situated within the centre of the building. The continuation of the lift to the roof terrace is an appropriate response to the development to ensure accessibility is available to all occupants. The pergola is centrally located on the roof and is a light weight, open form structure that is adequately set back 6m from each side of the roof edge and 4.5m from the rear roof edge. The pergola is necessary in providing shade and improve amenity of future occupants but will not increase the level of overshadowing caused to the adjoining properties to the south at No. 302 and 302A Taren Point Road.

The site forms part of the Caringbah North Precinct under DSSDCP 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 DSSDCP. Once the surrounding properties are redeveloped in the future, the proposal will be compatible with the expected scale of development for the local area. Recently approved at No. 316-320 Taren Point Road was a residential flat building exceeding the allowable 16m building height by 2.9m, similar to this proposal and for the same reasons.

The subject site adjoins the south-western corner of Caringbah High School to the rear being the southernmost adjoining property along Taren Point Road which adjoins this site. However, the rear of the adjoining property to the south at No. 302 Taren Point Road is the northernmost adjoining property to a master plan which is currently under assessment by Council to include new infrastructure and 17 residential flat building with height of 6-9 storeys. It is recognised that this site has a permissible building height of 30m. The non-compliant portions of the proposed building on the subject site will sit well below the height of the development that is likely to be constructed on the vacant school site and therefore will sit comfortably within the overall locality.

The applicant has lodged a written request in accordance with the requirements of Clause 4.6 of SSLEP 2015.

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

"The non-compliance is isolated to the central part (for lift access to the communal space") of the building on the roof level and does not add to the visible bulk of the building when viewed from the adjacent street frontage or surrounding properties.

These elements of the building are functional requirements to enable disabled access to the roof terrace which results in obvious amenity benefits for the 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 proposed encroachment into the maximum building height affects only the central portion of the building. At the side boundaries, the height of the residential portion of the building is below the maximum building height, while the extent of the encroachment except for the lift and stairs tower (and pergola roof) extends to a portion of the roof terrace wall only.”

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 which obscure the height on the roof top 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 site's 3m cross-fall results in the north-western corner of the ground floor extending 1.5m out of the ground. This constraint has contributed to an increased building height above the permissible 16m.

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. Specifically, adjoining properties are single storey and two storey in height so the angle and setback of the roof terrace will prevent overlooking to these properties. Subsequently, adequate justification is demonstrated that there are sufficient planning grounds to vary clause 4.3 of SSLEP 2015 relating to building height.

The applicant's written submission demonstrates that compliance with the height development standard is unreasonable and 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.

10.3 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 Rental Housing SEPP permits an additional FSR of 0.5:1, as 50% of the gross floor area will be used for Affordable Rental Housing. The development proposes a FSR of 1.7:1 (2,858.5m²) which is compliant under the Affordable Rental Housing SEPP.

10.4 Affordable Rental Housing

50% of the floorspace ratio of the development is to be used as affordable rental housing. Additional information was provided indicating which units are proposed to be used as affordable rental housing. A condition will be included to ensure that 50% of the floorspace is available as affordable rental housing.

10.5 Streetscape

The objectives for streetscape contained within Chapter 6 of DSSDCP 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 experiences a cross-fall of 3m from the rear south-eastern corner to the front north-western corner. This results in the ground floor component of the building protruding approximately 1.5m out of the ground in the north-western corner. Council's Architectural Review and Advisory Panel (ARAP) suggested the building level be split to improve the relationship of the building to the natural ground level. The applicant did not see this suggestion as desirable and has explored the potential of lowering the building as a whole further into the ground. Whilst this would improve the relationship of the building to the ground in the north-western corner, it would result in a poor level of amenity provided to the ground level unit (G.08) in the south-eastern corner. Therefore, the building has not been split and the one reticulated floor level has been maintained on each level.

Amended plans demonstrate that the landscaping strip width of 1.2m along the northern side boundary has been extended to the front boundary to maximise soft landscaping between the driveway and streetscape.

To minimise the bulk of the development when viewed from the street, retaining walls with a mixture of materials and landscaping are proposed. 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.

10.6 Overlooking

Clause 11.2 of Chapter 6 of DSSDCP stipulates that new development is to maximise visual privacy to adjoining properties. Overlooking into adjoining properties at No. 296, No. 302, No. 302A Taren Point Road and the school playground of Caringbah High School will occur from this building. Amendments to side setbacks to balconies ensure the ADG's required 6m is achieved to Levels 1 to 3 on the southern side and 5.45m on the northern side. A condition of consent has been imposed requiring the balconies to achieve a 6m distance on the northern side to Levels 1 to 3. The balconies of front and rear units have been directed away from side boundaries where possible to limit overlooking to residential properties. However, it is unavoidable to have no balconies or habitable room windows directed to each side boundary.

To minimise potential privacy impacts on adjoining properties to the north and south, planter boxes are proposed on Level 4 extending the whole length of the side building setbacks which range between 5.97m – 6.2m. 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.

In regards to maintaining privacy to the rear property (Caringbah High School), a setback of 4.85m to Levels 1 to 3 and a 6m setback to Level 4 is provided. Deep soil planting is proposed within the rear setback to screen the development from Caringbah High School and reduce the potential for overlooking. Further, the 2 properties forming the subject site are the last 2 properties along Taren Point Road to adjoin with Caringbah High School so the building itself is setback approximately 100m from the school's outdoor seating area and 110m from the nearest school building.

10.7 Setbacks

Clause 3F of the ADG requires building's balconies and habitable rooms up to 4 storeys to be setback a minimum 6m and 4-8 storeys to be setback a minimum 9m from the boundary. Setbacks to the southern side boundary comply for Levels 1 to 3 but are non-compliant by 3.03m on Level 4. Setbacks to the northern side boundary are 5.45m to Levels 1 to 3, resulting in a non-compliance of 0.55m and 6.08m on Level 4, being a non-compliance of 2.92m.

To address the overlooking impact to each adjoining property to the north and south of the site, planter boxes have been provided for the full length of each balcony. It is important to note that the required 9m setback is provided to Level 4 when measured to each habitable room's wall so the bulk of the development is considered to reflect a key part of the ADG's intention of minimising bulk. As the

adjoining properties to the north and south (No. 296, No. 302 and No. 302A Taren Point Road) are single storey and 2 storey in height, the direct line of site into these properties would occur at an oblique angle and would not be a direct line of site unless occupants of units on Level 4 were standing directly at their balcony balustrade.

In regards to the rear setback, 4.85m is proposed for Levels 1 to 3 when measured to the balcony balustrade and 6m to the wall, resulting in a non-compliance of 1.15m. The rear setback from Level 4 is 6m to the balcony balustrade and 9m to the wall, resulting in a non-compliance of 3m. The adjoining property is the south-western corner of Caringbah High School which is an open grassed area. Therefore, it is not considered that the turfed playground behind the site will be utilised for long periods and not areas where people congregate. Furthermore, the 2 units with balconies at Level 4 which overlook the playground wrap-around the building so are not solely orientated to the playground.

The variation in setbacks to balconies and habitable rooms along each elevation provide articulation to the building and in no instance create a significant impact on adjoining properties.

10.8 Basement Setback

Clause 7.2 of Chapter 6 of DSSDCP requires a 3m basement setback from side and rear boundaries. Also, basement construction is not to protrude from the near natural ground level and a landscape strip 1.2m wide between the boundary and driveway is to be provided.

The basement will be set back 3m from the rear boundary, 2.56m from the southern side boundary, representing a non-compliance of 0.44m (14.6%) and 0.814m from the northern side boundary, representing a non-compliance of 2.186m (72.9%). The non-compliance to the southern side setback occurs for a total length of 15.4m. The remaining 19.5m is set back 4.7m. The intrusion into the setback distance is a result of the provision of 2 stairwells and a main switch room. The non-compliance to the northern side setback occurs for 28.4m and extending to 3.87m at the rear for a length of 6.2m.

The aims behind these development controls are to ensure privacy to adjoining properties is maximised, visual intrusion from building bulk is minimised and that an opportunity for ample deep soil zones is achieved. Due to the grade of the land, the basement is approximately 1m out of the ground at the worst point, setback 0.814m from the northern boundary. The portion out of the ground will be screened by the 1.8m fence provided on the boundary adjacent to the driveway. To alleviate potential impacts on the northern adjoining property (No. 296 Taren Point Road) from the ground floor courtyards, a 1.2m landscaping strip between the unit's courtyard fence and the side boundary is proposed and an additional a 2m wide raised garden bed provided with screen planting inside the unit's courtyard. This provides a total 3.2m wide landscaping buffer with No. 296 Taren Point Road and will ensure future residents will not overlook No. 296 Taren Point Road. As shown on the

Landscape Plans, deep soil planting surrounds the proposed building, although it is acknowledged the density of this planting would be reduced along the northern side boundary. The treatment provided to minimise potential visual and privacy impacts upon the adjoining properties is acceptable.

Amended plans demonstrate an increase in width of the landscaping strip to 1.2m between the northern side boundary and the driveway. This will aid screening of the basement entry and aligning walls of the driveway which would otherwise appear heavy, bulky and dominated by built elements of the development.

10.9 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. Initially, the design incorporated approximately 390m² on the roof, representing a shortfall of 30m².

Given that the development will comprise of 38 units in a location that is distant from public open space, the provision of a quality compliant communal open space is essential. Amended plans were submitted identifying the provision of an additional 30m² within the front setback. Whilst provision of communal open space is supported, its location is undesirable due to its proximity to Taren Point and because its location would reduce the level of deep soil planting provided along the front boundary. Council's Landscape Architect has imposed a condition requiring the ground floor communal open space to be relocated to the eastern rear boundary.

The communal open space on the roof area will be adequately landscaped and fitted out with facilities, such as seating, BBQ facilities and a toilet.

10.10 Natural Ventilation

The proposal is close to compliance with the ADG with regards to natural ventilation, with 52% or 20 out of the 38 units are proposed as being cross ventilated, which is 3 units short of the development complying with the minimum 60% requirement. To improve natural ventilation to the current proposal, Council's Architect has recommended ventilated skylights to the rear of units 4.03 and 4.04. This will result in 22 units receiving some form of natural ventilation (58%), resulting in a minor non-compliance of 2%. A condition of consent has been imposed to this effect.

10.11 Internal Apartment and Balcony Sizes

In regards to balcony sizes, one ground floor unit failed to comply with the required 15m² private open space by achieving an 8m² balcony. The applicant has argued that non-compliance occurs because the private open space is wholly elevated above the driveway entry to the basement and that it is not strictly provided at ground level. This Unit (G.03) contains 1 bedroom and sufficiently achieves the ADG's required 8m² for a balcony above ground level. Ideally, compliance would be preferable and

beneficial to the development, it is recognised that there is little scope for amending the design to achieve compliance.

10.12 Parking

The proposal has provided residential car parking compliant 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 SEPP, which is of great benefit to the site as parking on Taren Point Road directly in front of the site is only available outside peak hours.

DSSDCP requires the provision of 2 dedicated car wash bays. The proposal includes car wash bays that are shared with visitor parking spaces. Strict compliance could be achieved by deletion of parking spaces but this would not be an ideal outcome given the site location as cars will not be able to be washed on the street. Subsequently, support for the additional car wash bay is supported.

10.13 Solar Access

The ADG requires 70% of units to receive 2 hours direct sunlight between 9am and 3pm and a maximum 15% of units receive no sunlight to habitable rooms. A total 26 of 38 (68%) units will receive 2 hours sunlight which is 1 unit short of the requirement. 8 units will receive no sunlight (21%), which is 2 units over the allowed number to receive no sunlight.

The applicant has addressed this non-compliance through submission of a Solar Access Report with findings that differ from Council's assessment as they conclude that the 70% requirement is achieved. Council's Officers do not agree that compliance is achieved. However, on balanced consideration, non-compliance is acceptable for the following reasons:

- The site experiences an east-west orientation resulting in a side elevation, being the longest building length, orientated to the south. Therefore, it is inevitable that any design will prove more difficult to achieve a high level of solar access, particularly when accommodating additional floor area to utilise the bonus FSR permitted under the Affordable Rental Housing SEPP.
- Should the building form be altered to provide increased articulation, non-compliance with setback controls would occur. This would have the potential for poorer privacy outcomes to adjoining properties.
- The ADG's natural ventilation requirements are achieved (pursuant to conditions).
- The site to the south is only 2 storeys in height and has yet to be re-developed to its full potential under the SSLEP. This will ensure a high level of daylight to units orientated to the southern side boundary.

10.14 Overshadowing

Clause 10.2 within Chapter 6 of DSSDCP 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 north facing windows within one of the dual occupancy dwellings (No. 302 Taren Point Road). Whilst the pool within the rear yard of this dwelling will achieve the required 10m² sunlight, this is not considered 'useable private open space'. In assessing the size of the turfed private open space area provided to the rear of this dwelling, the required 10m² is not achieved.

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. The immediate surrounding area is also undergoing considerable change due to the uplift in zoning to R4 High Density Residential. Whilst the height is non-compliant, these portions of the building do not contribute to overshadowing as they are significantly set back from the edge of the building.

10.15 Waste Management

Initially, the proposal's waste arrangements included 660L bins collected twice weekly by a private contractor from the kerb. However, this was not supported by the RMS, who stated that bins are to be collected from within the site. This was the same response given to a residential flat building development at No. 316 to 320 Taren Point Road. Subsequently, it is understood that the RMS did not support a garbage truck reversing into the site or onto Taren Point Road.

It is noted that Council would not support 120L or 240L bins to be collected from the street as the number of bins required would result in non-compliance with the Clause 15.2.8 within Chapter 6 of the DCP which reads:

'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'

Access and manoeuvrability down to and within the basement is not adequate for a medium or heavy rigid vehicle. Revised plans and information were provided demonstrating that a local private contractor has trucks that are a suitable size and can access and appropriately manoeuvre within the basement of the building for waste collection. This is acceptable for Council under the circumstances of the case with waste to be collected twice weekly. Appropriate conditions have been included on the consent to ensure that a private contractor is chosen who can access the basement for waste collection.

10.16 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.

Section 94 Contributions for the affordable rental housing component of the development (*i.e.* 50% of residential floorspace ratio) receive an exemption 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.

The following Section 94 Contributions will remain payable for 19 units:

Open Space:	\$139,156.53
Community Facilities:	\$23,894.81

It has been calculated on the basis of 19 residential apartments with a concession of 2 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 residential flat building at 298 to 300 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 Rental 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 seven (7) submissions were received. The matters raised in these submissions have been dealt with by a deferred commencement condition, design changes and conditions of consent where appropriate. The proposed development is of the desired future character for the North Caringbah Precinct area.

The issue in relation to isolation of No. 302 and No. 302A Taren Point Road is pertinent to the application. Insufficient documentation has been provided to confirm that all reasonable attempts have been undertaken by the property owner to acquire No. 302 and No. 302A Taren Point Road. The inclusion of this property is a preferred planning option.

The proposal includes variations to building height, setbacks, solar access and natural ventilation. These variations have been discussed and are considered acceptable subject to design changes and/or conditions of consent.

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. DA16/0602 be determined as a deferred commencement consent pending submission of evidence satisfactorily demonstrating that reasonable attempts to acquire No. 302 and No. 302A Taren Point Road have been made 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 2006 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 19m with respect to this development application.

14.2 That Development Application No. DA16/0602 for Lot 1 DP 414932 and Lot 2 DP 503264 for the demolition of 2 dwellings and structures, construction of a residential flat building under the provision of the SEPP (Affordable Rental Housing) 2009 be determined as deferred commencement consent subject to the draft conditions of consent detailed in **Appendix “A”** of the Report.