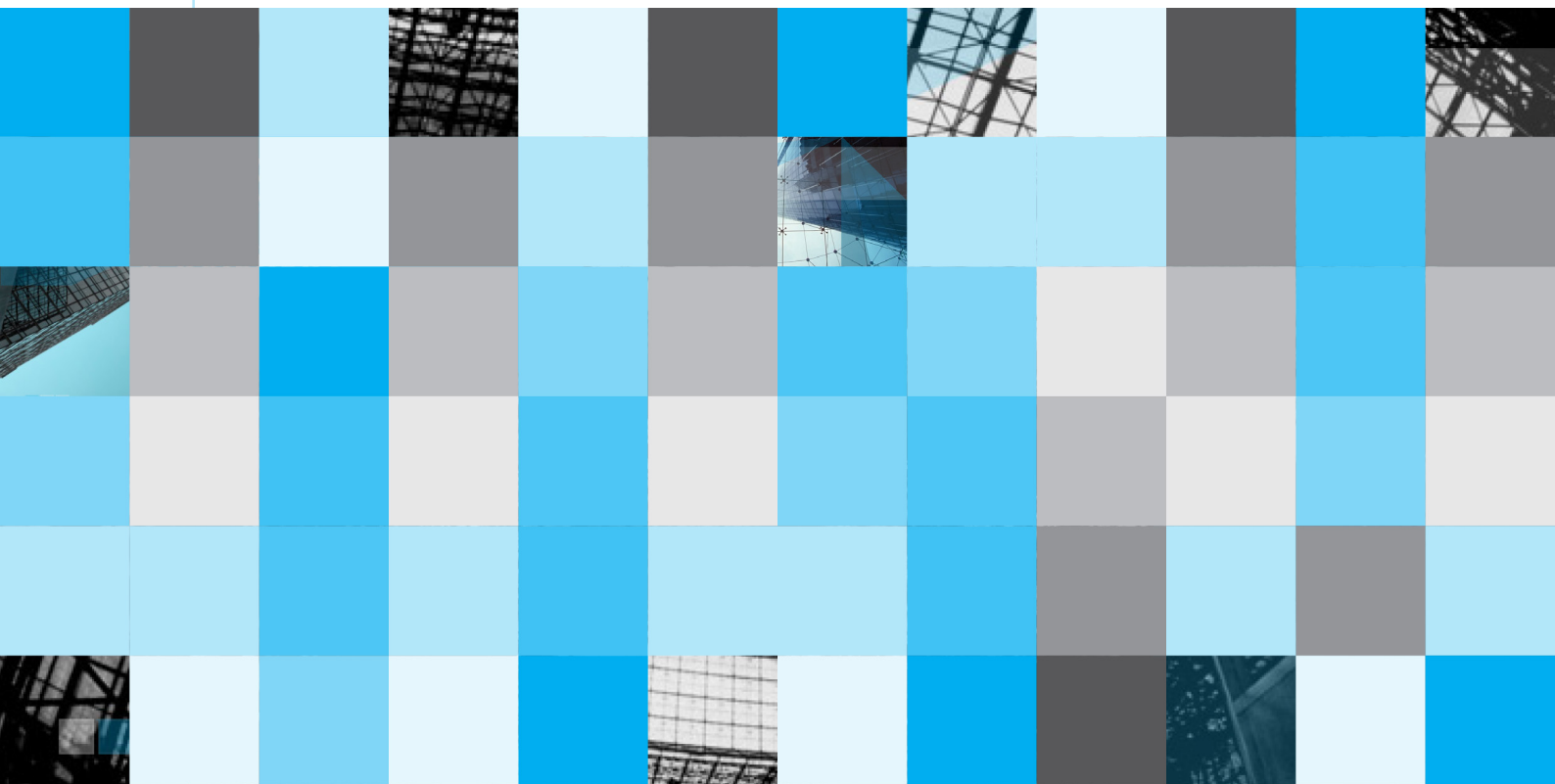


PPSSSH-84 – 101-109 Willarong Road, Caringbah

DA21/0629

ASSESSMENT REPORT APPENDICES

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101-109 Willarong Road, Caringbah

Clause 4.6 – Building Height Development Standard

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101-109 WILLARONG ROAD, CARINGBAH

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1.0 CLAUSE 4.6 REQUEST – BUILDING HEIGHT

1.1 Introduction

Landmark Group is an Australian property development company with more than 20 years of experience and a strong reputation for delivering quality apartments. Landmark Group acquires prime development sites within Sydney's growth and transport corridors and as a builder/developer aim to deliver projects in a timely fashion and ensure a high quality outcome is achieved.

Landmark Group will redevelop the site in collaboration with the Caringbah Bowling and Recreational Club and the subject development application seeks consent for demolition of existing structures and construction of a mixed use development comprising a private road, a new bowling club facility with two new bowling greens, 244 apartments in three buildings above 2 basements levels, and stratum subdivision at 101-109 Willarong Road, Caringbah.

The vision for the site is based on a core ethos for a 'community approach' to the redevelopment of this important remaining site in the Caringbah North Precinct which provides for the following:

- 1,260 square metre Club facility and two new bowling greens;
- 50% of the total residential floor area as Affordable Housing; and
- A distribution and transition of scale which provides for a better integration with the emerging context of the site.

In order to achieve this outcome, Landmark Group and DKO Architects have examined the planning controls and context of the site and have determined that an alternative approach towards massing on the site will achieve an improved contextual fit and transition in scale from south to north, as well as facilitate the delivery of two lawn bowling greens on the site for the benefit of the Caringbah Bowling and Recreational Club (the Club) and the community.



Figure 1:

Aerial view of
the site
(Source: Six
Maps,
Department of
Lands 2021)

The current height controls under the Sutherland Shire Local Environmental Plan 2015 provide a height of 16 metres on the subject site, but considerably higher up to 30 metres for the southern adjacent site, as depicted in Figure 2 below.



Figure 2:

Extract from the
SSLEP Height of
Buildings Map

The subject site and the southern neighbouring site, being the Former Caringbah High School site, are the two largest sites within the Caringbah North Precinct. The subject site is 12,069 square metres in area, whilst the Former Caringbah High School site is 29,740 square metres in area.

It is critically important that the two sites are considered holistically to achieve a cohesive and high-quality urban renewal outcome as envisaged by the Chapter 7 of the Sutherland Shire Development Control Plan 2015 which applies to the Caringbah North Precinct. A holistic approach ensures scale is appropriately managed across the two sites and also should optimise pedestrian connectivity and legibility within the precinct.

Concept Plan application DA16/0388 was originally lodged with Council for a masterplan proposal across both sites. However, following refusal of that application in August 2018, an appeal was lodged with the NSW Land & Environment Court and the application was amended to remove the subject Club site.

On 7 September 2020, the amended Concept Plan application was approved via S34 agreement between Tier Architects Pty Ltd and the Council. The approved development comprises a new internal road network and 12 building envelopes ranging in height from 5 to 11 storeys, in excess of the 30 metre height control.

The buildings immediately adjacent to the boundaries with the Club site are as follows:

- Building A – 7 storeys
- Building D – 9 storeys
- Building E – 11 storeys
- Building F (facing Willarong Road) – 5 storeys

Buildings E and F result in a particularly abrupt relationship to the subject site, with Building E being more than double the 5 storey compliant height for the Club site.

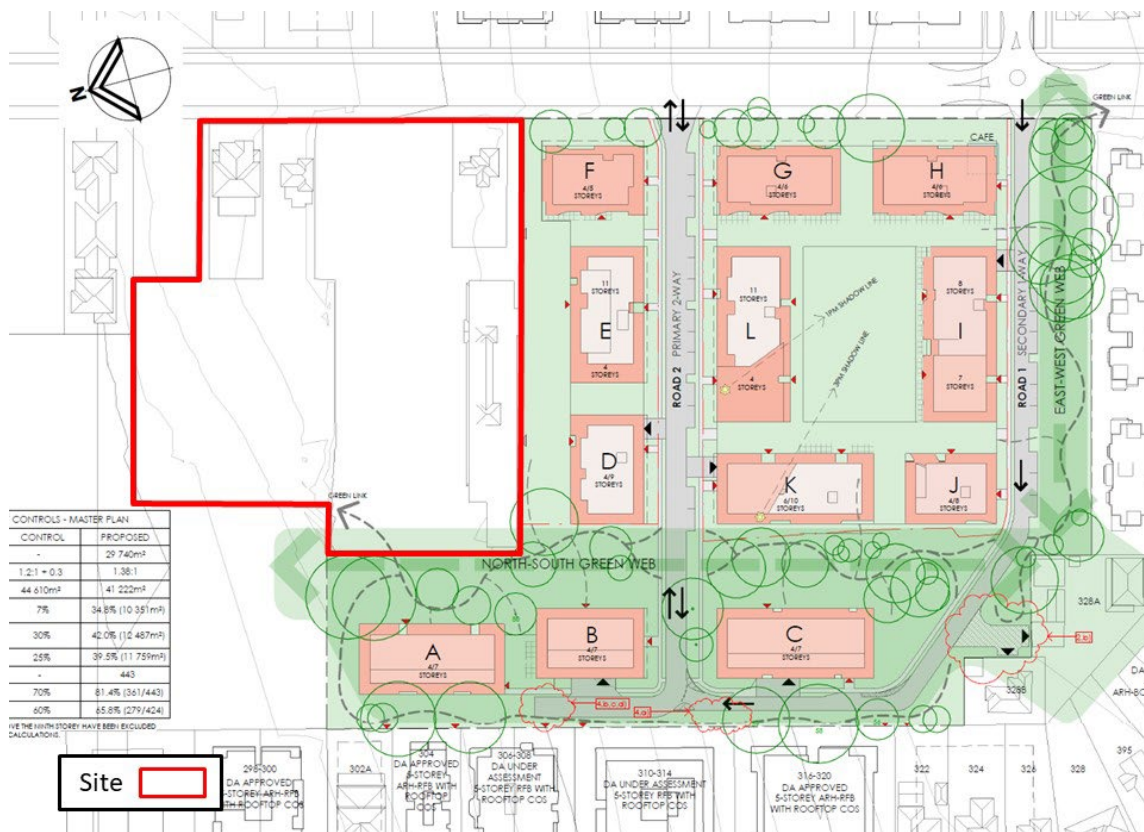


Figure 3:

Approved Masterplan for the former Caringbah High School site which is immediately adjacent to the subject site

The large size of the subject site provides the opportunity to redistribute mass and scale across the site in a more intelligent and sensitive manner which transitions scale from the south to the north. This approach maintains a 5 storey scale on the northern end of the site, but increases height to 8 storeys to the south and south-west to properly integrate the project with the development adjacent to the south and south west. This avoids an anomalous outcome and ensures a better coordinated built form outcome. This approach also allows significantly greater open space at the ground floor and facilitates the achievement of two new bowling greens on the subject site.

This Clause 4.6 request for an exception to a development standard is submitted in respect of the height of buildings development standard contained within Clause 4.3 of the Sutherland Shire Local Environmental Plan 2015 (SSLEP).

1.2 Clause 4.6 Exceptions to development standards

Clause 4.6(2) of the SSLEP provides that development consent may be granted for development even though the development would contravene a development standard imposed by the SSLEP, or any other environmental planning instrument.

However, clause 4.6(3) states that development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

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

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

In accordance with clause 4.6(3) the applicant requests that the height of buildings development standard be varied.

1.3 Development Standard to be varied

Clause 4.3 states:

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

(a) to ensure that buildings are compatible with the height and scale of surrounding and nearby development,

(b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access,

(c) to minimise any adverse impact of development on the scenic quality of Warringah's coastal and bush environments.

(d) to manage the visual impact of development when viewed from public places such as parks and reserves, roads and community facilities.

(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.

Building height (or height of building) is defined in the dictionary of SSLEP as the vertical distance between ground level (existing) at any point to the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

The site is subject to a 16 metre building height control as illustrated in Figure 2 above.

1.4 Extent of Variation to the Development Standard

The proposed development results in the following variations to the height control:

Building	Max Height	Variation
A	27.768 metres (lift overrun)	11.768 metres or 73.55%
B	25.894 metres (lift overrun)	9.894 metres or 61.8%
C	22.056 metres (lift overrun)	6.056 metres or 37.85%

The extent of variation to the height control is illustrated in the 3D height plane as shown in Figure 4 below:

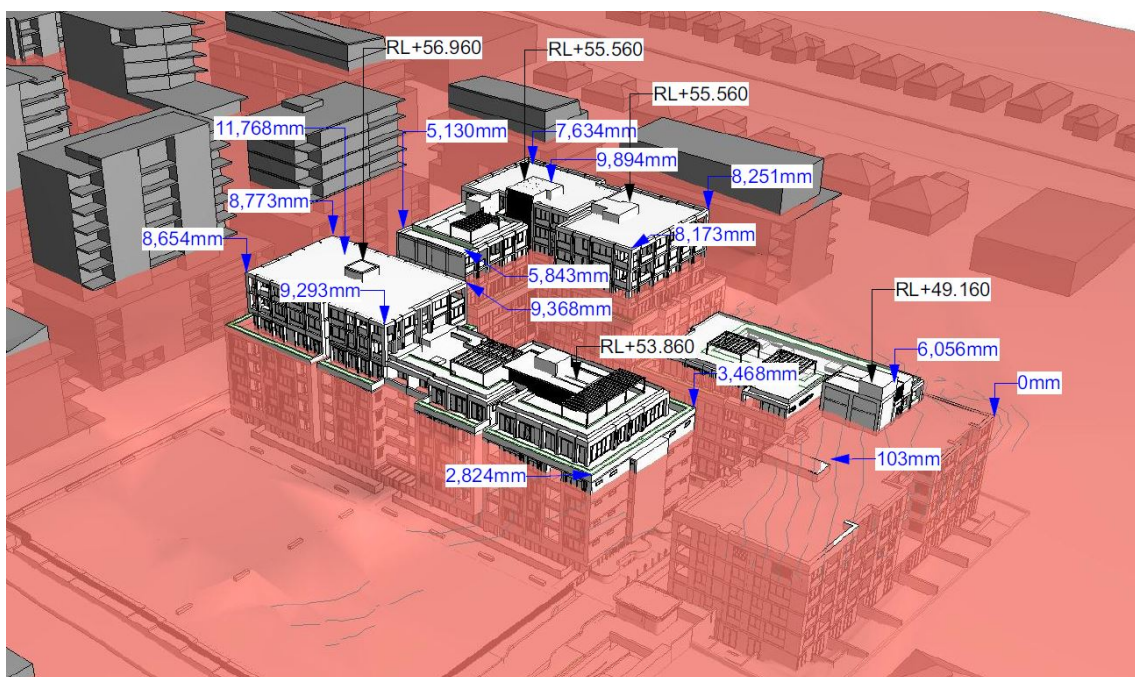


Figure 4:

3D Height plane

1.5 Clause 4.6(3)(a) Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?

Historically the most commonly invoked way to establish that a development standard was unreasonable or unnecessary was satisfaction of the first test of the five set out in *Wehbe v Pittwater Council* [2007] NSWLEC 827 which requires that the objectives of the standard are achieved notwithstanding the non-compliance with the standard.

This was recently re-affirmed in the matter of *Randwick City Council v Micaul Holdings Pty Ltd* [2016] NSWLEC 7 [34] the Chief Judge held that “establishing that the development would not cause environmental harm and is consistent with the objectives of the development standards is an established means of demonstrating that compliance with the development standard is unreasonable or unnecessary”.

Whilst it is only necessary to address the first method of the five part test described in *Wehbe v Pittwater Council*. [2007] NSWLEC 827, which alone is sufficient to satisfy the ‘unreasonable and unnecessary’ requirement, all five tests are addressed below followed by a concluding position which demonstrates that compliance with the development standard is unreasonable and unnecessary in the circumstances of the case:

1. the objectives of the standard are achieved notwithstanding non-compliance with the standard;

The specific objectives of Clause 4.3 of the SSLEP are identified below. A comment on the proposal’s consistency with each objective is also provided.

- (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,

The core ethos behind the proposed height variation is to in fact achieve a higher level of compatibility of the proposal with the height and scale of surrounding and nearby development. The height controls which apply to the site would result in a built form which is 5 storeys immediately adjacent to an 11 storey building to the east, which is a significant disparity in height. The proposed height variation of 8 storeys on the southern part of the site, 6 and 7 storeys in the middle of the site, and 5 and 6 storeys at the northern part of the site serve to create a significantly more sensitive interface with context surrounding the subject site and therefore provides an improved level of compatibility with adjoining development.

Having regard to the relationship of the proposal with the street, it is noted that the height variation is of limited consequence in relation to the street noting that the proposal only provides 2 bowling greens to the street, with the buildings setback approximately 50 metres from the street.

(b) to allow reasonable daylight access to all buildings and the public domain.

The proposed development ensures a high level of solar access is available to all buildings and furthermore results in reduced solar access impact to the street as a result of the 50 metre setback from the street.

(c) to minimise the impacts of new buildings on adjoining or nearby properties from loss of views, loss of privacy, overshadowing or visual intrusion.

The proposed buildings achieve compliant separation from adjacent buildings and therefore the height variation does not result in loss of privacy. In relation to view impacts, the architectural package prepared by DKO includes detailed view analysis diagrams and below is a view sharing assessment in accordance with the principles established by *Tenacity Consulting vs Warringah* (2004) NSWLEC 140:

View Sharing Principle	Assessment
The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views eg the Opera House or Harbour Bridge are valued more highly than views without icons. Whole views are valued more highly than partial views, eg a water view in which the interface between land and water is visible is more valuable	<p>The southern adjacent site benefits from approved Concept Plan DA16/0388 which includes two buildings, being Building D and E, which are adjacent to the southern boundary of the subject site. The northern façades of both of these approved envelopes face directly over the side boundary of the subject site, whereupon they will benefit from the following:</p> <ul style="list-style-type: none"> A very broad short range district outlook of approximately 2 kilometres over the northern part of the suburb of Caringbah and also over the suburb of Taren Point which takes in the roof spaces of the residential and industrial buildings as well as tree canopy. A very broad mid range district outlook of approximately 2 to 10 kilometres of Botany Bay and the shoreline. A long range “city-scape” outlook of approximately 20 kilometres to the Sydney CBD skyline silhouette. The significant distance is such that this is not an iconic view of because it is not a widely

View Sharing Principle	Assessment
than one in which it is obscured	<p>recognised or well established view such as that specifically of the Opera House or the Harbour Bridge for example.</p> <p>All views are obtained over multiple property boundaries and are more appropriately described as an outlook.</p>
The second step is to consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries.	<p>It is not possible to describe what part of the property the views will be obtained from as there are no detailed building designs as yet. However, it is likely that views would be available from both a sitting or standing position in the future apartments in Buildings D and E.</p> <p>However, the outlook available is obtained entirely across a side boundary with the subject site and therefore the view is completely borrowed from the subject property, as well as many properties further to the north in the suburbs of Caringbah and Taren Point.</p> <p>Given the significant distance of the outlook and the multiple properties over which the outlook is obtained, it is inherently vulnerable and unlikely to be retained in perpetuity.</p>
The third step is to assess the extent of the impact. This should be done for the whole of the property, not just the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas. It is usually more useful to assess view loss qualitatively rather than quantitatively as negligible, minor, moderate, severe or devastating.	<p>It is not possible to assess view impact from any particular apartment, given that there are not yet any specific apartment designs for the adjacent site. Accordingly, the view analysis diagrams prepared by DKO Architects have been undertaken based on a selection of points for building envelopes D and E.</p> <p>The view diagrams differentiate between the elements of the proposed development which are height compliant, and those elements which are above the height control. The view diagrams demonstrate the following:</p> <ul style="list-style-type: none"> The eastern end of Building E will retain unimpeded outlook over the front of the subject site, which is in fact improved upon as a result of the bowling greens being located at the front of the site. At the western end of Building E: <ul style="list-style-type: none"> the top four floors (i.e. Levels 8, 9, 10 and 11) retain their entire mid-range and long-range outlook over the proposed Building A on the subject site. a central portion of the short, medium and long range outlook (including the Sydney CBD silhouette) will be removed as a result of the proposed height variation for Building A, however, large areas of this outlook to the east and west around the proposed Building A are retained including water views to Botany Bay. At the eastern end of Building D: <ul style="list-style-type: none"> the top two floors (i.e. Levels 8 and 9) retain their entire mid-range and long-range outlook over the proposed Building A on the subject site. for Levels 6 and 7, a central portion of the short, medium and long range outlook (including part of the Sydney CBD silhouette) will be removed as a result of the proposed height

View Sharing Principle	Assessment
	<p>variation for Building A, however, large areas of this outlook to the east and west around the proposed Building A are retained including water views to Botany Bay.</p> <ul style="list-style-type: none"> for Level 5, the western portion of the short, medium and long range outlook (including part of the Sydney CBD silhouette) will be removed as a result of the proposed height variation for Buildings A and B, however, the eastern part of this outlook is retained including water views to Botany Bay. At the western end of Building D: <ul style="list-style-type: none"> the top floor (i.e. Level 9) retains its entire mid-range and long-range outlook over the proposed Building A and Building B on the subject site. for Level 8, several portions of the short, medium and long range outlook will be removed as a result of the proposed height variation for Building A and Building B, however, the Sydney CBD silhouette is retained as well as areas of water views to Botany Bay. for Levels 7, 6 and 5 the majority of the short, medium and long range outlook (including part of the Sydney CBD silhouette) will be removed as a result of the proposed height variation for Building A and Building B, however, some areas of water views to Botany Bay to the east are retained. <p>In summary, the greatest impact occurs for the most vulnerable areas of the future southern adjacent development being the western end of Building D at the lower levels. These areas are inherently at risk being deep within the site and at lower levels. Conversely, the majority of affected areas of Buildings D and E retain large and significant portions of their outlook including the mid range water views of Botany Bay, and some long range Sydney CBD skyline views.</p> <p>Having regard to the outlook being obtained over multiple side boundaries, the impact can be reasonably described as moderate. A purchaser of those apartments would be aware that the windows to the north, being close to the boundary, are vulnerable.</p>
<p>The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them</p>	<p>The subject proposal is considered to represent a reasonable response to the site controls and context. It is acknowledged that the impact to outlook from the southern adjacent site is as a result of the proposed height variation. However, the loss of outlook is only partial in most instances, and there are multiple positive urban design benefits which result from the proposed variation to the height control including the following:</p> <ul style="list-style-type: none"> The proposed development will achieve the retention of the Club on site which is an excellent outcome as this ensures social cohesion as a result of the continuity of this important community and recreational use of the site. However, the incorporation of the Club including two bowling greens creates site challenges to the

View Sharing Principle	Assessment
	<p>large area of the site which is consumed by the bowling greens, which necessitates increased height in order to achieve the permitted density for the development.</p> <ul style="list-style-type: none"> The current height controls on the subject site and the southern adjacent site result in a significant disparity in scale between the two sites and an abrupt and anomalous outcome. The proposal provides a more nuanced approach towards the distribution of scale on the site to provide a transition in height across the subject site from south to north. This approach will achieve a far better and integrated 'precinct' outcome than that which will result in strict compliance with the height control. <p>Having regard to the context of the site, the proposal achieves an appropriate and reasonable development for the site and it has been demonstrated that the views gained to No. 113 Willarong Road once DA16/0388 is constructed are not unacceptably diminished.</p>

(d) to ensure that the visual impact of buildings is minimised when viewed from adjoining properties, the street, waterways and public reserves.

The visual impact of the proposed buildings is minimised when viewed from adjoining properties noting that the buildings are slim and well proportioned, and that the taller buildings actually facilitate an improved and more cohesive built form outcome with the recently approved development to the south.

(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.

The proposed development is for essentially residential buildings, noting that the non-residential components are at the ground level of the development.

(f) to achieve transitions in building scale from higher intensity employment and retail centres to surrounding residential areas.

This objective is not applicable to the proposed development.

2. **the underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;**

The underlying objectives and purpose of the height control are relevant to the proposed development. However, the proposed development is consistent with those objectives and in fact achieves a higher level of consistency with the objectives for height when compared with a strictly compliant development on the subject site. The proposed height is compatible with the existing and future scale of the surrounding buildings and will sit comfortably with the context of the site with no unreasonable impacts to adjacent properties.

3. **the underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;**

The underlying objectives and purpose of the standard relates to compatibility and impact and are relevant to the proposed development. The underlying objective and purpose would in this instance be compromised by a compliant proposal, whereas the subject proposal is demonstrated to actually achieve a better outcome which is in closer alignment with the objectives of the height control.

4. **the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;**

The development standard has not been virtually abandoned. However, it is noted that Council has recently varied the 30 metre height control which applies to the southern adjacent site, which has further exacerbated the abrupt change in height between that site and the subject site, which requires remedy.

5. **the zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.**

The zoning of the land is not considered to be unreasonable or inappropriate.

Strict compliance with the maximum 16m height of buildings development standard is considered to be unnecessary and unreasonable in the circumstance of this site as discussed below:

- The primary reason for the proposed height variation is to achieve a much more cohesive built form outcome which responds appropriately to the varied context around the site. The subject site needs to respond to the 11 storey scale along its southern boundary and the 5 storey scale permitted along the northern boundary. Accordingly, the proposal has been designed to achieve a transition in scale with 8 storeys proposed at the southern end of the site and 5 storeys at the northern end. The 3D massing diagrams prepared by DKO Architects demonstrate that the proposed development achieves an appropriate contextual fit which is more compatible with the site context, notwithstanding the height non-compliance.
- The proposed height variation also provides the opportunity to facilitate a significantly improved 'community approach' development outcome which delivers the Club building on the site including 2 bowling greens and significant open space. These elements of the proposal are such that the buildings are of relatively small footprint noting that a large proportion of the site area is devoted to open space. The achievement of this quantum of open space on the site requires taller buildings with a smaller footprint.
- There are no adverse impacts in terms of privacy impacts to adjacent sites resulting from the proposed variation to the height development standard.
- The proposed variation allows for the most efficient and economic use of the land.
- Strict compliance with the development standard would result in an inflexible application of the control that would not deliver any additional benefits to the owners or occupants of the surrounding properties or the general public, and in fact result in a diminished urban design, amenity and public benefit outcome. In particular, strict compliance with the height control in this instance would eliminate the ability for the public benefits of retention of the historical Club use on the site and more sensitive and appropriate urban design approach, contrary to the Council's desire to achieve exemplary development outcomes in the Caringbah North Precinct.

- Having regard to the planning principle established in the matter of Project Venture Developments v Pittwater Council [2005] NSWLEC 191 most observers would not find the proposed development offensive, jarring or unsympathetic to its location and the proposed development will be compatible with its context.

1.6 Clause 4.6(3)(b) Are there are sufficient environmental planning grounds to justify contravening the development standard?

The Land & Environment Court matter of Initial Action Pty Ltd v Woollahra Council [2018] NSWLEC 2018, provides assistance in relation to the consideration of sufficient environmental planning grounds whereby Preston J observed that:

- in order for there to be 'sufficient' environmental planning grounds to justify a written request under clause 4.6, the focus must be on the aspect or element of the development that contravenes the development standard and the environmental planning grounds advanced in the written request must justify contravening the development standard, not simply promote the benefits of carrying out the development as a whole; and
- there is no basis in Clause 4.6 to establish a test that the non-compliant development should have a neutral or beneficial effect relative to a compliant development

The primary areas of height non-compliance occurs as a result of the one to three additional storeys on Buildings A and B at the southern and western parts of the site which are decanted from the eastern part of the site where there is no building proposed due to the location of the bowling greens in order to provide a more sensitive transition from south to north across the site. The environmental planning grounds that justify these components of the development are:

- The 3D massing diagrams prepared by DKO Architects as well as the Urban Design Statement prepared by Matt Pullinger demonstrate that the proposed development and height departure achieves an appropriate contextual fit which is compatible with the adjoining development and the future streetscape when compared with a strictly height compliant outcome.
- The proposed areas of height non-compliance do not result in unacceptable impact both to adjacent properties and also within the development itself.
- The proposed height variation facilitates a significantly improved transition in scale from the much higher building envelopes to the south and the more sensitive interface to the adjacent Caringbah High School to the north whilst also facilitating a more integrated outcome.
- The proposed height variation directly facilitates the delivery of an import public benefit being the retention of the Club on the site, which has occupied the site for 70 years, and the burden this places on the site with the need to provide two large bowling greens on a large proportion of the site. From a social planning perspective, this is a significant public and community benefit which provides for social continuity and the ongoing capacity of the site to meet the social and recreational needs of the surrounding community. If the Club was not retained on the site, there would be no need for a height variation as the floor space within the development could be redeployed to the front part of the site. This is a unique circumstance which is particular to this specific project if there is no relief provided in relation to the height control, this would compromise the achievement of this important community benefit. Strict compliance with the height control in this instance would eliminate the ability to deliver two new bowling greens as part of the redevelopment of the site, but would also prevent the achievement of a more appropriate transition in scale of development within the Caringbah North precinct.

- The proposed development demonstrates a high quality outcome for the site which will result in the delivery of an integrated community of buildings, with the achievement of an integrated, cohesive and optimised urban design 'precinct' outcome for the subject and adjacent sites.

The objects specified in section 5(a)(i) and (ii) of the EP&A Act are:

'to encourage:

- i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,
- ii) the promotion and co-ordination of the orderly and economic use and development of land..'

The proposed development is consistent with the aims of the Policy and the objects of the EP&A Act in that:

- Strict compliance with the development standard would result in an inflexible application of the control that would not deliver any significant additional benefits to the owners or occupants of the surrounding properties or the general public, and in fact would result in a diminished outcome for the community.
- Strict compliance would prevent the delivery of two new bowling greens on the subject site.
- The proposed variation allows for the most efficient and economic use of the land.

On the basis of the above, it has been demonstrated that there are sufficient environmental planning grounds to justify the proposed height non-compliance in this instance.

1.7 Clause 4.6(4)(a)(i) consent authority satisfied that this written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3)

Clause 4.6(4)(a)(i) states that development consent must not be granted for development that contravenes a development standard unless the consent authority is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3).

These matters are comprehensively addressed above in this written request with reference to the five part test described in *Wehbe v Pittwater Council* [2007] NSWLEC 827 for consideration of whether compliance with a development standard is unreasonable or unnecessary in the circumstances of the case. In addition, the establishment of environmental planning grounds is provided, with reference to the matters specific to the proposal and site, sufficient to justify contravening the development standard.

1.8 Clause 4.6(4)(a)(ii) consent authority satisfied that the proposal is in the public interest because it is consistent with the zone and development standard objectives

Clause 4.6(4)(a)(ii) states that development consent must not be granted for development that contravenes a development standard unless the consent authority is satisfied that the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

Objective of the Development Standard

The proposal's consistency with the objectives of the development standard have been addressed in detail in this clause 4.6 request.

Objectives of the Zone

Clause 4.6(4) also requires consideration of the relevant zone objectives. The site is located within the R4 High Density Residential zone.

The objectives of the R4 High Density Residential zone are:

- 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 proposed development provides for a residential flat development which is compatible with the emerging character of development in the R4 High Density Residential zone. The proposal provides for a total of 244 residential apartments with a mix of 1 bedroom, 2 bedroom and 3 bedroom apartments proposed. Provision is made for adaptable apartments. The proposal will provide a variety of housing types that will appropriately provide for the housing needs of the community.

In addition, the proposal importantly retains the historical use of a bowling club on the site, which is an important feature which meets the social and recreational needs of residents.

The proposal exhibits a high level of environmental performance, provides a high level of amenity and an attractive contemporary architectural expression. The proposed development includes a comprehensive design for the landscaping of the site that will result in a residential development within a suitably landscaped setting having regard to the urban context of the site. The landscaping proposed represents an integral element in ensuring the development has an appropriate contextual fit and will positively contribute to the emerging character of the Caringbah North precinct.

The proposed development involves the consolidation of existing allotments and will not result in the fragmentation of any land that may preclude future high density residential development.

For the reasons the proposal is considered to be consistent with the objectives of the R4 zone

The proposal has been demonstrated to be consistent with both the objectives of the building height development standard as well as the objectives of the zone and therefore the consent authority can be satisfied that the proposal is in the public interest. Furthermore, the public interest is appropriately served

by providing an improved urban design outcome, within the identified environmental capacity of the site, as well as retaining an important and historical community facility on the site.

1.9 Clause 4.6(5) Secretary Considerations

The matters for consideration under Clause 4.6(5) are addressed below:

(5) In deciding whether to grant concurrence, the Secretary must consider:

(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning,

The contravention of the standard does not raise any matters of significance for state or regional environmental planning. The development does not impact upon or have implications for any state policies in the locality or impacts which would be considered to be of state or regional significance.

(5) In deciding whether to grant concurrence, the Secretary must consider:

(b) the public benefit of maintaining the development standard,

This Clause 4.6 request has demonstrated there are significant environmental planning benefits associated with the contravention of the standard. There is no material impact or benefit associated with strict adherence to the development standard and in my view, there is no compelling reason or public benefit derived from maintenance of the standard.

1.10 Objectives of Clause 4.6

The specific objectives of Clause 4.6 are:

(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,

(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

As demonstrated above the proposal is consistent with the objectives of the zone and the objectives of Clause 4.3 notwithstanding the proposed variation to the maximum height of buildings development standard.

Requiring strict compliance with the height of buildings development standard on the subject site would result in an inferior built form that would contextually inferior when compared with the proposed development and would not result in any meaningful benefit to the streetscape or the amenity of adjoining properties. Strict compliance would force more bulk along the eastern part of the site which would prevent the ability to deliver two new bowling greens as part of the proposed development.

Allowing the flexible application of the maximum height of buildings development standard in this instance is not only reasonable but also desirable given the context of the site and desire to deliver a positive result for the site which will provide a more nuanced and sensitive urban design outcome within the Caringbah North precinct and a significant community benefits comprising retention of the Club on the site.

Accordingly, it is considered that the consent authority can be satisfied that the proposal meets objective 1(a) of Clause 4.6 in that allowing flexibility in relation to the maximum height of buildings development standard and will achieve a better urban design outcome in this instance in accordance with objective 1(b).

1.11 Conclusion

Strict compliance with the maximum height of buildings development standard contained within clause 4.3 of the Sutherland Shire Local Environmental Plan 2011 has been found to be unreasonable and unnecessary in the circumstances of the case. In addition, there are sufficient environmental planning grounds to justify the variation. Finally, the proposed development and height variation is in the public interest because it facilitates a development which is more consistent with the objectives of the standard and the zone when compared with a strictly compliant proposal and facilitates the retention of an important community asset, being the Club on the site. In this regard it is reasonable and appropriate to vary the building height development standard to the extent proposed.

APPENDIX B

Standard / Control	Required	Proposed	Complies
State Environmental Planning Policy (Affordable Rental Housing) 2009			
Clause 10.2 Land to which division applies	Accessible Area - must be within 800m of a Railway Station	700m to Caringbah Railway Station	Yes
Clause 13 Floor Space Ratio	0.5:1 bonus (if the existing max FSR is less than 2.5:1 and 50% used as affordable housing)	50% of the gross floor area is to be used as affordable housing. 1.2 (SSLEP 2015 = 14,483.04m ²) 0.5:1 (ARH SEPP = 6,034.6m ²) = 1.7:1 (20,517.64m ²) permitted <u>Proposed:</u> 20,517m ² 1.70:1	131 apartments affordable rental housing (=50% of GFA) Yes
14. Standards that cannot be used to refuse consent (if compliant)			
Site area	450m ² min	12,069.2m ²	Yes
Landscaped area (podium and deep soil combined)	30% min is to be landscaped area (3,620.7m ²)	>30% (inc. bowling greens & podiums)	Yes
Deep soil zones	15% of the site area (1,810.3m ²)	15% (1,810.3m ²)	Yes
Solar access	Min. 3 hrs of sunlight to living rooms and POS for 70% of apartments (171 apartments) between 9am and 3pm.	140/244 apartments (57.3%)	No – refer 'assessment' section of report.
Car Parking	1 bed (81) – 0.5 spaces 2 bed (143) – 1 spaces 3 bed (20) – 1.5 spaces	40.5 spaces req'd 143 spaces req'd <u>30 spaces</u> req'd 213.5 spaces required (214 rounded up) Proposed: 264	Yes – 50 in excess
Sutherland Shire Local Environmental Plan 2015			
Building Height	16m	Building A: 27.76m Building B: 25.89m Building C: 22.05m	No-11.76m (73.55%)

APPENDIX C

Apartment Design Guide (ADG) – Key Controls			
Objective	Design Criteria	Proposal	Complies
2F Building Separation	<p><i>Up to 4 storeys (approximately 12m):</i> 6m non-habitable 9m habitable / non-habitable 12m habitable rooms / balconies</p> <p><i>5-8 storeys (approximately 25m):</i> 9m non-habitable 12m habitable / non-habitable 18m habitable / balconies</p> <p><i>9 storeys and above (over 25m):</i> 12m non-habitable 18m between habitable and non-habitable 24m between habitable</p> <p>Note: Building separation may need to be increased to achieve adequate sunlight access and enough open space on the site, for example on slopes.</p> <p>Note: At the boundary between a change in zone from apartment buildings to a lower density area, increase the building setback from the boundary by 3m.</p> <p>Note: Required setbacks may be greater than required building separations to achieve between amenity outcomes.</p> <p>Note: When measuring the building separation between commercial and residential uses, consider office windows and balconies as habitable space and service any plant areas as non-habitable.</p> <p>Note: When applying separation to buildings on adjoining sites, apply half the minimum separation distance measured to the boundary. This distributes the building separation equally between sites (consider relationship with Section 3F Visual Privacy).</p>	<p>Building A - Building C (north to south separation) G: 9m (wall to wall) or 6m (wall to courtyard) L1-L3: 7.8 (non-habitable – habitable/balcony) or 9m (habitable to habitable – high sill window)</p> <p>Building A - Building C (east to west separation) G: 12m (wall to wall) or 9m (wall to courtyard) L1-L3: 12m (habitable/balcony – habitable/balcony) L4: 12m (habitable / balcony to balcony)</p> <p>Building A - Building B (east to west separation) G: 12.23m (wall to wall) or 9.46m (wall to courtyard) L1-L4: 12m (habitable / balcony to blank wall) L5: 12m (non-habitable to balcony) L6: 15.05m (habitable/balcony to non-habitable) L7: 18m (habitable / balcony to C.O.S.)</p> <p>Building B - Building C (north to south separation) G: 7.5m (wall to wall) or 3.2m (courtyard to courtyard) L1-L3: 7.5m at the edge(habitable to habitable / balcony) L4: 7.5m (balcony to balcony) L5: 18m (habitable / balcony to C.O.S.)</p> <p>No RFB constructed on adjoining sites. To the north (No. 97 Willarong Rd – single and two storey multi dwelling housing) & west (school), no approvals for a change to current environment. Approved RFB on site to east (No. 99 Willarong Rd). Therefore, separation distances with Building C will be: G to G: 15m (habitable / habitable) L1-L3: 13m (habitable / balcony to balcony)</p> <p>Buildings D, E & F to the south (No. 113 Willarong Rd) approved as a master plan only and form part of stage 3 DA. Building F sits entirely forward of subject site's Building A. Building E & F have a min. setback of 14m to subject site with common open space situated between</p>	No – Refer 'Assessment' section of report.

		<p>these buildings and shared boundary. Therefore, Building A to Building E (No. 113 Willarong Rd) will be: G to L3: 18.7m L4: 21.7m</p> <p>*Unclear from approved plans of No. 113 Willarong Road what setbacks will be above level 4.</p>	
3D Communal Open Space	50% to receive for 2 hours min between 9 am and 3 pm on 21 June (mid-winter)	>50% will receive in excess of 2 hours.	Yes
3E Deep Soil Zones	<p>Deep soil zones are to meet the following minimum requirements. Where the site area is greater than 1500m² = min. 6m dimension; and, min. 7% of the site area.</p>	<p>3m (front), 3m (rear) & 4.5m-6m (rear and sides) wide deep soil zones. 844.48m² req'd (7%). 847.7m² proposed.</p>	Yes
3F Visual Privacy	<p>Minimum required separation distances from buildings to the side and rear boundaries:</p> <p>Up to 12m (4 storeys)</p> <ul style="list-style-type: none"> • 6m habitable rooms/balconies • 3m non-habitable rooms <p>Up to 25m (5-8 storeys)</p> <ul style="list-style-type: none"> • 9m habitable rooms/balconies • 4.5m non-habitable rooms <p>Over 25m (9+ storeys)</p> <ul style="list-style-type: none"> • 12m habitable rooms / balconies • 6m non-habitable rooms <p>Note: Separation distances between buildings on the same site should combine required building separations depending on the type of room.</p> <p>Design Guidance: For residential buildings next to commercial buildings, separation distances should be measured as follows: -for retail, office spaces and commercial balconies use habitable room distances; -for service and plant areas use the non-habitable room distances.</p>	<p>No elevation is comprised 100% of non-habitable rooms. Therefore all distances need to comply with habitable rooms / balconies.</p> <p>Building A (8 storeys) G: 2.4m (south) – club L1-L3: 4.7m (blank wall – south), 6m (living room window – south) L4: 4.7m (blank wall – south), 6m (living room window – south) L5: 6m (south) L6: 9m (south) L7: 9m (south)</p> <p>Building B (8 storeys) G: 6m (north), 6m (south), 4.5m (west) L1-L3: 6m (north), 6m (south), 4.5m (west) L4: 6m (north – balcony), 9m (north – wall), 4.5m (west – balcony), 6m (west – wall), 6m (south – balcony), 9m (south – wall) L5-7: 9m (north), 7.5m (west), 9m (south)</p> <p>Building C (6 storeys) LG: 6m wall (to school, 97 & 99 Willarong) G: 6m wall (to school, 97 & 99 Willarong) L1-L3: 6m (north & east), 6m (west) L4: 16m (north), 6m (west)</p>	No – Refer 'Assessment' section of report.
4A Solar and Daylight Access	<p>Living rooms and POS for 70% (171) of the apartments are to receive 2hrs direct sunlight between 9am and 3pm.</p> <p>Maximum 15% (37) of apartments received no sunlight to habitable rooms.</p>	<p>140/244 apartments (57.3%)</p> <p>11% 28 apartments</p>	<p>No – Refer 'Assessment' section of report.</p> <p>Yes</p>

4B Natural Ventilation	60% of apartments to be cross ventilated (147)	37% 90 cross-ventilated	No – refer discussion from Building Designer within Specialist Comments and External Referrals' section.
4C Ceiling Heights	<p>Measured from finished floor to finished ceiling level, minimum heights are;</p> <ul style="list-style-type: none"> • Habitable rooms = 2.7m • Two storey apartments = <ul style="list-style-type: none"> - 2.7m for main living area floor - 2.4m for second floor where its area does not exceed 50% of the apartment area <p>Mixed use area = 3.3m for ground and first floor.</p>	<p>Single level apartments only. 2.7m floor to ceiling – habitable rooms.</p> <p>Building A (club on ground floor) GF: 4.5m Resid. at L1: 3.1m-3.3m (floor to floor separation)</p>	Yes
4D Apartment Size	<p>1br bedroom – 50m² 2br bedroom – 70m² 3br bedroom - 90m²</p> <p>*Add 5m² to apartments with an additional bathroom.</p> <p>Every habitable room to have a windows in an external wall with a total min. glass area of >10m² of the floor area of the room. Daylight and air may not be borrowed from other rooms.</p> <p>Min. width of living / dining rooms 3.6m for 1 br apartments and 4m for 2 and 3 br apartments.</p>	<p>Calculations on plans shown to be compliant however, regularly calculation using Council's measuring program to be marginally short: 1br bedroom – Min. 50m² 2br bedroom – Min. 75m² 3br bedroom – Min. 89m²</p> <p>Daylight and air not borrowed from other rooms.</p> <p>Min. 3.6m and 4m achieved.</p>	<p>No – condition imposed for 'study' in CLG0.4 to be reduced in size so as to not constitute a 3rd bedroom.</p> <p>Yes</p> <p>Yes</p>
4E Private open space	<p>Primary balconies 1br = 8m² / depth 2m 2br = 10m² / depth 2m 3br = 12m² / depth 2.4m</p> <p>Ground level apartments (or on podium) 15m² with min 3m depth</p>	<p>Calculations just short: 8m² / depth 2m 10m² / depth 2m 12m² / depth 2.4m</p> <p>Min. 15m² achieved.</p>	<p>Yes</p> <p>Yes</p>
4F Common Circulation & Spaces	Max. number of apartments off a circulation core on a single level is 8. Design guidance of ADG also allows up to 12 apartments if amenity is improved through daylight and cross-ventilation.	<p>11 apartments off Building C's circulation core on levels G-L3. Total apartments off this lift is 54. Window in corridor.</p> <p>Building A: 8 apartments off circulation core and a total of 45 apartments (southern core).</p>	Yes

		Building B: 8 apartments off circulation core and a total 51 apartments.	
4G Residential Storage	1br apartment = 6m ³ 2br apartment = 8m ³ 3br apartment = 10m ³ At least 50% of storage to be located within the apartments	Volume and allocation of storage shown.	Yes

APPENDIX D

Sutherland Shire Development Control Plan 2015 – Key Controls			
Chapter 7 – Caringbah North Residential Flat Precinct			
Objective	Design Criteria	Proposal	Complies
Lot width	26m	92.05m	Yes
Building Form	To be articulated.	Articulated.	Yes
	Dev't to be sited and designed to have a clearly identifiable entry. Where possible, ground floor apartments facing the street should have street access.	Clearly identifiable entry.	Yes
	Building form must be articulated to avoid large expanses of unbroken wall, and to visually reduce bulk.	Articulated through balcony alcoves along each elevation.	Yes
	Facades to be composed with an appropriate scale, rhythm and proportion, which respond to the building's use and desired future character.	Façade's appearance broken up in scale through materiality.	Yes
	Finished roof level of basement is to be located at or near ground level.	Finished roof level well below ground level.	Yes
	Basement roofs and walls and vehicular entries must not dominate the overall design of the building or streetscape and are to be integrated into the finished building design and landscaped treatment of the site.	Basement roof and walls well concealed below existing ground level. Vehicular entry confined to northern boundary of site.	Yes
	1m landscaped setback to neighbouring properties is to be provided along driveways to basement car parks.	1m to north of driveway.	Yes
	Driveway walls adjacent to the entrance of a basement car park are to be treated with so that the appearance is consistent with the external finish of the building.	Roof above driveway and planting surrounds that will assist with driveway appearance.	Yes
	Lift overruns and service plants must be integrated with well designed roof structures and architectural elements which are an integral part of the building design.	Lift overrun centrally located.	Yes
	The need for additional building services must be resolved at design stage (eg. electricity kiosk / substation and fire services facilities) and must be co-ordinated and integrated with the overall design of the development without compromising building or landscape design.	Substation integrated into design and 3m landscaping strip along front boundary now provided.	Yes
Street setbacks	Min. 7.5m (1.5m encroachment for 1/3 façade) Basement underground car parks may be allowed within the articulation zone of the street setback, provided the structure is considered in conjunction with the overall landscape design.	45.7m Basement car park extends within articulation zone and has been increased in its front setback through amended plans.	Yes Yes

	Where private courtyards are located in the front setback, their design must not compromise the potential for large scale indigenous trees that will complement the scale of the building. The large trees are to be provided in areas of common property adjacent to the street where they will not be in conflict with built elements as they mature. Privacy to courtyards is to be achieved through the use of open form fencing and vegetation.	Private courtyards are not located within the front setback. Where ground floor apartments are provided with a courtyard, landscaping in conjunction with fencing is proposed to achieve privacy.	Yes
Side & Rear Setbacks (inc. basement)	<p>Walls are to be articulated to prevent continuous linear walls and promote variation and interested to setback areas and these walls.</p> <p>3m basement setback from side / rear boundaries where a basement extends beyond the building footprint. Note – variations may be considered if basement does not protrude above NGL and opportunities for planting of trees is provided.</p>	<p>Articulation through balcony alcoves.</p> <p>In excluding the driveway, due to it aligning the northern boundary: S side: nil Rear: 4.5m Front: 3m</p>	<p>Yes</p> <p>No – refer 'assessment' section of report</p>
Landscape design	<p>Landscape design must include indigenous canopy trees that will achieved min. 8m in height at maturity within suitable setback areas. Where setbacks allow, the trees must be planted >3m from adjoining structures.</p> <p>Where there are no continuous overhead power lines, a min. 1 indigenous canopy street trees that will attain a min. height of 6m to be planted at a max. spacing of 5m planted at least 1m from the kerb and / or pathway. Informal clumping of trees is encouraged.</p> <p>A min. rear boundary indigenous tree planting rate is set at 2 trees for every 15m of linear boundary.</p> <p>The landscape design should achieve opportunities for deep soil landscape planting between buildings that provide a deep soil separation of more than 3m between trees and structures. Planting beds should be 900mm wide to support shrubs and small trees.</p> <p>Existing canopy trees in good health in the front and rear setback must be retained.</p> <p>Landscaping in the vicinity of a driveway entrance should not obstruct visibility for the safe ingress and egress of vehicles and pedestrians.</p> <p>Landscaping and design should be employed to create privacy for residents.</p>	<p>Further indigenous canopy trees provided and planting addressed through conditions by Council's Landscape Architect.</p> <p>Can be addressed through conditions.</p> <p>Perimeter planting to the satisfaction of Council's Landscape Architect.</p> <p>Enlarged deep soil pocket situated in the 'central plaza' within the centre of all three buildings. Planting bed width sufficient throughout the site.</p> <p>Tree 20 and tree 37 retained as per Council's Landscape Architect's advice.</p> <p>Landscaping won't obstruct visibility. Council's Development Engineer has imposed conditions relating to sightlines.</p> <p>Fencing used in combination with screen planting in planter boxes to achieve privacy.</p>	<p>Yes</p> <p>Yes – conditions</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes – conditions</p> <p>Yes</p>

	<p>Any privacy fencing must be appropriately landscaped with screen planting.</p> <p>Communal open space should have a minimum 100m² (where FSR is 2:1 or less) with min. 3m dimension.</p> <p>Communal open space should have a min. dimension of 3m, and larger developments should consider greater dimensions. This space must incorporate shelter, furniture and facilities suitable for outdoors, and is provided at ground level, inc. canopy trees.</p> <p>Planting is required on that part of a basement which extends beyond the building footprint. Planting in this area is to have sufficient soil depth to support the species selected and should constitute a min. 30% of the area of the exposed basement.</p> <p>Where trees are proposed on roofs or planter boxes, an area of 3m x 3m per tree must be provided.</p> <p>Where site levels allow, landscaping on basement roofs is to be integrated with surrounding deep soil landscaping and hard paved areas so the basement roof landscaping reads as an extension of the deep soil landscaping.</p> <p>Where planter boxes edge both sides of a pedestrian path or entrance, the vertical height of the planter shall not exceed a height greater than half the width of the pathway.</p>	<p>Screen planting in combination with privacy fencing proposed.</p> <p>Min. 100m² achieved with min. 3m dimension.</p> <p>Min. 3m dimension achieved and is needed for size of this development.</p> <p>Planting does not occur on all portions of basement which protrudes beyond footprint but is supported in design by Council's Landscape Architect.</p> <p>Council's Landscape Architect has imposed this requirement where necessary.</p> <p>Difficult to achieve due to cross-fall and integrated as best as possible.</p> <p>Vertical heights appropriate.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes – conditions</p> <p>Yes</p> <p>Yes</p>
Building Layout & Private Open Space	<p>Suitable clothes drying facilities shall be provided. They shall not be visible from a public place and shall have access to sunlight.</p> <p>Access to all levels of the dev't, including the basement, must be made available by a lift in order to facilitate access for people with disabilities.</p>	<p>Condition imposed for clotheslines to be no higher than balustrade.</p> <p>All levels will have lift access (inc. basement).</p>	<p>Yes – condition</p> <p>Yes</p>
Solar Access	<p>Skylights and lightwells must not be used as the primary source of daylight in habitable rooms.</p> <p>Neighbouring dwellings to receive 10m² solar access to private open space and solar access to north facing windows or habitable rooms.</p>	<p>Skylights not relied upon.</p> <p>No. 113 Willarong Rd yet to be constructed, with buildings directly to the south yet to be approved in design through a DA (Stage 3).</p>	<p>N/A</p> <p>Yes</p>
Visual and Acoustic Privacy	<p>Located, orientate and design new development to maximise the provision of visual privacy.</p>	<p>Design acceptable in terms of privacy.</p>	<p>Yes</p>

	<p>Use detailed site and building design elements to increase visual privacy without compromising access to light and air.</p> <p>Minimise the potential for overlooking of adjacent school yards through the careful orientation of balconies and windows, coupled with screening devices.</p> <p>All noise generating equipment such as mechanical plant or equipment, unit etc to be designed so that they protect the acoustic privacy of residents and neighbours.</p>	<p>Building elements acceptable.</p> <p>Only Building C in alignment with School. Building set back 6m and has an interface with the very rear portion of school yard which is seldom occupied. Landscaping within setback.</p> <p>Standard acoustic conditions imposed for A/C units.</p>	<p>Yes</p> <p>Yes</p> <p>Yes - condition</p>
Adaptable apartments	20% (49 apartments)	49 apartments	Yes
Livable apartments	<p>10% (24 apartments)</p> <p>On-site car parking spaces shall be in accordance with AS2890.1 (as amended) and AS 2890.6.</p>	<p>24 apartments</p> <p>Livable unit parking allocations shown and will form a condition.</p>	<p>Yes</p> <p>Yes - condition</p>
Parking	<p>Developments with 10 or more dwellings require 1 designated carwash bay with minimum dimensions of 3m x 7.6m. Additional carwash bays are required in development in excess of 30 dwellings at a rate of 1 per 20 dwellings.</p> <p>1 bicycle space is required per 10 car spaces for the first 200 cars, then 1 space per 20 parking spaces thereafter.</p> <p>1 visitor space per 4 dwellings.</p>	<p>12 required. 2 provided for residential use and 1 provided for commercial use. Amended plans show this dually used as visitor parking.</p> <p>23 required. 30 provided.</p> <p>61 required. 48 proposed (although 2 are dually used as carwash bays). SEE states 49. Amended plans further deplete visitor spaces.</p>	<p>No – see report.</p> <p>Yes</p> <p>No – refer ‘assessment section’ of report.</p>
Waste	<p>Rates: 1 br unit – 80L garbage & 80L recycling 2br unit – 100L garbage & 120L recycling 3br unit – 120L garbage & 120L recycling</p> <p>Bins to be wheeled <75m to collection point.</p> <p>14m² hard waste storage area required.</p>	Waste rooms, bulky waste room and collection point satisfactory to Council’s Waste Officer.	Yes

Chapter 37 Late Night Trading

Objective	Design Criteria	Proposal	Complies (% variation)
Low Activity Area	<p>Licensed – Base Hours:</p> <p><u>Monday to Saturday</u> Indoor: 6am to 10pm Outdoor: 10am to 10pm</p> <p><u>Sunday</u> Indoor: 10am to 9pm Outdoor: 10am to 9pm</p>	<p><u>Internal areas:</u> 7am to 10pm (Sun-Thurs) & 7am to midnight (Fri-Sat)</p> <p><u>Outdoor terrace:</u> 7am to 10pm (Sun-Thurs) & 7am to 10pm (Fri-Sat)</p> <p><u>Bowling greens:</u> 7am to 9pm (7 days)</p>	No – 7am outdoors needs to be 10am (base hours).

	<p>Licensed - Extended hours:</p> <p><u>Monday to Saturday</u> Indoor: 6am to midnight Outdoor: 6am to 10pm</p> <p><u>Sunday</u> Indoor: 6am to midnight Outdoor: 6am to 10pm</p>		Refer 'Assessment' Section of report.
Local Amenity	<p>A reviewable condition may be used where it is uncertain about the impacts of the proposed development on adjoining land uses.</p> <p>Any entertainment facility, function centre, food and drink premises (i.e., restaurant or café, take away for and drink premises, pub or small bar) or registered club, will be subject to a 1 year trial period, including by way of reviewable condition for extended operating hours to assess the ongoing management performance of a premises and its impact on neighbourhood amenity.</p>	Significant concerns raised by NSW Police with regards to proposal's proximity to residential development, with foreseeable issues. Recommend that base hours be applied to an approval to begin with.	No – refer 'Assessment' section of report.
Noise Management	<p>The movement of garbage and refuse (including empty bottles and cans) from inside the premises to outside storage bins or areas should not occur after 10pm and before 8:00am Monday to Saturday or before 9.00am on Sunday and Public Holidays. Movement of waste (other than cans/bottles or other waste movement with a risk of undue noise) from inside to outside the premises can occur outside these hours provided noise is minimised.</p> <p>No loading/unloading of any goods shall occur after: a. after 7pm; and b. before 8:00am Monday to Saturday or before 9.00am on Sunday and Public Holidays.</p> <p>The proprietor(s) and/or manager(s) shall take all steps necessary to ensure that no noise nuisance occurs from persons entering or leaving the premises.</p>	<p>Will be addressed through conditions.</p> <p>Will be addressed through conditions.</p> <p>The Plan of Management can be held to account through conditions.</p>	<p>Yes - conditions</p> <p>Yes</p> <p>Yes</p>

Report and Recommendations of the Design Review Forum Panel

Sutherland Shire Council 26 August 2021

Panel Members: John Dimopoulos, Brendan Randles, Peter Brooker

Council Staff: Lauren Franks (ROFF), Carine Elias (Team Leader)

Applicant Team: Joseph Scuderi, Nick Byrne, Cameron Byrne, Aaron Sutherland, Mathue Denicker, Paul Scrivener, Adam M.

DA No: DA21/0629

PAD No: PAD20/0052

Project Address: 101-109 Willarong Road, Caringbah

Proposal: Demolition of existing structures and construction of a mixed use development, new bowling club facility with two bowling greens and 4 lot Stratum subdivision

PREAMBLE

The site was viewed by the Panel members prior to the meeting.

The proposal has been considered in relation to the Design Quality Principles of SEPP 65. Detailed matters relating to Principle 5 (Landscape) are not covered by the Panel and will be separately reported by Council Officers.

Issues considered relevant to the proposal are noted below.

COMMENTS

The submission goes some way to addressing the PAD issues noted previously about the consideration of contextual impact, internal ground level activation, and the problems of scale, mass and articulation and urban fit. However, there remain significant concerns with various aspects of the proposal, as noted below.

1. The Panel understands that the location of the bowling greens against the street edge is proposed to provide solar access to the greens and public visibility. However, this strategy forces all built form onto the western portion of the site, resulting in highly constricted and compressed spaces between residential buildings, thereby compromising internal and external amenity, visual and acoustic privacy, general circulation and way finding
2. As a general comment, it should be said that given the resultant 65% footprint, mandated by the Bowling fields as well as the extra area requested via the SEPPARH, it is very difficult to balance yield versus amenity in such a constricted scheme.
3. The Panel would therefore recommend that the applicant swap the bowling greens with Block A. Having a street facing Block A would reinforce the street edge, and thereby maintain and reinforce the Council's desired future streetscape character (comprising built form and landscape) along Willarong Road, whilst allowing for a strongly landscaped and treelined streetscape. Given that the site is within the SSLEP 2015 green web restoration area, this is a high priority.
4. With Block A located at the street edge, the Club will have better street presence, the apartments above will be of higher value and the site's spatial character and openness will be greatly increased. In addition, apartments to the west will now look out over the greens themselves, the central communal space will be more exclusively for residents and potential for conflicts between residents and club patrons greatly reduced.
5. As GFA from Building A's upper levels requires relocation, the Panel is amenable to further height modelling to support some higher massing adjacent to the 9 and 11 level massing proposed on the adjacent southern lot, which would now be screened from the public domain by the lower Building A streetscape. It may be better too to relocate the existing proposed communal open space and playground to the northern boundary, crowning the fields so to speak. This measure would also allow for northern light to fully access the fields during the middle of the day.
6. There seems to be numerical inconsistencies with both general FSR and Communal Open Space calculations and clearer information needs to be presented to council.
7. Some general comments about the design of the blocks are:
 - the east facing elevation of Block B lacks articulation, especially the top 3 levels.
 - Same applies to the north south elevation of Block A.
 - Long corridors with minimal natural light.
 - inverted balconies offer limited solar time and could possibly protrude building face for added sun capture in winter.

8. The proposal fails to extend the spatial order of the southern site. Could spaces between buildings inform the layout on the subject site? This would extend vistas and solar access while making all spaces feel larger and more open.
9. The panel feels that in its current form, the relationship between the club environment and the central communal and playground area could lead to undesired and potential conflicts between residents and club patrons. This would be resolved if Block A were to be moved to the street edge, as suggested above, with the added bonus of giving the club a stronger street identity, greater public presence, opportunities for branding and accessibility to its various functions for patrons.
10. It is noted that there may CEPTED issues relating to the proposed school gym, given that there is no direct access to an external area, and that passive surveillance is highly constrained by the fire stair – this is an issue that can easily be rectified.

RECOMMENDATIONS

While the Panel supports the redevelopment of the site, revitalization of club facilities and provision of affordable housing, the current layout results in a range of significant amenity issues, especially concerning the internal and external amenity of the new residential built form.

It should also be noted that the proposal needs to meet the “local character” test for the Affordable Rental Housing SEPP to allow bonus FSR; however, the panel considers that the proposal has not met this standard in its current form. Apart from the internal amenity issues identified above, this is reflected by the Proposal’s inability to meet setback and deep soil standards, which undermine the broad objective of local controls to generate strong street edge buildings in a landscape setting. The applicant should be reminded that, subject to satisfying the above objectives, the full theoretical FSR and SEPPARH bonus allowance may not be achievable.

It is therefore recommended that the key issues identified above – as well as the many opportunities that can be found in the amended built form layout as suggested - should all be considered in the provision of a revised proposal that can be supported by the Panel.

John Dimopoulos
DRF Chair



Submissions received – DA21/0629
101 Willarong Road CARINGBAH NSW 2229
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Attached below are the comments received during neighbour notification. Photos, images and diagrams have been removed. Whilst comments received after the end of the neighbour notification period may still be considered, they will not appear in this document.

Willarong Road cannot manage the additional traffic or parking needs of this volume of apartments. Parking is currently saturated with existing residents - which excludes the already approved development for ~500 units. The volume of on-street parking impacts visibility for residents entering and exiting carparks. The problem is worse on garbage collection days. There are currently limited safe crossings for pedestrians on Willarong Road. The existing zebra crossings are ineffective as drivers regularly (as often as twice a week) go straight through due to lack of forewarning or visibility. If the volume of traffic was to increase, the situation will become more unsafe.

As a resident in Dianella St Caringbah to the proposed development my concerns with this development of 268 apartments and the Caringbah School Development having 550 apartments . There will be a huge increase in traffic , currently cars drive down Dianella St to access Cawarra Rd where there are traffic lights giving easy access to Capt Cook Drive especially in peak hours. A logical solution to this increase in traffic would be to install lights at the northern of Willarong Rd to give easy access to Capt Cook Dr , and install lights with a right turn capability at the South end of Willarong Rd to give access to the Kingsway and hence the City and Sutherland. I do not object to the housing opportunities especially Affordable Housing but if each apartment has 2 vehicles that is an increase of 1600 vehicles and the roads at present are not capable of handling it . Thank you

I am concerned about the traffic flow and parking on Willarong Road and the surrounding streets if this proposal were to go ahead. I have seen in the proposal that there is a 262 car spots for 243 units. I understand that this proposal meets the minimum requirements for car spots per units. However, considering the densely populated area of the proposed development, I do not believe that this is enough to alleviate the lack of parking that already exists on Willarong Road and surrounding streets and will add to this existing issue for local residents. With 66% of the units two or three bedrooms and the likelihood that these units will have two cars, the proposed car spots appears grossly underestimated. My second concern is the traffic flow with Willarong Road being a main thoroughfare between two major roads in the Sutherland Shire. I have seen in the plans the proposal for traffic lights to be installed at the intersection of Captain Cook Drive and the Kingsway. Traffic build up and

overflow traffic blocking surrounding streets at either end of Willarong Road is a significant concern. Additionally, traffic lights so close to Caringbah High will create traffic issues and potential dangers during school drop off and pick up times.

I am opposed to more high density housing on north willarong road. As a resident living on Willarong within close proximity to the proposed development, I have numerous concerns as to the impact the development will have on the local community living here. In particular, lack of sufficient infrastructure. While I agree that the Caringbah Bowling & Recreation Club requires a much needed upgrade in order to stay productive and relevant. I am opposing the amount of apartments, the height of the apartments and the amount of land the development will occupy. The main areas of concern I have are:

ISSUE 1. Traffic congestion travelling through Willarong Road, in particular safety of residents exiting driveways and pedestrians at crossings. I have experienced first hand drivers exceeding the speed limit down Willarong road. Speeding and lack of visibility due to vehicles parking close to driveways increases the risk of an accident occurring when attempting to exit driveways, I have experienced multiple 'near misses' and have witnessed accidents first hand. By increasing the population living on Willarong Road, there will be a concomitant increase in local traffic, thus increasing the risk of incidents occurring.

SOLUTION 1. Reduce the amount of apartments to be built, this will reduce population and traffic density within the area.

SOLUTION 2. Road upgrade, in particular more speed management solutions along this stretch of road. This includes High visibility pedestrian crossings, chicanes and speed humps to reduce the speed of motorists using the road.

SOLUTION 3. Enforcing safe parking perimeters around driveways to increase visibility for exiting vehicles.

ISSUE 2. Local parking for residents. This has been an ongoing issue mainly due to current residential complexes with a lack of onsite parking, along with commuters using the street for parking as it is relatively close to the train station. With building another high density development, there will be more residents attempting to park along the street. Increasing the demand for parking, creating more congestion, and reducing the spots available for current residents whom are already struggling.

SOLUTION 1. Reduce the amount of apartments being built within the development. This will reduce the amount residents moving into the area, thus reducing the amount of on street parking demand.

SOLUTION 2. Along with reducing the amount of residential apartments. Ensuring there are enough onsite parking spots available for residents and visitors of the new development, as well as patrons of the bowling club will reduce the on-street parking demand.

ISSUE 3. The proposed height, total land area and facade of the development will negatively impact the environment and appeal of neighbouring complexes. The height of the development will impede

sunlight flowing into neighbouring properties, particularly the complex south of the development. The reduction in 'greenery' and vegetation will reduce the amount of local fauna and overall 'appeal' of the area.

SOLUTION 1. Reduce the height of the development to avoid impeding the flow of sunlight into the neighbouring complex.

SOLUTION 2. Increase landscaping of the proposed development including more native trees to encourage local fauna.

SOLUTION 3. Implement a local beautification project for the area, including increased landscaping and maintenance of local nature strips. As I stated previously, I am understanding of the need to revamp the local bowling club. However, the proposed development will likely negatively impact the local residents by increasing local traffic, increasing the demand for parking, and reducing local greenery. By reducing the density and height of the development, improving local roads and infrastructure, and ensuring more landscaping I believe the negative impact the of development can be mitigated.

We don't need more apartments. It will only bring more traffic on a road that gets used by children daily. Not only do Caringbah and Endeavour High kids use this road to walk to and from school, there is a path down to the Caringbah Redbacks soccer field and Caringbah North Public School that children are constantly using. Having such a high traffic bringing development could hinder their safety. Sure, upgrade the bowling club if you have to (though I personally like it the way it is now), but dont bring more apartments into the mix

Demolition of existing structures and construction of a mixed use development. New bowling club facility. THE NEW UNITS BEING BUILT SHOULD HAVE AT LEAST TWO PARKING SPACES EACH AND THE BOWLING CLUB SHOULD HAVE A VERY LARGE PARKING AREA . There is NO parking area left in the street.

Demolition of existing structures and construction of a mixed use development, new bowling club facility with two bowling greens and 4 lot Stratum subdivision. There is no details of how many apartments are planned, and I'm concerned that unless proper and sufficient parking is incorporated in the plans then there will be a major problem in the road. With the existing new apartment blocks just recently completed and now occupied there is no longer any street parking available. There is a block of new apartments currently under construction which will add to this problem when occupied, another house next to the High School which has been fenced off ready for construction, and there is the monstrosity building work planned for the vacant ground of the old Caringbah High School. All this

new building work is not only going to make Willarong Road resemble Wolli Creek or Sharkies, but will create major traffic problems in the area.
