

# Submission

## Draft Sutherland Local Environmental Plan 2013

**Property: 172A Willarong Rd, 365 Kingsway & 53 Banksia Ave, Caringbah**

### 1. Introduction

This submission is in response to the Department of Planning & Infrastructure's invitation to the public to make written submissions as part of an independent review into Draft Sutherland Shire Local Environmental Plan 2013 ("Draft SSLEP 2013") and relates to the properties known as 172A Willarong Rd, 365 Kingsway & 53 Banksia Ave, Caringbah (the site).

The site is currently within Zone 8 Urban Centre under Sutherland Shire Local Environmental Plan 2006 (SSLEP 2006) and is proposed to be within Zone B3 - Commercial Core under Draft SSLEP 2013. This is essentially the same zoning and is supported.

However, it is requested that a change be made to the built form controls under Draft SSLEP 2013 - maximum floor space ratio (FSR) of 2:1 and maximum building height of 16m, which would apply to mixed-use re-development of the site.

The submission proposes a variation to Draft SSLEP 2013 to permit mixed-use development of the site with a maximum FSR of 2.5:1 and a maximum building height of 30m. The submission is accompanied by built form concept, which illustrates this proposal.

This submission has been prepared by Steven Layman Consulting Pty. Limited architect & town planner on behalf of the owners of the sites. Illustrations have been prepared by Couvaras Architects.

### 2. The Site

The site consists of 3 separate parcels of land known as 172A Willarong Rd (Lot 1 DP 405657), 365 Kingsway (SP833), 53 Banksia Ave (SP19160) in Caringbah. It is situated on the north-eastern corner of the junction of Willarong Road and Kingsway, Caringbah (see Figure 1 below).

**Figure 1. The Subject Site**

(Source: Sutherland Shire Council)



### **Existing Development**

At present the site is occupied by the following development:

- 172A Willarong Rd, which contains a single storey building, housing a Funeral Home Chapel operated by Olsens Funeral Directors.
- 365 Kingsway (corner property), which contains a two storey commercial building (retail at ground floor & office premises upstairs) and a single storey commercial building at the rear.
- 53 Banksia Ave, which contains a two storey building with retail & commercial, uses.

All the buildings are aging and coming to the end of their useful economic life.

### **Existing Planning Controls**

The relevant environmental planning instruments and development control plans applicable to the subject site include the following, with the current and Draft LEPs considered below: -

Sutherland Shire Local Environmental Plan 2006;  
Sutherland Shire Development Control Plan 2006;  
Draft Sutherland Shire Local Environmental Plan 2013 (and supporting/exhibited materials).

#### Sutherland Shire Local Environmental Plan 2006

The Sutherland Shire Local Environmental Plan 2006 ('SSLEP') is the principal environmental planning instrument applying to the subject site. The subject site is zoned 8 – Urban centre pursuant to Clause 11 of the SSLEP 2006. The relevant controls as they currently apply to the subject site are outlined in Table 1.

**Table 1: Sutherland Shire Local Environmental Plan 2006**

Requirement	Proposal	Compliance
<b>Zoning Table (CI 11)</b>		
<b>Zone 8 – Urban Centre</b> The objectives of this zone are as follows: to identify appropriate land for the provision of a wide range of retail, business and professional activities, to promote viable businesses through increased economic and employment activity, to provide for an integrated mix of commercial, office, retail and residential buildings, to create attractive, vibrant and safe establishments and facilities as a focus for community spirit.  Permissible uses with consent include business premises, places of assembly, places of public worship.	The objectives are currently being met by the existing development, which is characterised as business premises, place of public worship and place of assembly.	Yes
<b>Biodiversity- wetlands (CI 19)/ Flood planning (CI 20)/ Environmental risk - Bushfire (CI 21)</b>		
Consideration of biodiversity, flood planning and bushfire risk on specific sites.	The subject site is not affected by any of these hazards.	N/A
<b>Contaminated land (CI 22)</b>		
Applies to land that is, or in the opinion of the consent authority is likely to be, contaminated land.	The site is unlikely to be contaminated land given the absence of any potentially contaminating uses having been undertaken on the site and lack of any significant excavation works being undertaken.	Yes
<b>Environmental risk - acid sulfate soils (CI 23)</b>		
Development consent is required for the carrying	No Acid Sulfate Soils are present on the	Yes

out of works on affected land.	subject site.	
<b>Building Height (CI 33(8)(b)(ii))</b>		
Building must not comprise more than 3 storeys.	The existing building is 2 storeys at its highest point.	Currently complies
<b>Building Density (CI 35(11)(b))</b>		
Max floor space ratio = 2:1	Existing FSR = 0.48:1	Currently complies
<b>Urban Design (CI 48)</b>		
Consider whether proposal:- <ul style="list-style-type: none"> <li>• is of high quality design and development outcomes for urban environment attained;</li> <li>• strengthen, enhance or integrate into existing character of distinctive locations, contribute to desired future character;</li> <li>• recognises, improves public domain;</li> <li>• enhances/retains natural environment and responds to natural landform;</li> <li>• preserves, enhances or reinforces specific areas of high visual quality, ridgelines and landmark locations;</li> </ul> Minimises crime risk.	The existing building achieves these urban design outcomes as the building is of high quality design, as it will utilise a mix of materials to reduce bulk. The proposal is compatible with its centre setting.  There are no natural site features to be adversely affected and there is minimal excavation. The existing building is respectful of the streetscape and surrounding area. Glazed areas overlook the entry.	Yes
<b>ESD, Energy Efficiency etc. (CII 51, 52)</b>		
Consider principles of ecologically sustainable development (ESD), and extent to which proposal will retain and enhance the natural environment.	Subject to proposal.	Currently complies
<b>Traffic impact, car parking (CI 53)</b>		
Provide sufficient on-site car parking, efficient links to transport nodes and corridors, bicycle facilities.	The site is located within a 'medium accessibility' area and is in close proximity to residential and commercial services within Caringbah town centre, including the railway station, promoting multiple use car trips.	Yes
<b>Heritage (CI 54)</b>		
Consider impact on heritage items.	The site does not contain any heritage items and there are no heritage items in the vicinity of the site.	Yes
<b>Preservation- trees (CII55, 56)</b>		
Significant trees and/or landform to be retained and unaffected etc.	There are no significant trees or other vegetation on the site.	Yes

#### a) **Draft Sutherland Shire Local Environmental Plan 2013**

The *Draft Sutherland Shire Local Environmental Plan 2013* ('Draft SSLEP 2013') was exhibited from 18 March 2013 to 1 May 2013. There were 2131 public submissions received during exhibition period. Following these submissions, in which the key issues raised included proposed zoning changes, issues concerning multi dwelling development and the implementation of the Housing Strategy, several changes were made and the Draft SSLEP 2013 was re-exhibited until 1 November 2013.

#### i. **Zoning and Permissibility**

The Draft SSLEP 2013 proposes to zone the subject site to B3: Commercial Core, as illustrated in **Figure 1**. The objectives of the B3 zone are:-

- *To provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.*
- *To encourage appropriate employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*
- *To strengthen the viability of existing commercial centres through increased economic activity, employment and resident population.*
- *To create an attractive, vibrant and safe public domain with a high standard of urban design and public amenity.*

- *To enhance the centre by encouraging incidental, public domain areas with a community focus which may facilitate interaction, outdoor eating or landscaping.*
- *To provide for pedestrian-friendly and safe shopping designed to cater for the needs of all ages and abilities.*

The existing development on the site is consistent with these zone objectives.

Relevant uses permissible in the proposed zone include Building identification signs; Business identification signs; Car parks; Commercial premises; Mortuaries; and Places of public worship. The relevant definitions include:-

- **commercial premises** means any of the following:
  - (a) business premises,
  - (b) office premises,
  - (c) retail premises.
- **business premises** means a building or place at or on which:
  - (a) an occupation, profession or trade (other than an industry) is carried on for the provision of services directly to members of the public on a regular basis, or
  - (b) a service is provided directly to members of the public on a regular basis, and includes a funeral home and, without limitation, premises such as banks, post offices, hairdressers, dry cleaners, travel agencies, internet access facilities, betting agencies and the like, but does not include an entertainment facility, home business, home occupation, home occupation (sex services), medical centre, restricted premises, sex services premises or veterinary hospital.

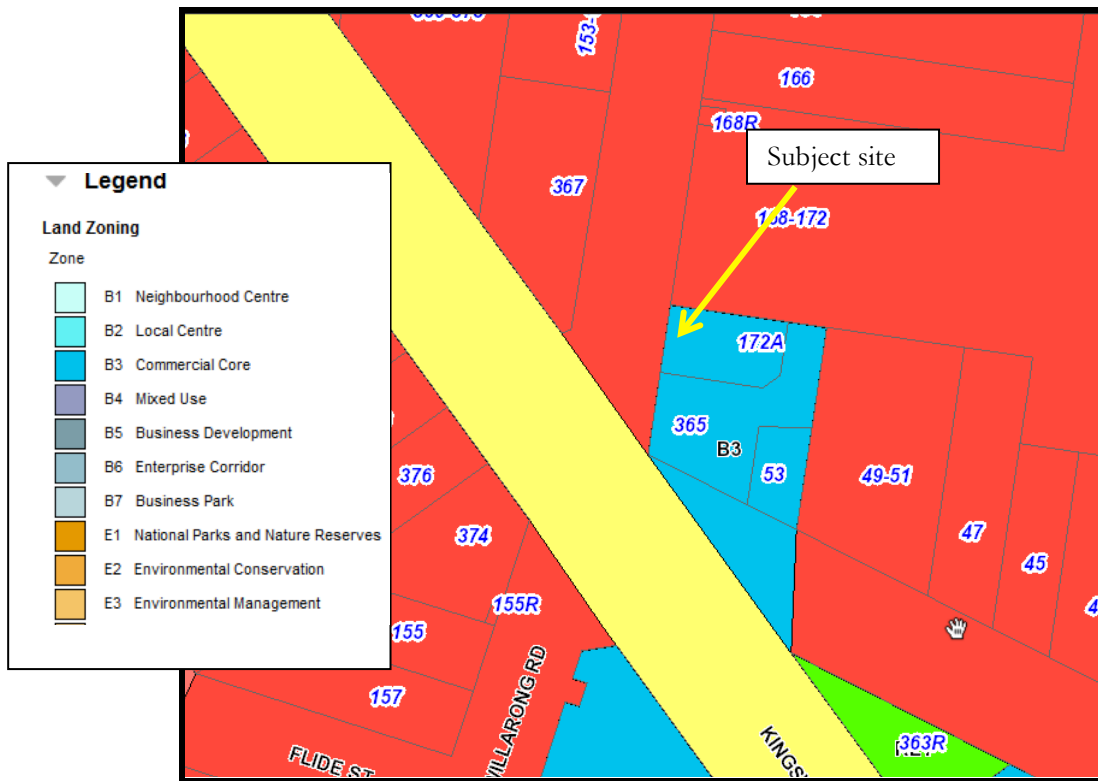
**Note.** Business premises are a type of **commercial premises**—see the definition of that term in this Dictionary.
- **funeral home** means premises that are used to arrange, conduct and cater for funerals and memorial services, whether or not the premises include facilities for the short-term storage, dressing and viewing of bodies of deceased persons.
 

**Note.** Funeral homes are a type of **business premises**—see the definition of that term in this Dictionary.
- **mortuary** means premises that are used, or intended to be used, for the receiving, preparation, embalming and storage of bodies of deceased persons pending their interment or cremation.
- **place of public worship** means a building or place used for the purpose of religious worship by a congregation or religious group, whether or not the building or place is also used for counselling, social events, instruction or religious training.
- **crematorium** means a building in which deceased persons or pets are cremated, whether or not it contains an associated building for conducting memorial services.

All of these uses are permissible in the zone with consent. Future additions and alterations to the existing development on the subject site are permissible with consent.

**Figure 2: Zoning of the Site under the Draft LEP 2103**

(Source: Sutherland Shire Council)



Figures 3 and 4 below show the proposed zoning, floor space ratio and height of building controls for the site and surrounding land under Draft SSLEP 2013. Under Draft SSLEP 2013, the site is zoned B3 - Commercial Core, with a maximum FSR of 2:1 and a maximum building height of 16m applying.

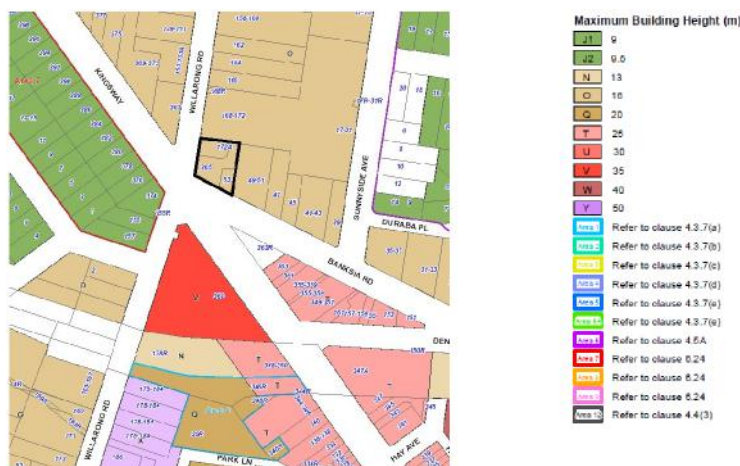
**Figure 3: Extract from Floor Space Ratio Map Draft SSLEP 2013**

(Source: Sutherland Shire Council)



**Figure 4: Extract from Height of Buildings Map Draft SSLEP 2013**

(Source: Sutherland Shire Council)



## ii. General Controls

The controls, which are relevant to the subject site under the Draft LEP 2013, are outlined in **Table 2**.

**Table 2: Draft Sutherland Shire Local Environmental Plan 2013**

Requirement	Proposal	Compliance
<b>Subdivision (CI 2.6)</b>		
Land to which this Plan applies may be subdivided, but only with development consent.	Subject to proposal.	Currently complies
<b>Demolition requires development consent (CI 2.7)</b>		
Demolition requires consent.	Subject to proposal.	Yes
<b>Height of buildings (CI 4.3)</b>		
Max height for the land on Height of Buildings Map – 16m	Currently complies, subject to proposal.	Currently complies
<b>Floor space ratio (CI 4.4)</b>		
Max floor space ratio or the land on FSR Map – 2:1	Currently complies, subject to proposal.	Currently complies
<b>Preservation of trees or vegetation (CI 5.9 and 5.9AA)</b>		
Consent or a permit is required to ringbark, cut down, top, lop, remove, injure or willfully destroy any tree or other vegetation to which a DCP applies or does not apply (CI 5.9A).	There is no significant vegetation on the site.	Yes
<b>Heritage conservation (CI 5.10(5))</b>		
Before granting consent to any development, among other things, on land that is within the vicinity of a heritage item or heritage conservation area, a heritage management document may be required that assesses the extent to which the carrying out of the proposal would affect the heritage significance of that item or area concerned.	There are no heritage items on the site or in the vicinity of the site. It is considered that there will be no significant adverse impacts to any heritage items.	Yes
<b>Acid Sulphate Soils (CI 6.4)</b>		
Development consent and an Acid Sulphate Soils ('ASS') Management Plan may be required on.	The site does not have an ASS classification.	N/A
<b>Contaminated land management (CI 6.10)</b>		
Applies to land that is, or in the opinion of the	The subject site is not	Yes

<p>consent authority is likely to be, contaminated land (within the meaning of Part 7A of the Act). Consent must not be granted unless the consent authority is satisfied that:</p> <p>(a) The land is suitable for its intended purpose or can be made suitable prior to development being carried out, and</p> <p>(b) The development is carried out in a manner that prevents future contamination of the land and minimises, manages or eliminates risk to human health and the environment.</p>	<p>considered to be contaminated given the lack of potentially contaminating uses having been known to occur on the site.</p>	
<b>Energy Efficiency and sustainable building techniques for commercial and industrial developments (CI 6.17)</b>		
<p>Applies to commercial premises and industries. Prior to granting consent, the following must be considered:</p> <p>a) potential energy consumption reduced during construction, occupation, utilisation and lifecycle of proposed buildings;</p> <p>b) sustainable natural resources, such as sun and wind, will be used in proposed buildings to create naturally comfortable working environments;</p> <p>c) proposed building materials and construction techniques are ecologically sustainable and will:</p> <p>(i) minimise energy expenditure (including any energy expenditure in building materials manufacture), and</p> <p>(ii) maximise useful lifecycle of proposed buildings;</p> <p>d) waste is minimised through design, construction and demolition of building and on-site waste management during occupation, utilisation and lifecycle of proposal.</p>	<p>Subject to proposal.</p>	<p>Currently complies</p>
<b>Stormwater Management (Urban Zones) (CI 6.4)</b>		
<p>re granting consent to development to which this clause applies the consent authority must be satisfied that the development:</p> <p>(a) is designed to maximise the use of water permeable surfaces on the site having regard to the soil characteristics affecting on-site infiltration of water;</p> <p>(b) include, where practical, on-site stormwater retention for use as an alternative supply to mains water, groundwater or river water; and</p> <p>(c) avoids, or where an impact cannot be avoided, minimises and mitigates, the disturbance and impacts of stormwater runoff on adjoining properties, native bushland and receiving water.</p>	<p>Capable of compliance</p>	<p>Yes</p>

**b)      *Background documents to the Draft Sutherland Shire Local Environmental Plan 2013***

The Draft SSLEP 2013 has been formulated following various draft strategies, including the *Draft Caringbah Centre Strategy* ('the Draft Strategy') prepared in July 2012. This Strategy emphasised the importance of presenting a vision for Caringbah in order to revitalise the centre, improve the amenity of the centre for residents and visitors and to encourage and guide future development. The use of the centre as a medical precinct is also emphasised.

The Draft Strategy develops key aims and strategies to guide future development of Caringbah Centre and improve its amenity for residents and visitors. The key focus of the Centre strategy is to encourage mixed-use development, providing residential units to meet the needs of an ageing community that offer a high standard of amenity and accessibility. Development should maintain adequate solar access to public spaces. This will be combined with measures to improve the pedestrian experience of the centre through improved pedestrian access and landscaping. The strategy also seeks to deliver quality commercial space, tailored to the needs of the medical sector, to take advantage of its proximity to Sutherland Hospital and Kareena Private Hospital in an attempt to stimulate economic growth within the centre.

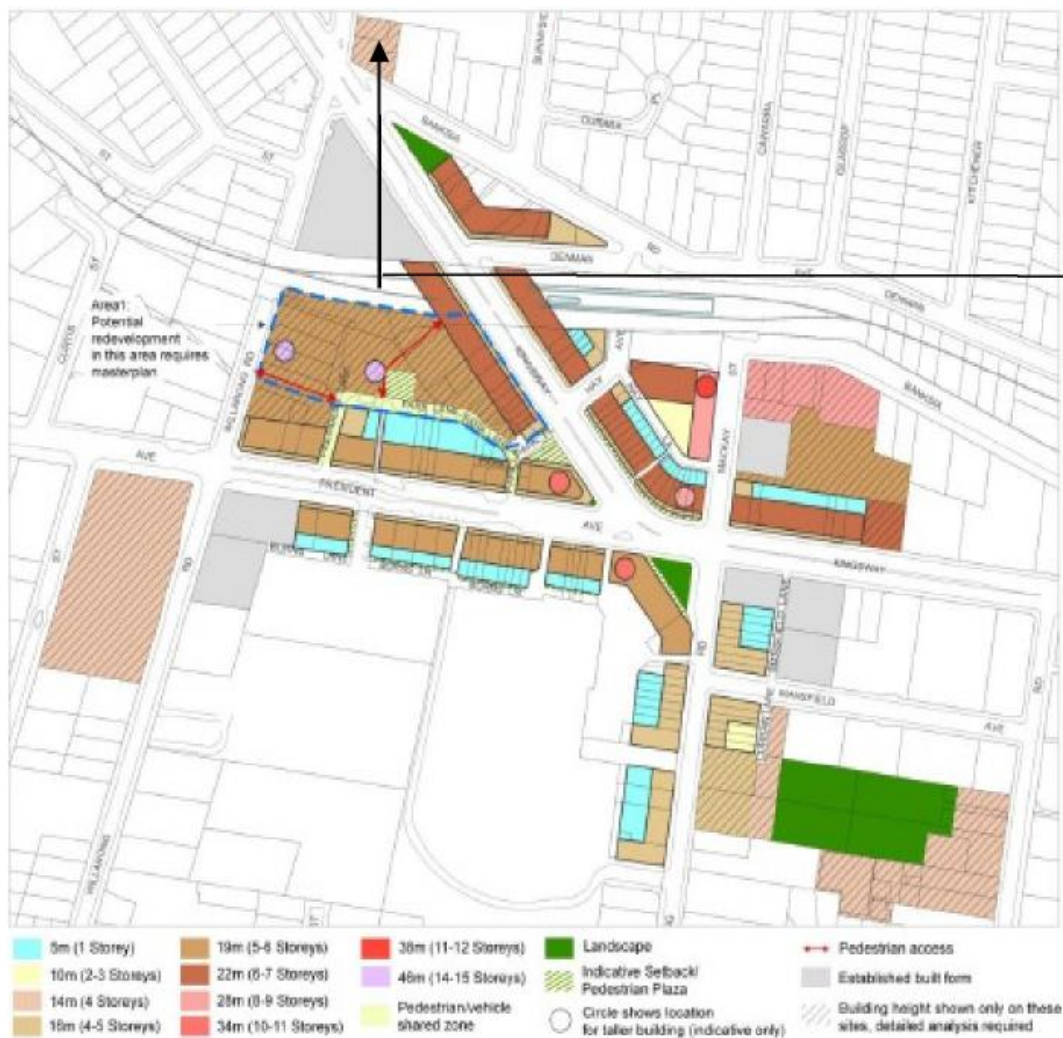
The Draft Strategy provides a Strategy map (at page 21) with some specific requirements for certain sites such as pedestrian links and heights, however, there are no specific controls of the subject site. the height of buildings and FSR amps in the Draft Strategy outline a height limit of 16 metres and an FSR of 2:1 as provided in the Draft LEP 2013.

As shown by Figure 35 below, the Draft Caringbah Centre Strategy identifies the site as being capable of 8-9 storeys, with further detailed analysis required.

The location of the site at the corner of Kingsway & Willarong Rd, directly opposite the large existing development, means it is located strategically on the approach to Caringbah and has the potential to function in urban design terms as an important gateway to the commercial and civic core of the Centre.

**Figure 5: Draft Caringbah Centre Strategy Map**

(Source: <http://www.sutherlandshire.nsw.gov.au>).



The draft Caringbah Strategy also identified the site as part of the Centre by way of colour and zoning, although it was never included in the revised height & density controls for the centre.

**Figure 6: Draft Caringbah Centre Strategy Map**

(Source: <http://www.sutherlandshire.nsw.gov.au>).



The 'Fact Sheet on Caringbah Centre', which formed part of the exhibition material for the Draft LEP 20123, also highlighted that the Caringbah Centre lacks the focus and vitality expected in a centre of its size. This is primarily due to the rise of Westfield Miranda as a retail centre, the emergence of Taren Point as a bulky goods hub and of Cronulla an entertainment precinct. As a result, there has been no significant redevelopment in the core commercial area for ten years. A number of key businesses have recently vacated the centre.

The core of the Caringbah Centre Strategy is to encourage urban regeneration through increased residential development, improved retail choice and the promotion of the centre as a location of medical services. The strategy also aims to change the focus of the centre from one dominated by traffic to a more pedestrian-focused centre, with an improved public domain, extended pedestrian walkways and public plaza space. Caringbah Centre should be an attractive housing option across age groups, but careful design focus on accessibility and the needs of aged people will make it a place where older people can remain independent and active longer.

Under the Draft LEP 2013, the Caringbah Centre is proposed to be zoned B3 Commercial Core, with building heights ranging from 16 metres (4 storeys) up to 46 metres (14 storeys). Development in the centre is expected to comprise mixed uses with residential at upper levels, which will allow for good views towards the city and Wollongore Bay and will boost economic activity in the centre. New buildings will also create quality commercial spaces for new businesses.

A range of additional height and FSR bonuses are offered across a number of strategically important sites in and around the commercial centre, including the Willarong Road precinct (which does not include the subject site) as well as the Coles site. These controls do not apply to the subject site.

Under Draft SSLEP 2013, the site is zoned B3 - Commercial Core, with a maximum FSR of 2:1 and a maximum building height of 16m applying.

## **6. Variation to Draft SSLEP 2013 Built Form Controls for Mixed Use Development of the Site**

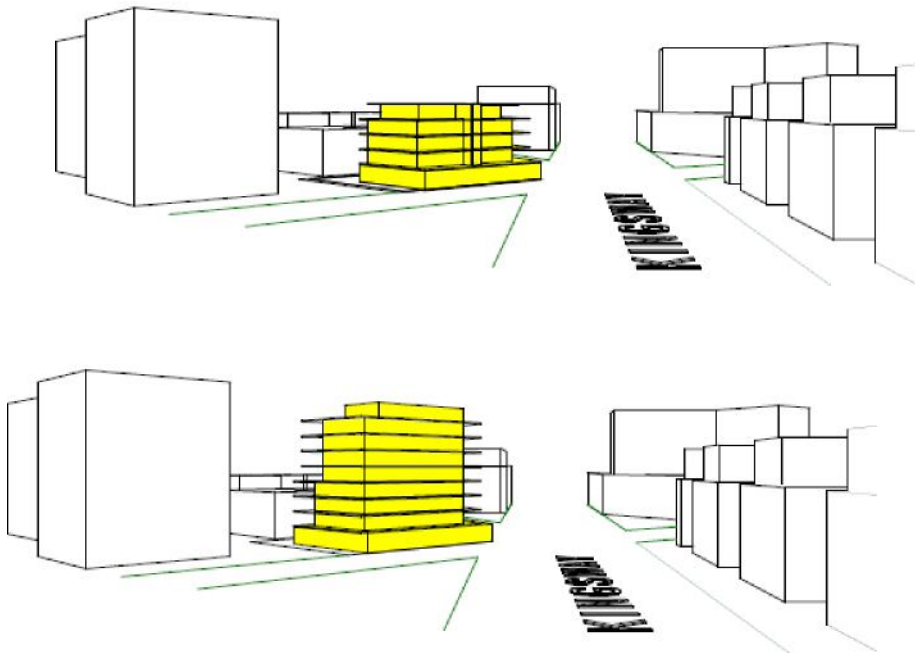
This submission supports the proposed zoning of the site to Zone B3 - Commercial Core under Draft SSLEP 2013, as this is essentially the same as the existing zoning. However, in the case of mixed-use development of the site, a change is requested to the proposed draft FSR (2:1) and building height (16m) controls.

Concept diagrams are attached which illustrate the building envelope for a mixed use development of the site with a maximum FSR of 2.5:1 and a maximum building height of 30m. The concept diagrams have been developed with regard to the design quality principles of SEPP 65 and the rules of thumb of the Residential Flat Design Code.

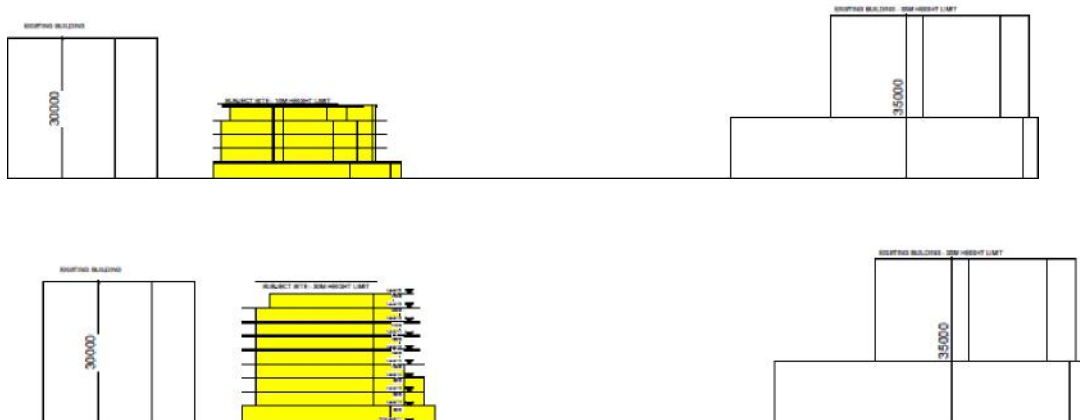
It is submitted that for mixed use development of the site, a maximum FSR of 2.5:1 and a maximum building height of 30m is appropriate for the following reasons:

- Under Draft SSLEP 2013 mixed use development of the site is permissible and is consistent with the objectives of the B3 zoning of the site.
- The site is located within the Caringbah Centre and the Draft Caringbah Centre Strategy identifies it as a potential mixed use development site, with increased height and density.
- The site is an appropriate amalgamation of three existing lots and does not compromise the development potential of adjoining properties.
- The location of the site at the corner of Kingsway & Willarong Road (opposite the existing 10 storey development), means the site is located strategically on the approach to the Caringbah Centre. In urban design terms, it has the potential to function as an important gateway to the commercial and civic core of the Centre.
- However, the sites important gateway role is not supported by the 2:1 FSR and 16m building height controls, which apply under Draft SSLEP 2013.
- The site is located adjacent existing 9 storey buildings and across the road from an existing 10 storey building. Surrounding development is proposed at 6-8 storeys under Draft SSLEP 2013.
- The proposed 16m height limit will result in a 4-5 storey building, set amongst considerably taller structures. This is an undesirable urban design outcome for a gateway site.
- The existing buildings are fully utilized for commercial purposes, and the existing owners are in agreement about a redevelopment of the site.
- In contrast, a mixed use development of the site (2 storey commercial base with residential apartments above) with 2.5:1 FSR and 30m building height controls will achieve a built form for the site that is commensurate with its strategic location and which will appropriately correspond with the likely scale of future development along the Kingsway shopping strip (FSR 2.5:1 and 25m building height).
- The location of the building to the North of the 6-lane Kingsway will ensure that overshadowing impacts on surrounding developments and the park are negligible.

- The proposed variation of the built form controls for mixed use development of the site is consistent with Draft SSLEP 2013 and the Draft Caringbah Centre Strategy.



**Figure 8: 3D views from Kingsway looking east showing comparison between proposed under the draft & requested in this submission.**



**Figure 9: Section across Kingsway looking east showing comparison between proposed under the draft & requested in this submission**

## **7. Conclusion**

Under Draft SSLEP 2013 the site (172A Willarong Rd, 365 Kingsway & 53 Banksia Ave, Caringbah) is zoned B3 - Commercial Core, with a maximum FSR of 2:1 and a maximum building height of 16m. This submission supports the B3 zoning, but requests a variation to the applicable FSR and building height controls.

The site is located within the Caringbah Centre and Council's Draft Caringbah Centre Strategy identifies it as a potential mixed use development site with increased height and density. Its location at the corner of Kingsway & Willarong Road (opposite the existing large development), means the site is located strategically on the approach to the Caringbah Centre and in urban design terms it has the potential to function as an important gateway to the commercial and civic core of the Centre.

However, the sites important gateway role is not supported by the 2:1 FSR and 16m building height controls, which apply under Draft SSLEP 2013. Furthermore, these controls result in a built form that is inconsistent with the surrounding proposed controls.

In contrast, the attached concept diagrams demonstrate that a mixed use development of the site (2 storey commercial base with residential apartments above) with 2.5:1 FSR and 30m building height controls will achieve a built form for the site that is commensurate with its strategic location and which will appropriately correspond with the likely scale of future development of the shopping strip (FSR 2.5:1 and 25m building height generally apply).

The location of the site further indicates that a building resulting from the requested controls, will be able to comply with the solar access provisions of the Residential Flat Design Code.

Therefore in the case of mixed use development of the site, support is sought for a maximum FSR of 2.5:1 and maximum building height of 30m.

## **8. Recommendation**

Having regard to the above, the following variations to Draft SSLEP 2013 are recommended:

- Maximum floor space ratio (FSR) increased from 2:1 to 2.5:1
- Maximum building height increased from 16m to 30m