

JRPP No:	2013SYE066 & 2013SYE067
DA No:	DA13/0759 & DA13/0760
LGA:	Sutherland Shire
Proposed Development:	Master Plan (DA13/0759) and Detailed Proposal for Stage 2 of a Seniors Housing Development (DA13/0760)
Site/Street Address:	Lot 1 DP 1097917 – No. 19 Kiama Street, Miranda
Applicant:	Hammond Care
Submissions:	4
Recommendation:	Approval
Report By:	Greg Hansell - Environmental Assessment Officer (Planner) Sutherland Shire Council

Assessment Report and Recommendation

1.0 EXECUTIVE SUMMARY

1.1 Reason for Report

In accordance with the requirements of State Environmental Planning Policy (State and Regional Development) 2011, these applications are referred to the Joint Regional Planning Panel ('JRPP') as the development has a capital investment value of more than \$20,000,000. The 'project' application (DA13/0760) nominates the value of the development as \$50,599,000.

1.2 Proposal

The first application (DA13/0759) is for a new master plan to replace the existing approved master plan, for that part of the site located to the west of the residential aged care facility and generally south of the electricity transmission easement.

The second application (DA13/0760) is for the construction of the second stage of the development in accordance with the new master plan mentioned above. This stage comprises 82 independent living units contained in four (4) apartment buildings, ten (10) villas, a community centre and village green.

1.3 The Site

The subject site is located on the eastern side of Bellingara Road, just south of Box Road.

1.4 The Issues

The main issues identified are as follows:

- Building scale, streetscape and urban design.
- Amenity impacts on adjacent residents to the south.
- Internal amenity for future residents of the development.
- Electromagnetic radiation from transmission lines.

1.5 Conclusion

Following detailed assessment of the proposed developments, the current applications are considered worthy of support subject to minor amendments and conditions of consent. It is recommended that the bulk and scale of the apartment building in the south-western corner be reduced, by way of removal of the two (2) apartments at the south-western end of the fourth level.

2.0 DESCRIPTION OF PROPOSAL

Development Application No. 13/0759 seeks development consent for a new master plan to replace the existing approved master plan for that part of the site located to the west of the residential aged care facility and generally south of the electricity transmission easement.

The approved master plan for this part of the site includes:

- A single storey community facilities building for use by residents of the complex.
- A 'village green' fronting the street.
- Six (6) residential buildings comprising independent living accommodation, aligned generally in an east-west direction and ranging from 3-5 storeys in height.



Figure 1: Approved master plan

The new master plan for this part of the site is substantially different in that it includes:

- A row of single storey villas adjacent to the southern boundary.

- A centralised 'village green' surrounded by 2-5 storey buildings aligned generally parallel to the street.
- A community centre that fronts the street and is more integrated with the residential uses.



Figure 2: Site plan of proposal

Development Application No. 13/0760 seeks development consent for the construction of the second stage of the development in accordance with the new master plan mentioned above. This stage comprises 82 independent living units contained in four (4) apartment buildings, ten (10) villas, a community centre and village green and associated basement, garage and outdoor parking for 140 vehicles.

3.0 SITE DESCRIPTION AND LOCALITY

The site is known as No. 19 Kiama Street, Miranda. In the south-eastern corner of the site adjacent to Kiama Street is a new 92 bed residential aged care facility. The remainder of the site is currently vacant and unused. The site was previously occupied by Sydney Water Corporation and used as a works depot.

The site has an east-west orientation and is generally trapezoidal in shape. It has frontages of approximately 242 metres to Bellingara Road and 196 metres to Kiama Street and a depth that varies between 180 metres and 331 metres. The site has a total area of 49,850 square metres. The site falls away from Bellingara Road, generally in a south-easterly direction. There is an approximate change of levels between the highest and lowest points of the site of 13 metres.

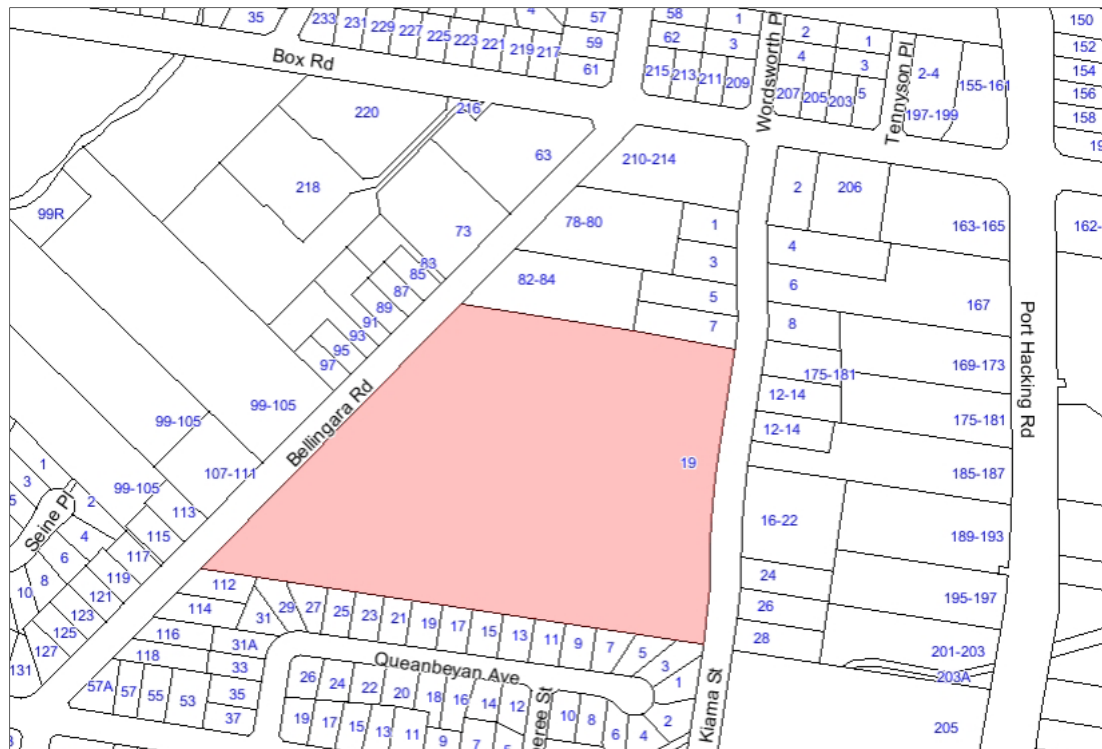


Figure 3: Location of site



Figure 4: Aerial photograph of site (May 2012)

There are a number of mature trees located throughout the site, mainly situated adjacent to the Bellingara Road frontage and, to a lesser extent, along the southern boundary of the site. A major electricity transmission easement, incorporating overhead power lines and a supporting pylon, traverses the site in a generally east-west alignment.

The streetscape in the immediate vicinity of the subject land is characterised by residential, industrial and recreational development. Directly adjoining the site to the north are 1-2 storey industrial/warehouse buildings. Directly adjoining the site to the south are detached dwelling houses of 1-2 storeys in scale. To the west of the site are detached dwelling houses, a residential aged care facility and a netball sports complex. To the east of the site are 1-2 storey industrial/warehouse buildings.



Figure 5: South westerly view of site of proposal

4.0 BACKGROUND

On 2 July 2009, Council granted development consent to a 'staged development application' for a seniors' housing development on the site comprising of:

- A 90 bed residential care facility.
- A maximum of 250 self-contained dwellings within 11 separate buildings varying from 3-6 storeys in height.
- A community centre.

The JRPP approved the first stage of the development, comprising the residential aged care facility, at its meeting held on 15 September 2010. This facility has since been constructed and is now fully operational.

Pre-application discussions regarding the current proposal were held with Council officers on 25 February 2013 and Council's Architectural Review Advisory Panel on 11 April 2013. Full copies of the written advice following these pre-application discussions are provided in Appendices "C" and "D".

A history of the development proposal now before the JRPP is as follows:

- The current applications were received by Council on 21 August 2013.
- The applications were placed on public exhibition, with the last date for receipt of public submissions being 17 September 2013. Submissions were received from Sydney Water Corporation and owners/occupants of three (3) adjacent residential properties.

- An information session was held on 10 September 2013 and eight (8) people attended.
- The JRPP was briefed on the applications on 18 September 2013.
- The applications were considered by Council's Architectural Review Advisory Panel ('ARAP') on 19 September 2013.
- Revised plans and additional information in response to issues raised by ARAP, Council officers and surrounding residents were submitted to Council between 14 October 2013 and 23 October 2013.

5.0 ADEQUACY OF APPLICANT'S SUBMISSION

In relation to the environmental impact statement, plans and other supporting information submitted upon lodgement of the development applications and after written requests from Council, the applicant has provided adequate information to enable a full and proper assessment of both applications.

6.0 PUBLIC PARTICIPATION

The applications were advertised in accordance with the provisions of Chapter 12 of Sutherland Shire Development Control Plan 2006 ('SSDCP 2006'). An information session between Council officers and interested residents, business people and property owners was also held during the exhibition period and eight (8) residents attended.

Potential issues raised by those present at the information session included:

- Overshadowing, overlooking and visual bulk impacts from the proposed 4-5 storey building in the south-western corner of the site.
- The adequacy of the surrounding road system to accommodate the increased traffic generation.
- The adequacy of on-site car parking facilities to meet the needs of residents and visitors.
- Traffic/pedestrian safety issues generally.

444 property owners/occupants in the vicinity of the site were notified of the applications and four (4) submissions were received as a result. The detailed submission received from Sydney Water Corporation (refer Appendix "E") does not object to the proposal, but simply offers technical comments regarding sewage disposal and water supply for Council's consideration. These matters may be readily addressed by conditions of consent.

Submissions were received from the owners/occupants of the following residential properties:

Address	Date of Letter	Issues
112 Bellingara Road, Miranda	17/09/13	1 & 3
116 Bellingara Road, Miranda	17/09/13	1, 3, 4, 5 & 6
31 Queanbeyan Avenue, Miranda	16/09/13	1, 2 & 5

The revised plans that were submitted following public exhibition and review of the proposal by Council's Architectural Review Advisory Panel ('ARAP') were not re-notified. In this regard, SSDCP 2006 provides as follows:

"Revised plans lodged during the assessment and before Council's or the Court's determination will be publicly exhibited in the same way as the original application, but only where the changes being sought intensify or change the external impact of the development to the extent that neighbours, in the opinion of Council, ought to be given the opportunity to comment."

The revisions to the plans are not considered to intensify or change the external impact of the development to the extent that neighbours need to have an opportunity to further comment. The plan revisions address issues raised by ARAP, Council officers and surrounding residents and are relatively minor in nature compared to the overall development.

The issues raised in the submissions from adjacent residents are summarised and addressed as follows:

6.1 Issue 1 – Impacts of Proposed Building in the South-Western Corner

The residents are mainly concerned about the close proximity and height of the proposed 4-5 storey apartment building in the south-western corner and its overshadowing, visual privacy, visual bulk and television reception impacts.

Comment: These matters (apart from the issue of television reception) are addressed below in the "Assessment" section of this report.

No evidence has been submitted to substantiate that the building will have an adverse effect in terms of interference with television reception in the locality. The Australian Communications & Media Authority can be of assistance, in the unlikely event of this issue arising for adjacent residents.

6.2 Issue 2 – Accuracy of Shadow Diagrams

The residents question the accuracy of the shadow diagrams submitted with the applications, given that one of the drawings has been incorrectly entitled as "site shadowing - winter solstice" when it should have been entitled "site shadowing - summer solstice".

Comment: It appears that this is an unintentional error in the description of the drawing. The shadow diagrams have since been assessed as accurate.

6.3 Issue 3 – Effect on Property Values

The residents are concerned about the impact of the apartment building in the south-western corner on the re-sale values of surrounding properties.

Comment: The impact of the proposed building on property values is not a relevant matter for consideration in the assessment of the development applications. The overshadowing, overlooking and visual bulk impacts of the building are assessed elsewhere in this report and are considered to be

generally acceptable, subject to the removal of the two (2) apartments at the south-western end of the fourth level.

6.4 Issue 4 – Scale of Buildings Relative to Other Buildings in the Street

The residents are concerned about the proposed buildings along the street frontage being much higher than any buildings in the locality.

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

6.5 Issue 5 – Adequacy of On-Site Car Parking

The residents request that adequate off-street parking be provided for occupants, visitors and staff, particularly given that opportunities for kerbside parking in Bellingara Road are limited on weekends during netball season. The residents also claim that during netball competitions, cars are parked illegally on the footpath area and in close proximity to driveways, making it difficult for local residents to access their driveways.

Comment: The proposal is not likely to lead to increased competition for kerbside parking in the adjacent street, as off-street car parking beyond the recommended standards is provided. A total of 140 car parking spaces are to be provided on the site and this compares favourably with a requirement for 128 car parking spaces.

6.6 Issue 6 – Traffic Impacts on the Local Road Network

The residents raise concerns over existing traffic congestion on weekends during netball season and argue that this congestion will be worsened as a result of the proposed vehicular access onto Bellingara Road. The residents also query how emergency vehicles will access the site at these times.

Additional measures to improve the visibility of the nearby pedestrian crossing (such as lighting) and reduce the speed of vehicles using the street are highlighted as being necessary, particularly given the increased numbers of more elderly pedestrians likely to be in the locality as a result of the proposal. Concerns are also raised over limited sight distances for vehicles attempting to make a right-hand turn from Kiama Street into Box Road, as a result of other vehicles being parked close to that intersection and the exacerbation of this problem by the increased traffic generated by the proposal.

Comment: The applicant has submitted a traffic impact assessment that concludes that the projected additional traffic generation will be imperceptible and there will be no adverse traffic safety or capacity implications as a result of the proposal. No issues have been raised by NSW Roads & Maritime Services or Council’s Traffic & Transport Unit with respect to traffic impacts of the proposal on the local and main road networks.

It is also important to recognise that the traffic generation of the overall development of the site was considered in the assessment of the original master plan and found to be acceptable. Further, the dwelling yield in the

current proposal is generally consistent with that envisaged by the original master plan.

The proposed vehicular access arrangements via Bellingara Road are generally in keeping with the original master plan, albeit the driveway access has been relocated slightly northwards and further away from the pedestrian crossing. These arrangements were deemed acceptable on the basis of the ample width of the road carriageway together with the substantial sight distances available in either direction. These arrangements will also be adequate for emergency vehicles, noting that alternate access to and from the site will be available via Kiama Street.

The other suggestions/concerns regarding the pedestrian crossing, speeding vehicles and Box Road/Kiama Street intersection are considered to be outside the scope of assessment of the current applications. These matters should be referred to Council's Traffic & Transport Unit and Regulatory Enforcement Unit for separate investigation and any action if required.

7.0 STATUTORY CONSIDERATIONS

Section 83B of the Environmental Planning & Assessment Act 1979 makes provision for the lodgement of development applications that set out concept proposals for the development of a site and for which detailed proposals for separate parts of the site are to be the subject of subsequent development applications. This type of application is referred to as 'staged development'.

The provisions of the following environmental planning instruments and development control plans are relevant to the proposal:

- State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 ('Seniors Housing SEPP')
- State Environmental Planning Policy No. 55 – Remediation of Land
- State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development ('SEPP 65')
- State Environmental Planning Policy (Infrastructure) 2007 ('Infrastructure SEPP')
- State Environmental Planning Policy (Building Sustainability Index: BASIX 2004)
- Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment
- Sutherland Shire Local Environmental Plan 2006 ('SSLEP 2006')
- Sutherland Shire Development Control Plan 2006 ('SSDCP 2006')
- Draft Sutherland Shire Local Environmental Plan 2013 ('Draft LEP')

The site is located within 'Zone 12 – Special Uses (Seniors Housing)' pursuant to the provisions of SSLEP 2006. Development for the purposes of 'seniors housing' including 'self contained dwellings', as proposed by these applications, is allowed with consent under the provisions of both SSLEP 2006 and the Seniors Housing SEPP.

The provisions of the exhibited Draft LEP are relevant to the proposal. The site is proposed to be re-zoned 'R3 Medium Density Residential' under the latest exhibited version of the Draft LEP. Within this zone, the proposal remains permissible with consent. The Draft LEP also allows for seniors housing on the site to be up to 20 metres in height (the equivalent of a six (6) storey building).

The provisions of the Draft LEP are not imminent or certain and should be given little weight in the assessment of these applications.

8.0 STATEMENT OF COMPLIANCE

The table below contains a summary and compliance checklist of applicable development standards:

Standard/Control	Required	Proposed	Compliance
Sutherland Shire Local Environmental Plan 2006			
Clause 33 (4)(a) No. of Storeys	2 (max)	5-6 (max)	No (but consistent with master plan) Refer to 'Assessment'
Clause 33(4)(b) Height to Ceiling	7.2m (max)	18.6m (max)	No (as above) Refer to 'Assessment'
Clause 33(4)(b) Height to Roof	9m (max)	20.6m (max)	No (as above) Refer to 'Assessment'
State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004			
Clause 40(2) Site Size	1000m ² (min)	49,850m ²	Yes
Clause 40(3) Site Frontage	20m (min)	195m (min)	Yes

9.0 SPECIALIST COMMENTS AND EXTERNAL REFERRALS

The development applications were referred to internal and external specialists for assessment. The following comments were received:

9.1. NSW Police Force

Comments were sought in accordance with Council's protocol and having regard to the crime prevention guidelines issued by the NSW Department of Planning. The Miranda Local Area Command has advised that a crime risk assessment is not necessary in this instance given the nature of the proposal. It is also noted that the general locality has as low crime risk rating.

Notwithstanding the low crime risk rating of the locality, it is recommend that closed circuit television for both pedestrian and vehicular access points be incorporated into the proposal, on the basis of the relatively greater vulnerability of the prospective occupants and so as to provide reassurance to residents and visitors and a deterrence to 'would be' offenders. This measure may be readily addressed by suitable conditions of consent.

9.2. NSW Roads & Maritime Services

As the original master plan for the overall development (DA08/0808) was referred to the NSW Roads & Traffic Authority (as it was known at the time) in accordance with the provisions of Clause 104 of the Infrastructure SEPP, it was considered prudent to seek input on the current proposal. No concerns were raised by NSW Roads & Maritime Services in terms of the impact of the proposal on its main road network and operations.

9.3. Ausgrid

Comments were sought from Ausgrid with regard to potential safety risks associated with the easement for electricity transmission and associated infrastructure that traverses the site, in accordance with the provisions of Clause 45 of the Infrastructure SEPP. Whilst Ausgrid raise no objections to the proposal in terms of those provisions, they request the imposition of a number of conditions of consent to ensure the safety and compatibility of both the proposal and their assets. These recommended conditions of consent include compliance with draft national standards on exposure to electric and magnetic fields. A full copy of this external report is provided in Appendix "F".

9.4. Architectural Review Advisory Panel

Council's Architectural Review Advisory Panel ('ARAP') considered the applications at its meeting held on 19 September 2013 and the ARAP report was subsequently issued on 28 September 2013. The report was based on the plans that were submitted upon lodgement of the applications. A full copy of this internal report is provided in Appendix "G". This report concluded as follows:

"The Applicant has addressed many of the previous site design and built form concerns in the pre-DA.

The development though requires further resolution and design improvement of the internal 'street', community centre, the southern edge of the Village Green, villas, façade differentiation to Buildings C and D, the top storeys of Buildings A and D, roof design of Building C, stormwater strategy and landscape design.

Ameliorating the visual impact of the overhead power lines is not easy but the reinstatement of trees along Bellingara Road will add scale, as will the proposed Stage 3.

The site analysis is incomplete. Site cross-sections of Stage 2 from Bellingara Road to Stage 1 are required. A stormwater strategy for the site is required, at least for Stage 2. Show approved Stage 3 envelopes, adjacent houses and the industrial envelope in the Stage 2 street elevation (existing buildings are shown only in existing site sections).

The 3D digital model of Stage 2 needs to be developed to show paving, planting, retaining walls, fencing, bridges, windows, building materials and colours; to allow a proper assessment of the proposal."

9.5. Assessment Team Urban Designer

Council's assessment team urban designer has assessed the revised plans and additional information submitted in response to the report from ARAP. This assessment indicates that the applicant has responded positively and included many of the suggestions outlined in the ARAP report in their revised plans. Where the Panel's suggestions have not been included, a suitable rationale based on the specific requirements of the operator and/or further supporting information has been provided.

Concerns remain over the lack of visual differentiation in the treatment of the building facades along the street frontage. Council's assessment team urban designer advises that a clearer identity for each apartment block should be pursued, by varying the feature colours of balconies and face brick selection of each of the buildings fronting the street. The applicant has since submitted revised elevation details and a colour scheme that ensures that each building has an individually distinguishable identity from the other buildings along the street frontage.

9.6. Assessment Team Landscape Architect

Comment was sought particularly regarding landscaping and green web requirements. No objection is raised to the proposal, subject to suitable conditions of development consent. It is recommended that the rear decks of the villas be reduced in depth and the rear courtyard fencing of these villas be deleted, so as to enhance the value of the southern boundary setback as a continuous east-west green web link through the site. Similar changes to enhance green web linkages are also recommended with respect to the treatment of the front setback area to Bellingara Road.

9.7. Assessment Team Engineer

Comment was sought particularly regarding stormwater management, vehicular access, car parking and servicing arrangements having regard to the AS2890 series, traffic management, site management and road frontage works. No objection is raised to the proposal, subject to suitable conditions of development consent.

9.8. Assessment Team Environmental Scientist

Comment was sought on the suitability of the site having regard to its previous contaminated state and proximity to acid sulfate soils. No concerns are raised in terms of these risks, subject to suitable conditions of development consent. The most recent site audit statement has certified that the land is suitable for the proposed use. It is also recommended that opportunities to enhance the value of the site in Council's Green Web Strategy should be maximised.

9.9. Tree Assessment Officer

Comment was sought particularly regarding the proposed removal of trees from the site. The conclusions and recommendations of the applicant's tree consultant are generally concurred with. No objection is raised to the proposal, subject to suitable conditions of development consent including a requirement that replacement tree planting be provided.

9.10. Communities Unit

Comment was sought particularly regarding crime risk and accessibility including access for people with disabilities. No objection is raised to the proposal, subject to suitable conditions of development consent.

9.11. Stormwater Management Branch

Comment was sought particularly regarding stormwater management, having regard to water quality considerations and the site's proximity to flood prone land. No significant issues are raised, subject to the applicant specifying the proposed uses of stormwater to be harvested by the development.

9.12. Environmental Health & Regulation Unit

Comment was sought particularly regarding basement ventilation, noise impacts and food handling requirements. No objection is raised to the proposal, subject to suitable conditions of development consent.

9.13. Traffic & Transport Unit/Civil Assets Unit

Comment was sought particularly regarding traffic impacts on the road system and any specific public domain requirements. The on-going parking and traffic congestion issues associated with the nearby netball courts were acknowledged. However, no significant issues were raised regarding the traffic generation and car parking demands of the proposal and its effect on the local road network.

10.0 ASSESSMENT

Following a detailed assessment of the applications having regard to the Heads of Consideration under Section 79C(1) of the Environmental Planning and Assessment Act 1979, the following matters are considered important:

10.1 Provisions of the Seniors Housing SEPP

The Seniors Housing SEPP applies to the site, as it is zoned primarily for urban purposes and the special uses zoning nominates 'seniors housing' as the intended use.

Importantly, Clause 5(3) of the Seniors Housing SEPP provides as follows:

"If this Policy is inconsistent with any other environmental planning instrument, made before or after this Policy, this Policy prevails to the extent of the inconsistency."

As referred to in the compliance table in this report, SSLEP 2006 contains development standards that control the heights of buildings on the site, including a two (2) storey limit and maximum heights of 7.2 metres from ground level to the uppermost ceiling level and 9 metres from ground level to the highest point of the roof.

The Seniors Housing SEPP does not contain any provisions that specifically limit the heights of buildings in special uses zones. Whilst the provisions of Clause 50 of the Seniors Housing SEPP refer to a building height of 8 metres

or less, this is only for the purposes of establishing a limit within which a consent authority must not refuse consent to a development application on the grounds of building height. Further, the Department of Planning advises by way of a 'note' within the Seniors Housing SEPP that these provisions do not impose any limitations on the grounds on which a consent authority may grant development consent.

In other words, a consent authority may grant development consent to a development application for seniors housing that comprises buildings greater than 8 metres in height. On this basis, the provisions of the Seniors Housing SEPP prevail over the provisions of SSLEP 2006 in the assessment of the proposal in relation to building height.

The relevant provisions of the Seniors Housing SEPP are addressed as follows.

10.1.1 Type of Residential Accommodation

Clause 13(1) provides as follows:

*"In this Policy, a **self-contained dwelling** is a dwelling or part of a building (other than a hostel), whether attached to another dwelling or not, housing seniors or people with a disability, where private facilities for significant cooking, sleeping and washing are included in the dwelling or part of the building, but where clothes washing facilities or other facilities for use in connection with the dwelling or part of the building may be provided on a shared basis."*

Clause 13(3) also provides as follows:

*"In this Policy, **serviced self-care housing** is seniors' housing that consists of self-contained dwellings where the following services are available on the site: meals, cleaning services, personal care, nursing care."*

The plans and supporting information accompanying the applications clearly demonstrate that the proposal comprises residential accommodation that is intended to be used permanently for seniors or people with a disability consisting of a group of 'self-contained dwellings' as defined above. The information submitted also clearly demonstrates that the proposal comprises 'serviced self-care housing' as defined above.

10.1.2 Location and Access to Facilities

The applicant has provided satisfactory written evidence that demonstrates how residents of the proposed development will have access to the necessary services and facilities in accordance with the provisions of Clause 26. There is a regular bus service (Route 972 operated by Veolia Transport) that includes bus stops immediately adjacent to the site in Bellingara Road and that can take residents to Miranda and Southgate shopping centres and local health and civic services. These bus stops are accessible from the site via suitably graded, sealed pathways.

The applicant indicates that the on-site bus service provided in conjunction with the residential aged care facility will also be available for use by residents of the independent living accommodation to access services and facilities outside of the site.

10.1.3 Water and Sewer

Reticulated water and sewerage infrastructure is presently available to the site. The applicant has submitted information that demonstrates that the housing will be connected to a reticulated water system and has adequate facilities for the removal of sewage, in accordance with the provisions of Clause 28.

10.1.4 Site Compatibility

The proposal is considered to satisfy the relevant site compatibility criteria as set out in Clause 25. The proposal is considered to be compatible with the surrounding land uses, having regard to the following factors:

- The site is not subject to any natural hazard risks such as flooding or bushfire.
- The site has no known significant environmental values such as remnant bushland or endangered flora and fauna.
- Much of the adjoining development to the south and west of the site is residential in character.
- The adjacent industrial and service-type activities to the north and east of the site are generally of a low intensity and impacts can be mitigated.
- The site is already provided with the necessary water and sewerage infrastructure.
- Regular bus services that access local services and facilities operate adjacent to the site.

10.1.5 Site Analysis

The site analysis information accompanying the applications is considered satisfactory in terms of the requirements as outlined in Clause 30. The applications clearly demonstrate that the proposal has evolved from a proper site analysis that identifies the key opportunities and constraints of the site.

10.1.6 Design Principles

Clause 32 prescribes that consent must not be granted to a development application made under the Seniors Housing SEPP unless the consent authority is satisfied that the proposal demonstrates that adequate regard has been given to certain design principles outlined in Clauses 33-39 inclusive. These design principles relate to neighbourhood amenity and streetscape, visual and acoustic privacy, solar access and design for climate, stormwater, crime prevention, accessibility and waste management.

Having regard to the plans and other supporting information submitted with the applications and the context of the site and locality, it is considered that the above design principles have been adequately addressed in the design of the proposal, with some minor exceptions.

Despite subsequent modifications to the plans in response to concerns raised by adjacent residents and ARAP regarding overshadowing, overlooking and visual bulk impacts, the proposed 4-5 storey building in the south-western corner of the site is still not considered to adequately address the design principles, particularly those principles prescribed in Clause 33 as follows:

- *The proposed development should maintain reasonable neighbourhood amenity and appropriate residential character by providing building setbacks to reduce bulk and overshadowing.*
- *The proposed development should maintain reasonable neighbourhood amenity and appropriate residential character by adopting building heights at the street frontage that are compatible in scale with adjacent development.*

The on-going concerns over this particular building in terms of its relationship to the existing streetscape and visual bulk, overshadowing and overlooking impacts on adjoining residents to the south, are discussed in more detail later in Section 10.3 of this report.

10.1.7 Site Area Development Standards

Clause 40 prescribes a minimum site size of 1000m² and a minimum site frontage (as measured at the building line) of 20 metres. The subject site readily satisfies these development standards, being 49,850m² in area and having a frontage of 195 metres measured at the building line.

10.1.8 Access & Useability Standards

Clause 41 prescribes various standards concerning accessibility and useability having regard to relevant Australian Standards including the AS1428.1 and 4299 series. The applicant has submitted a report and checklist prepared by an accredited access consultant verifying that the proposal will comply with the relevant standards. These standards may be reinforced via suitable conditions of consent.

10.1.9 Other Standards

Clause 50 prescribes that consent to development for the purpose of self-contained dwellings must not be refused on the grounds of building height, density and scale, landscaped area, deep soil zones, solar access and parking, if certain numerical standards are met. However, it is noted that these standards do not impose any limitations on the grounds on which a consent authority may grant development consent.

In other words, a consent authority is not limited in its capacity to grant approval for development for the purpose of self contained dwellings, if the proposal departs from these standards. These standards are addressed as follows.

- Building Height

“A consent authority must not refuse consent.....if all proposed buildings are 8 metres or less in height (and regardless of any other standard specified by another environmental planning instrument limiting development to 2 storeys)”

Comment:

The proposed buildings range in height from single storey villas adjacent to the southern boundary to 4-5 storey apartment buildings adjacent to the street frontage. The currently approved master plan includes apartment buildings ranging from 3-5 storeys in height, except that the footprint, setbacks and orientation of these buildings are very different from the current proposal.

Having regard to the considerable size and proportions of the site, it is considered that the proposed building heights are generally sustainable without adversely impacting on the character and amenity of the locality. The taller buildings are generally located adjacent to the street frontage, whereas the lower buildings are generally located adjacent to the lower-scale detached housing to the south of the site.

The only area of concern in terms of the scale of the proposed buildings is in relation to the 4-5 storey building located in the south-western corner of the site. It is considered that the built form of this particular building does not provide an appropriate transition in scale with the prevailing 1-2 storey detached housing along Bellingara Road to the south of the site. This issue is discussed in more detail later in Section 10.3 of this report.

- Density and Scale

“A consent authority must not refuse consent.....if the density and scale of the buildings when expressed as a floor space ratio is 0.5:1 or less”

Comment:

The applicant indicates that the proposal has a floor space ratio of 0.85:1 (based on the area of the site incorporating the current stage of the development). The existing residential aged care facility was approved with a floor space ratio of 0.35:1 (based on the area of the site incorporating that stage of the development). As a consequence, a floor space ratio of 0.61:1 across that part of the site covered by the first two (2) stages is arrived at. This amount of floor space is generally consistent with the previously approved master plan.

The floor space ratio standard is somewhat irrelevant in this case, particularly considering that the proposal is part of a larger development that includes a mix of housing types with different floor space ratio standards. The Seniors Housing SEPP is silent on floor space ratio standards when it comes to integrated projects such as the current proposal.

The density and scale of the proposal are considered to be acceptable, given that the site is zoned specifically for seniors housing and represents a

significant opportunity to increase housing supply in a relatively accessible location. In general terms, the density and scale of the development (as expressed in its building bulk) represent an appropriate transition between the relatively large-scale industrial buildings to the north and east of the site and the low-scale detached housing to the south and west of the site.

- Landscaped Area

“A consent authority must not refuse consent.....if..... a minimum of 30% of the area of the site is to be landscaped”

Comment:

The applicant indicates that about 46% of the site incorporating the current stage of the development is devoted to landscaped area. The quantity of landscaped area provided and the manner in which it has been distributed throughout the site are considered to be more than adequate. Ample boundary setbacks and separation between buildings within the development have been provided, so as to accommodate adequate opportunities for tree and shrub planting to soften and complement the scale of the proposed buildings.

An appropriate mix of informal and formal landscaped areas and a suitable balance of hard and soft landscaping elements are provided throughout the site, so as to provide adequate amenity for future residents and enhance the character of the locality.

- Deep Soil Zones

“A consent authority must not refuse consent.....if, in relation to that part of the site.....that is not built on, paved or otherwise sealed, there is soil of a sufficient depth to support the growth of trees and shrubs on an area of not less than 15% of the area of the site.....Two-thirds of the deep soil zone should preferably be located at the rear of the site and each area forming part of the zone should have a minimum dimension of 3 metres

Comment:

The applicant indicates that about 28% of the site incorporating the current stage of the development is devoted to deep soil zones. The deep soil zones provided throughout the site have been appropriately located adjacent to the street frontage, along the southern boundary and between the buildings within the development, thus allowing for substantive tree and shrub planting in these locations to complement and soften the proposed built forms and integrate the development into the locality.

- Solar Access

“A consent authority must not refuse consent.....if living rooms and private open spaces for a minimum of 70% of the dwellings of the development receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter”

Comment:

The proposal makes provision for solar access in accordance with this standard. Further, the apartment buildings have been located and designed in such a manner that the villas will be afforded high quality solar access at all times of the year. The proposal is considered acceptable in terms of solar access to dwellings and their private open spaces.

- Parking

*“A consent authority must not refuse consent.....if **at least** the following is provided.....0.5 car spaces for each bedroom where the development application is made by a person other than a social housing provider.....”*

Comment:

Based on the number of nominated bedrooms, an overall total of 99 parking spaces are required for the residential component of the proposal. The proposal is consistent with this standard in that it makes provision for 140 parking spaces, including 101 enclosed parking spaces for use by residents. The remaining car parking spaces distributed throughout the site are available for use by visitors and staff.

The car parking facilities have been located and designed in such a manner that they are readily identifiable and conveniently accessible. In this regard, vehicular access to these facilities is provided via a single driveway off the main east-west driveway through the site. The basement car parking areas allocated to residents are provided with secure access. The basement car parking area allocated to staff and visitors is provided with unsecured access.

10.2 Urban Design Quality

The proposal achieves a high standard of urban design quality when assessed against the provisions of SEPP 65 and the associated Residential Flat Design Code. The issues raised by ARAP related mainly to the detailing of the proposal and most of these issues have been sufficiently addressed by the revised plans. No significant issues were raised in terms of the overall approach to site planning, the massing of the buildings or the layouts of the individual apartments in terms of solar access, ventilation and other amenity considerations. In general terms, the proposal's contemporary design, highly articulated facades and use of modern materials will make a positive contribution to the urban design quality of the neighbourhood.

The proposal better addresses the public domain in comparison to the previously approved master plan. The community centre is now located and designed with an active frontage to the street, as well as the main east-west driveway that traverses the site. The buildings adjacent to the street frontage have been re-orientated so that more dwellings will address and overlook the street. The ground floor dwellings are directly connected to the street via individual pedestrian access points.

The concept of a centralised 'village green' surrounded by buildings is considered to be a significant improvement on the currently approved master plan. The proposed village green is likely to be better utilised by residents, owing to its more central location within the village and better integration with the residential accommodation. The design of the village green also allows for greater levels of passive and active surveillance, as well as enhanced acoustic and visual privacy for residents.

The proposal will need to incorporate a well-considered scheme of public domain improvements to ensure that the development successfully becomes an accepted and functional part of the neighbourhood. Supplementary tree planting within the adjacent road reserve will be required as a minimum. Further improvements to the footpaths in the vicinity of the site may also be necessary. These matters may be addressed by conditions of development consent.

10.3 Streetscape and Residential Amenity Impacts

The currently approved master plan allows for a building of 3-4 storeys in height in the south-western corner of the site. This building is required to be set back a minimum of 12 metres from the southern boundary. The current proposal envisages a building of 4-5 storeys in this location and the building is set back from the southern boundary by seven (7) metres at its closest point. From the viewpoint of the residents immediately adjacent to the south-western corner of the site, the built form will be more noticeable due to the reduced boundary setback and increased building height.

The shadow diagrams submitted with the application indicate that the residential properties to the south will still receive reasonable solar access during the critical period of 9.00am to 3.00pm at mid-winter. The revisions to the external configuration of the apartments at the south-western extremity of the building, together with the proposed screening measures on the south-eastern elevation of the building, ensure that visual privacy impacts on the adjoining residents will be minimised to a reasonable degree.

However, the bulk and scale of the building, when viewed in the context of the scale of the existing streetscape and the outlook from the rear yards of the adjacent residents are unacceptable on the basis of visual intrusiveness, bulk and 'dominance'.

The residential properties immediately to the south of the site are zoned as 'Local Housing' and typified by 1-2 storey dwelling houses. Whilst the proposed building reduces in scale from five (5) storeys at its north-eastern end to four (4) storeys at its south-western end, it still does not provide for a satisfactory transition in scale with the prevailing 1-2 storey detached housing along Bellingara Road to the south of the site. The relevant design principle in the Seniors Housing SEPP is not adequately addressed. The proposed building is not considered to maintain appropriate residential scale and character, in that it does not adopt appropriate building heights that are compatible in scale with adjacent development.

The four (4) storey scale of the south-western end of the building will be visually imposing when viewed from the adjacent residential properties immediately to the south, particularly having regard to its relatively close proximity to the southern boundary. In the context of a low density residential setting, there would be a reasonable expectation from existing residents that new buildings within close proximity would generally be of a similar 1-2 storey scale as the existing detached housing in the locality. The four (4) storey scale of the building goes well beyond this expectation. The relevant design principle in the Seniors Housing SEPP is not adequately addressed. The proposed building is not considered to maintain reasonable neighbourhood amenity, in that it does not include adequate building setbacks to reduce bulk.

If the south-western end of the building was reduced in height by one (1) storey, a reasonable transition in scale and an appropriate visual bulk would be achieved. This modification would also have beneficial effects of reducing overshadowing and visual privacy impacts on adjacent residents to the south. It is recommended that the bulk and scale of the building be reduced, by way of removal of the two (2) apartments at the southern end of the fourth level.

10.4 Electromagnetic Radiation Emissions

The site is traversed by 132 kilovolt electricity transmission lines. In view of the residential nature of the proposal and the close proximity of the proposed buildings to these transmission lines, the applicant was requested to address the impact of electromagnetic radiation emitted from the transmission lines upon future occupants of the complex.

The applicant has subsequently engaged a recognised consultant with expertise in electromagnetic field ('EMF') assessments. The report provided to Council concludes that the electric and magnetic fields calculated for different heights above the ground level are well within the recommended safe exposure limits. The report also mentions that the measured and calculated electric and magnetic fields within the easement are below the recommended maximum level for continuous exposure.

In applying the precautionary principle, the EMF consultant recommends the implementation of a specific mitigation measure to further minimise future residents' exposure to electromagnetic radiation from the transmission lines. This mitigation measure requires modifications to Ausgrid's electricity supply infrastructure comprising "the reversal of two (2) outer phases of feeder 917". It is relevant to consider that the same mitigation measure was recommended and subsequently supported with respect to the concept plan approval relating to the 'Sharks' development at Captain Cook Drive, Woollooware. The Sharks development site is traversed by the same electricity transmission line as the subject site.

Following consultations in accordance with the provisions of Clause 45 of the Infrastructure SEPP, Ausgrid has raised no objections to the proposal subject to the imposition of a number of conditions of consent to ensure the safety and compatibility of both the proposal and their assets. These recommended conditions of consent include compliance with draft national standards on

exposure to electric and magnetic fields. These draft standards include both reference levels and precautionary requirements.

The imposition of the recommended condition addressing the draft national standards should be sufficient in covering the recommendations of the EMF consultant, given that those draft standards include the application of the precautionary principle. The recommended condition would also provide scope for the applicant to investigate alternative mitigation measures in addressing the precautionary requirements. Depending on the timing of the 'Sharks' development at Woollooware, such mitigation measures to address the precautionary requirements may not even be necessary. Subject to the imposition of the conditions of consent as recommended by Ausgrid, the proposal is considered to be acceptable on the grounds of EMF health risks.

10.5 Staged Development Provisions

Section 83D of the Environmental Planning & Assessment Act 1979 prescribes in part as follows:

- (2) *While any consent granted on the determination of a staged development application for a site remains in force, the determination of any further development application in respect of that site cannot be inconsistent with that consent.*
- (3) *Subsection (2) does not prevent the modification in accordance with this Act of a consent granted on the determination of a staged development application.*

In the event of consent being granted to the first application (DA13/0759), there will be two (2) master plans in force over that part of the site covered by Stage 2 of the development. As a result, the detailed proposal (DA13/0760) will be inconsistent with the earlier master plan (DA08/0808). To resolve this inconsistency and allow consent to be granted to the detailed proposal, it will be necessary to modify the earlier master plan consent by excluding from its approved plans, the plan details relating to that part of the site covered by Stage 2. This can be effected through the provisions of Section 80A(1)(b) of the Environmental Planning & Assessment Act 1979 which allows consent authorities to impose a condition if *"it requires the modification.....of a consent.....in relation to the land to which the development application relates."* A suitable condition of consent has been imposed on the first application (DA13/0759) to this effect.

On balance, it is likely that the above mechanisms for approval of the application (DA13/0759) may be utilised in this case, irrespective of any concerns regarding whether the application would ordinarily fit within a modification application under Section 96 of the Act.

11.0 SECTION 94 CONTRIBUTIONS

The operator has made a submission seeking an exemption from the monetary contribution requirements of Council's Section 94 contributions plans that apply to the site. These contribution plans relate to the provision of

open space and recreational and community facilities. The principal argument put forward by the operator is that the proposal comprises 'serviced self-care housing' as defined under the Seniors Housing SEPP, for which an automatic exemption is provided under the relevant Section 94 contributions plans.

The relevant Section 94 contributions plans stipulate that components of applications for housing for older people or people with disabilities that include hostels, residential care facilities and serviced self-care housing as defined under the Seniors Housing SEPP are not subject to monetary contributions.

Serviced self-care housing is defined as seniors housing consisting of self-contained dwellings, where the following services are available on the site:

- meals
- cleaning services
- personal care
- nursing care

The operator has verified that the above services will be available on the site. Based on the plans and supporting information submitted by the applicant, the recent submissions from the operator and the integration and co-existence of the residential aged care facility and self-contained dwellings and associated support facilities on the same site, it is considered that the proposal satisfies the definition of 'serviced self-care housing' and benefits from the automatic exemption under the relevant contributions plans. Accordingly, no monetary contributions are applicable in this case.

12.0 DECLARATION OF AFFILIATION

There was no declaration of affiliation, gifts or political donations noted on the relevant forms submitted with the development applications.

13.0 CONCLUSION

The proposal is for the next stage of a large seniors' housing development at No. 19 Kiama Street, Miranda and is covered by two (2) applications.

The first application (DA13/0759) is for a new master plan to replace the existing approved master plan, for that part of the site located to the west of the residential aged care facility and generally south of the electricity transmission easement.

The second application (DA13/0760) is for the construction of the second stage of the development in accordance with the new master plan mentioned above. This stage comprises 82 independent living units in four (4) apartment buildings, ten (10) villas, a community centre and village green.

The site is located within 'Zone 12 – Special Uses (Seniors Housing)' pursuant to the provisions of Sutherland Shire Local Environmental Plan 2006. Development for the purposes of 'seniors housing', including 'self

contained dwellings' as proposed by these applications, is allowed with consent under the provisions of both Sutherland Shire Local Environmental Plan 2006 and State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.

In response to public exhibition of both applications, three (3) submissions were received from adjacent residents to the south of the site. The matters raised in these submissions have been dealt with by design changes or conditions of development consent, where appropriate.

The proposal generally satisfies the underlying aims of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, in that it increases the supply and diversity of residences that meet the needs of older people, makes efficient use of existing infrastructure and services and is of good design.

Following detailed assessment of the proposal and having regard to the Heads of Consideration under Section 79C (1) of the Environmental Planning and Assessment Act 1979, the applications are considered worthy of support, subject to minor design changes. The new master plan and detailed proposal for Stage 2 of the development are considered to be an improvement on the previously approved master plan scheme, in terms of building massing, impacts on neighbouring properties and residential amenity.

It is recommended that the bulk and scale of the proposed apartment building in the south-western corner of the site be reduced, by way of removal of the two (2) apartments at the southern end of the fourth level. This modification can be adequately addressed by way of conditions of consent, including a condition requiring such design changes to be indicated on the subsequent construction certificate drawings.

14.0 RECOMMENDATION

- 14.1 That Development Application No. 13/0759 for a New Master Plan for Stage 2 of a Seniors Housing Development at Lot 1 DP 1097917 (No. 19) Kiama Street, Miranda be approved, subject to the draft conditions of consent detailed in Appendix "A" of the Report.
- 14.2 That following receipt of the notice under Clause 97 of the Environmental Planning & Assessment Regulation 2000 (as required by Condition 3 of the development consent relating to DA13/0759), Development Application No. 13/0760 for Construction of Stage 2 of a Seniors Housing Development Comprising 82 Independent Living Units in four (4) Apartment Buildings, Ten (10) Villas, a Community Centre and Village Green at Lot 1 DP 1097917 (No. 19) Kiama Street, Miranda be approved, subject to the draft conditions of consent detailed in Appendix "B" of the Report.