

JRPP No:	2013SYE086
DA No:	DA13/0898
LGA:	Sutherland Shire
Proposed Development:	Demolition of Existing Independent Living Units and Construction of a 120 Bed Residential Aged Care Facility Within "Thomas Holt Village"
Site/Street Address:	Lot 100 DP 1083371 (Nos. 1-25) Acacia Road, Kirrawee
Applicant:	Paynter Dixon Constructions
Submissions:	Three (3)
Recommendation:	Deferred Commencement Approval
Report By:	Peter Brooker - Environmental Assessment Officer (Planner/Architect) 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, this application is referred to the Joint Regional Planning Panel ('JRPP') as the development has a capital investment value of more than \$20,000,000. The application nominates the value of the development as \$33,264,000.

1.2 Proposal

The application is for demolition of existing independent living units and construction of a 120 bed residential aged care facility within "Thomas Holt Village".

1.3 The Site

The subject site is located on the western side and at the northern end of Acacia Road, at the 'delta' of Sutherland, Kirrawee and Jannali.

1.4 The Issues

The main issues identified are as follows:

- Bulk and scale relative to the surrounding environment.
- Design quality, including SEPP 65 considerations and the resolution of the interface between the development and the public domain.
- Landscaping and vegetation.
- Impacts on the amenity of neighbouring residents.
- Car parking demand and traffic generation impacts.
- Bushfire (the use of Council land for asset protection is proposed).

- Electromagnetic radiation from transmission lines.

1.5 Conclusion

Following detailed assessment of the proposed development the application is considered worthy of support, subject to conditions. Specifically, it is recommended that a resolution to proposed works outside the site be agreed prior to any construction being undertaken. Additionally, that assurance for safe work practices and residential amenity is provided having regard to the close proximity of the works to existing high voltage transmission lines.

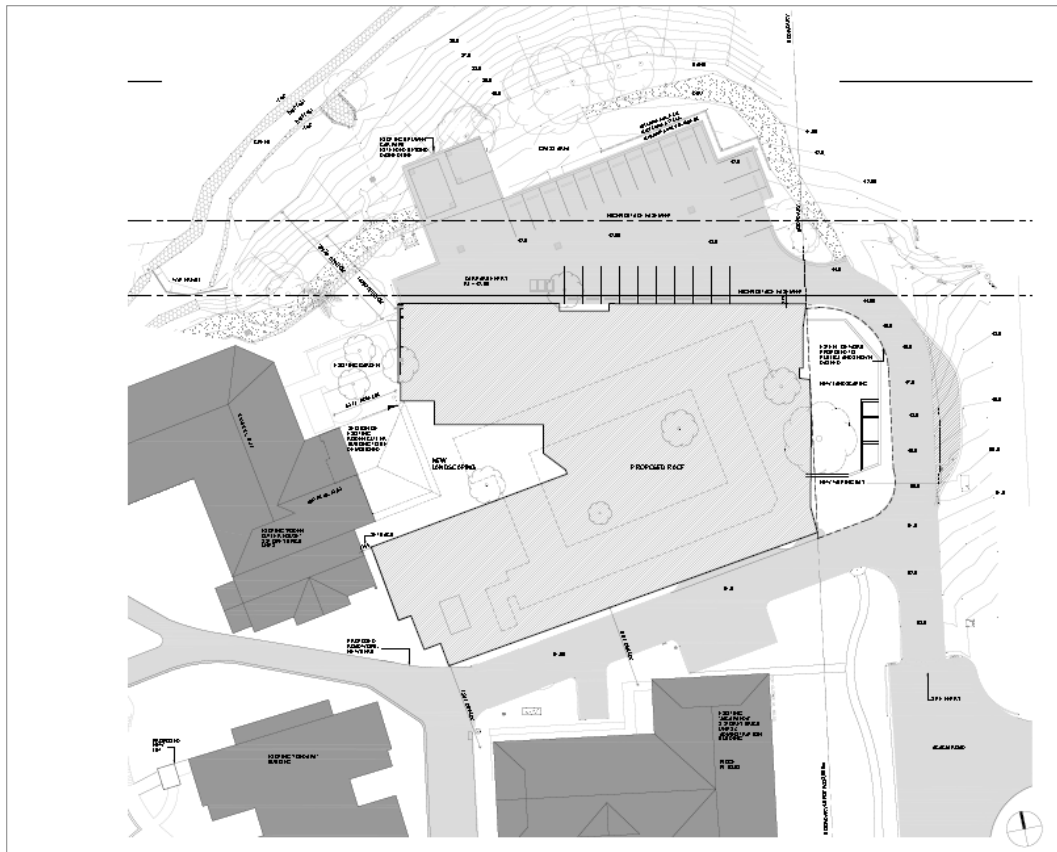
2.0 DESCRIPTION OF PROPOSAL

The application is for demolition of existing independent living units and construction of a new residential aged care facility building within the "Thomas Holt Village" complex.

The application seeks consent for the demolition of the existing 'Seymour Shaw Court', a four (4) storey, 40 unit building located within the north-eastern portion of the site. The eastern portion of the existing adjacent three (3) storey 'Roden Cutler House' containing under-utilised storage, amenity facilities and an obsolete chapel is also to be demolished.

The resultant vacant area is to allow for the construction of a 120 bed residential aged care facility contained within a four (4) to seven (7) storey building. The new building will also contain a multi-function entertainment centre at the upper level; with café at the ground level, kitchen facilities, service providers for residents' consultation rooms and associated undercroft and outdoor parking for 49 vehicles.

Many of the existing aged care services which are 'scattered' throughout the complex are to be rationalised within the new building.

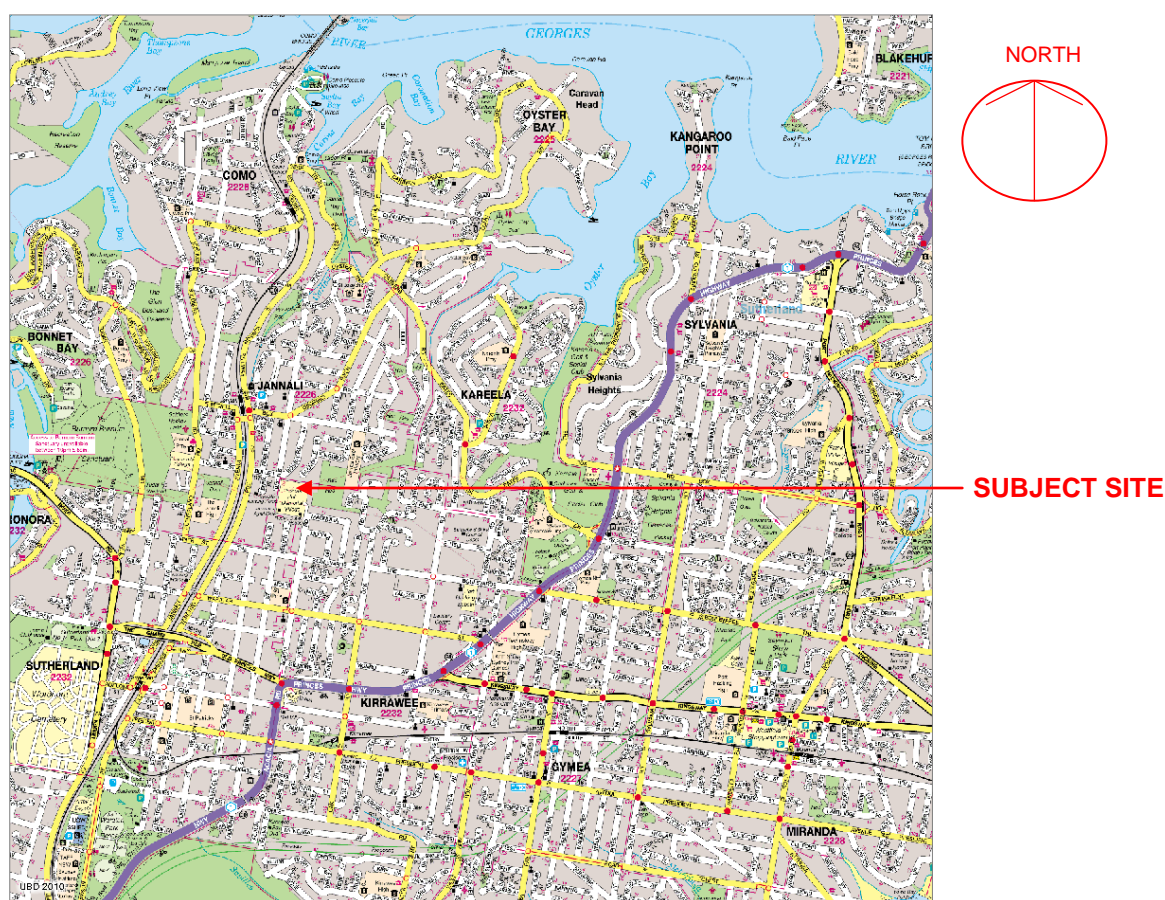


Site Plan

3.0 SITE DESCRIPTION AND LOCALITY

The overall site is approximately 4.4 hectares in area and has a frontage to the northern end of Acacia Road. In the south-western corner of the site are existing residential aged care facilities and administration buildings. The remainder of the site is unused and in a natural state. A natural water course known as Oyster Creek flows through the site from its south-western corner toward the north-eastern corner. Two (2) major electricity transmission easements traverse the site in a generally east-west direction.

Surrounding the site are detached dwelling houses, medium density developments and an aged care facility. Bushland provides a buffer between the existing (and proposed) buildings on the site and most of the neighbouring properties, apart from the sites immediately to the south and east.



Locality Plan



Aerial Photo

4.0 BACKGROUND

A history of the development proposal is as follows:

- A pre-application discussion (PAD) was held on 23 May 2013 regarding this development. A formal letter of response was issued by Council dated 13 June 2013. A full copy of the advice provided to the Applicant is contained within Appendix “B” of this report and the main points contained in this letter are as follows:
 - Environmental impacts (having regard to bushfire and electromagnetic radiation).
 - Internal amenity for future residents.
 - Height variation.
- A Pre-DA meeting with Council’s Architectural Review Advisory Panel (ARAP) was held on 27 June 2013 regarding this development. A formal letter of response was issued by Council dated 11 July 2013. A full copy of the advice provided to the Applicant is contained within Appendix “C” of this report and the main points contained in this letter are as follows:
 - Relationship to existing “Thomas Holt Village” development is awkward.
 - Internal amenity for future residents appears to be poor.
 - Extent of proposed development appears excessive.

- The current application was submitted on 01 October 2013.
- An Information Session was held on 22 October 2013 and two (2) people attended.
- The application was placed on exhibition, with the last date for public submissions being 31 October 2013. As a result three (3) submissions were received with two (2) submitted prior to that date and one (1) received after.
- On 1 November 2013 Council officers requested that the following additional information be provided.
 - An access report.
 - SEPP 1 for height variation.
- The application was considered by Council's Submissions Review Panel on 6 November 2013.
- A meeting with ARAP was held on 7 November 2013 regarding this development. A formal report was issued by Council dated 19 November 2013. A full copy of the advice provided to the Applicant is contained within Appendix "D" of this report and the main points contained in this report are as follows:
 - Noted improvement in the overall design.
 - Suggest an increase in courtyard size as an improvement for future residents.
- The requested additional information was lodged on 20 November 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 the application.

6.0 PUBLIC PARTICIPATION

The application was advertised in accordance with the provisions of Chapter 12 of Sutherland Shire Development Control Plan 2006 (SSDCP 2006). 202 adjoining or affected owners were notified of the proposal and three (3) submissions were received.

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

Address	Date of Letter/s	Issues
12 Magnolia Street, Kirrawee	28 October 2013	1
10 Magnolia Street, Kirrawee	30 October 2013	1
4 Magnolia Street, Kirrawee	4 November 2013	1, 2, 3, & 4

The issues raised in these submissions are as follows:

6.1 Issue 1- Adequacy of On-Site Car Parking

The residents request that adequate on-site parking be provided for occupants, visitors and staff, particularly given that opportunities for kerbside parking in Magnolia Street are limited. The residents also claim that currently during day to day operations, cars are constantly parked about the kerbside area, making it difficult for local residents to access the street due to its relatively narrow width.

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. 49 car parking spaces are to be provided on the site for this part of the developed site and this compares favourably with the Seniors SEPP requirement for 30 car parking spaces.

6.2 Issue 2 – Context

The residents object to the height of the proposed building as being not in context with the existing surrounding low density housing.

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

6.3 Issue 3 - Visual and Privacy Impacts

The residents object to the height of the proposed building as an intrusion upon the privacy of their rear yard areas.

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

6.4 Issue 4 - Zoning

The residents object to the height of the proposed building, being unacceptable in view of the proposed future low density zoning of the site.

Comment: The proposed future low density zoning of the site is subject to the provisions of the Draft Sutherland Shire Local Environmental Plan 2013. Council has resolved that it be made clear to all parties that due to a request to conduct a public hearing of the Sutherland Shire Local Environmental Plan 2013 it can no longer be considered imminent or certain and as such all development applications and their determination need to be focused on the provisions of Sutherland Shire Local Environmental Plan 2006. Subsequently, the concerns raised regarding compliance with this future planning instrument cannot be considered applicable to this site at this time.

7.0 STATUTORY CONSIDERATIONS

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 is allowed with consent under the provisions of both SSLEP 2006 and the Seniors SEPP.

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 SEPP');
- State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development;
- 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'); and
- Draft Sutherland Shire Local Environmental Plan 2013 ('Draft SSLEP 2013').

The provisions of the exhibited draft Sutherland Shire Local Environmental Plan 2013 ('Draft SSLEP 2013') are relevant to the proposal. The site is proposed to be rezoned to 'E4 Environmental Living' under the latest exhibited version of Draft SSLEP 2013. Within this zone, the proposal is not permissible (but would remain permissible under the Seniors SEPP).

8.0 COMPLIANCE TABLE

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

Standard/Control	Required	Proposed	Complies? (% Variation)
State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004			
Clause 40(2) Site Size	1000m ² (min)	44,220m ²	Yes
Clause 40(3) Site Frontage	20m (min)	233.9m	Yes
Clause 40(4) Building Height In rear 25% of site	8.0m 1 storey	22.2m no development	No Yes
Clause 48(a) Building Height	8.0m 2 storey	22.2m 7	No No
Clause 48(b) Density	1 : 1	0.46 :1	Yes
Clause 48(c)	25m ² per residential bed		

Landscaped Area	3,000m ² (for the proposed new building)	27,862m ²	Yes
Clause 48(d) Parking	30 required	49	Yes
Sutherland Shire Local Environmental Plan 2006			
Clause 33(4)(a)			No
Number of storeys	2 (max)	7	(250%)
Clause 33(4)(b) Height to Ceiling	7.2m (max)	22.05m	No (206.25%)
Clause 33(4)(b) Height to Ridge	9.0m (max)	22.2m	No (146.67%)
Draft Sutherland Shire Local Environmental Plan 2013			
Part 2 - Land Use Table			
Permissibility	Low Density	Aged Care	No
Clause 4.4			
FSR	0.55 : 1	0.46 : 1	Yes
Clause 4.3			
Height	9.0m (max)	22.2m	No
Clause 6.11			
Landscape	35%	63%	Yes
Sutherland Shire Development Control Plan 2006			
Chapter 3 Clause 2.b.5.1			
Street Setback	Align with other residential properties in the street	nil	No

9.0 SPECIALIST COMMENTS AND EXTERNAL REFERRALS

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

9.1 Rural Fire Services (RFS).

Comments were sought from the RFS with regard to potential safety risks associated with bushfire threat from the existing natural bushland areas within and adjoining the site, in accordance with the provisions of Clause 27 of the Seniors SEPP.

Whilst the RFS 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 of the occupants of the proposal. These recommended conditions of consent include compliance with draft national standards on exposure to bushfire threat. A full copy of this external report is provided in Appendix "E".

Additionally, a resolution was made by Council to also refer the application to the local Heathcote District RFS office for an evaluation given their local

knowledge of fire behaviour and history of the site. Comments were received which noted that a reduced APZ has been recommended which would increase the radiant heat level on the subject development from the desired 10kw/m² to 29kw/m².

However, the District Office has considered this reduction appropriate given the reduced fire run available through adjoining bush land due to its smaller size and disconnection with other bush land areas. They conclude that it would result in a reduction of radiant heat by approx 30% as identified in the NSW RFS document Discussion Paper - Asset Protection Zones (APZ) for Existing Development

Additionally, the District Office considers that there is a need for the provision of a Vegetation Management Plan highlighting how this will be implemented and maintain the APZ's.

9.2 Department of Primary Industries (Fisheries)

Comments were sought from the Department of Primary Industries (Fisheries) as per s.91A(3) of the Environmental Planning and Assessment Act 1979. No objection to the proposed development was raised subject to the inclusion of the GTA's provided.

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.

Ausgrid regrets that it cannot provide a definitive response to the development application at this time. However, verbal advice provided to Council indicates that there are concerns that residents should not be subjected to excessive magnetic field levels. It has been established that the power lines within can 'swing' beyond the limit of the easement in strong winds. These are important, but resolvable considerations, which the opportunity of a deferred commencement consent would provide.

9.4 NSW Police Service

Comments were sought in accordance with Council's protocol and having regard to the crime prevention guidelines issued by the NSW Department of Planning. There has been no response provided at the time of reporting. It is noted that the general locality has a low crime risk rating.

Notwithstanding the low crime risk rating, 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.

9.5 Fire and Rescue NSW

Comments were sought from the Fire and Rescue NSW with regard to potential safety risks associated with bushfire threat from the existing natural bushland areas associated and adjoining the site, in accordance with the provisions of Clause 27 of the Seniors SEPP.

There has been no response provided at the time of reporting. It is noted that there has been a response from the RFS that would provide appropriate preventative measures from bushfire threat to be put into place.

9.6 Architectural Review Advisory Panel (ARAP)

Council's Architectural Review Advisory Panel ('ARAP') considered the application at its meeting held on 19 September 2013 and the ARAP report was subsequently issued on 7 November 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 "D". This report concluded as follows:

"The applicant has satisfactorily addressed many of the building and site design issues identified by the Panel in previous submissions to create a humane environment for both aging occupants and staff.

The proposal is of a high architectural design standard and it is hoped that the current commitment to a range of quality exterior materials is manifested in the built project.

There is much thoughtful architectural thinking within the project. The scale of the courtyard, subtly increased, would further improve the external environment."

9.7 Assessment Team Landscape Architect

Comment was sought particularly regarding landscaping and "Greenweb" requirements. No objection is raised to the proposal, subject to suitable conditions of development consent. It was recommended however, that the underground water tanks be relocated to prevent the removal of several existing trees. Comment was also provided in regard to proposed works within road reserve area. This is discussed within the "Assessment" section of this report.

9.8 Assessment Team Engineer

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

9.9 Assessment Team Environmental Scientist

Comment was sought on the suitability of the site having regard to the local area ecology and impacts upon the riparian zone affecting the site. No concerns are raised in terms of these risks, subject to suitable conditions of

development consent. It is also recommended that opportunities to enhance the ESD principles of the proposed development, which have been discussed within the sustainability report submitted with the application, should be maximised.

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 suitable conditions of development consent.

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.

10.0 ASSESSMENT

A detailed assessment of the application has been carried out 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 to this application.

10.1 Relationship between the Development and the Public Domain (due to Proposed Building Height).

The proposed development fails to comply with the SSLEP 2006 development standard of 9.0 metres and a maximum of two (2) storeys for height as it proposes a building which measures 22.2 metres and seven (7) storeys.

Clauses 40(4)(a) and (b) and 48(a) of the Seniors SEPP stipulates that Council cannot refuse developments for aged care facilities based on heights of up to 8.0metres and two (2) storeys, adjacent to a boundary for this site.

The Seniors SEPP however, does not nominate these as "maximum permitted" heights. The plan in fact, does not specifically state any specific height limits, but rather makes a merit assessment required beyond the nominated 8.0 metre/two (2) storey heights.

For the purpose of abundant caution, the applicant has lodged an Objection pursuant to the requirements of SEPP 1. Their full submission is provided in Appendix "F". This submission concludes as follows:

- *"Strict compliance with the standard would hinder achievement of the objectives contained in Section 5(a)(i) and (ii) of the EPA Act.*

- *The proposed height provides a site specific response to the development constraints of the site maintaining amenity requirements of future residents and surrounding land uses.*
- *The proposed variation does not result in any environmental effects.*
- *The proposed variation to the standard does not raise any matter of significance for State or regional environmental planning and satisfies the relevant requirements of SEPP (Seniors Housing).*
- *There is no public benefit in maintaining strict compliance with the standard.”*

The Seniors SEPP applies to the site, as it is zoned for special uses and 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 SEPP does not contain any provisions that specifically limit the heights of buildings in special uses zones. Whilst the provisions of Clause 48 of the Seniors 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 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 after a merit assessment.

Having regard to the height variation sought by the proposal, this building is required to be set back in an alignment with the existing neighbouring residential development which is at an average of 7.5 metres from the site’s eastern boundary adjoining Acacia Road. The current proposal locates a building of 4 - 7 storeys in this position with the building on a nil set back. From the viewpoint of the residents immediately to the east 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 east will still receive reasonable solar access during the critical period of 9.00am to 3.00pm at mid-winter.

The configuration of the apartments along the eastern facade of the building, together with the steep topography of the site, would ensure that visual intrusion and privacy impacts upon the neighbouring properties will be minimised. The particular spaces from which any overlooking could occur are six (6) of the eastern elevation units and two (2) external sitting areas. The units being of a 'personal' environment would be inclined to regard their privacy, important and as such screen their windows. The external sitting areas will have border planter box areas that can be well vegetated with screening plants whilst there is over a 30 metre separation distance between the proposed building and the nearest neighbouring property to the east (including an unmade road).

The access road into the site, which is actually the unformed portion of Acacia Road, has the appearance of an individual property driveway located at the intersection of the 'public' road area of Acacia with Magnolia Street. In this regard the bulk and scale of the building, when viewed in the context of the existing streetscape and the outlook from adjacent yards, is reduced as the building form 'buries' itself from where it is viewed from the 'public' street front.

The residential properties immediately to the south and east of the site are zoned as 'Local Housing' and typified by detached 1-2 storey dwelling houses. Whilst the proposed building reduces in scale from seven (7) storeys at its northern end to four (4) storeys at its southern end, its transition in scale with the prevailing 1-2 storey detached housing to the south and east could appear as a significant change in scale. However, the existing development on this site has established multi storied buildings of four (4) levels and due to its specialised use portrays an institutional nature. Such building types are generally large and they are typically regarded within the community as 'individual' and contained within the site. In this respect they are usually a commonly accepted form of development by the community.

The four (4) storey scale of the southern end of the building (and overall building height) will visually align in height with the roof apex level of the existing Campus offices and administration building when viewed from the adjacent residential properties immediately to the south-east. Additionally, the stepped back arrangement of the proposed upper level will reduce the actual height viewed from ground level and make the overall building height appear less obvious.

The highest portion of the proposed development faces the existing natural bushland area bounding the Oyster Creek riparian zone that flows through the north western segment of the site. This provides a separation of over 170 metres to the nearest residential property to the north, which with the rising topography to those properties places those views from a higher ground level which diminishes the visual impact from the tallest, broadest part of the proposed building. Similarly, the properties to the east are approximately 15 metres higher than the proposal.

It is considered that the relevant design principle in the Seniors SEPP has been adequately addressed in that it will maintain reasonable neighbourhood amenity with sufficient setbacks and a building form that relates to the site's landform.

10.2 Design Quality Having Regard to SEPP 65

SEPP 65 applies to the assessment of residential flat buildings rather than residential aged care facilities. However, it is a useful tool in considering the amenity of units in multi level residential buildings of this nature. Given the particular limitations of residents in the facility, a review of the amenity of spaces to be provided for them is considered important.

Subsequently, the design quality of the proposed development has been reviewed in respect to SEPP 65 design principles.

In this regard Council's ARAP concluded that the proposal is of a high architectural design standard. However, it was suggested that the scale of the internal courtyard be subtly increased to further improve the external environment for future residents. The purpose of this was to provide additional sunlight penetration into that space as the mid-winter shadow diagrams provided with the submission indicate that this area is overshadowed by itself for a lengthy period.

However, it is understood that given the limited mobility of residents, the increase is not warranted due to the availability of other external open spaces available in and about the development.

10.3 Bushfire

Council records indicate that the site is bushfire prone land. The applicant has included a Bushfire Protection Assessment Report with their development application.

The application was referred to the Rural Fire Service (RFS) for comment. The RFS has advised that subject to suitable asset protection zones, an associated Plan of Management and Evacuation and Emergency Management, the proposed development is acceptable.

The application has been conditioned to comply with Section 9 (*BAL 29*) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' and Appendix 5 of 'Planning for Bush Fire Protection 2006'.

In order to fulfil these conditions the site's owner will need to enter an agreement with Council to allow the provision of a suitable asset protection zone within the north-eastern portion of the unmade Acacia Road reserve. Council's relevant departments cannot sanction this use without a formal binding agreement being established and consequently the applicant does not wish to confirm such an arrangement without the benefit of an approval for the proposed development.

Subsequently, an approval of this development application will need to be subject to a deferred commencement consent to allow for the finalisation of an agreement. Whilst this type of arrangement is not typical, given the community social benefit of the proposed development and existing circumstances it is considered a reasonable and acceptable approach in this particular instance.

10.4 Flooding

Council records indicate that the subject site is affected by flooding. Council's Stormwater Engineer has concluded that due to the significant level differences between the proposed building floor levels and the creek invert, the new building will be unaffected by creek related floodwaters.

The application has been assessed in accordance with the requirements of Clause 20 of SSLEP 2006 and Chapter 5 of SSDCP 2006, and subject to suitable conditions of development consent is considered acceptable.

10.5 Tree Planting and Landscaping/Greenweb

The subject site is identified within Council's Greenweb strategy. The Greenweb is a strategy to conserve and enhance Sutherland Shire's bushland and biodiversity by identifying and appropriately managing key areas of bushland habitat and establishing and maintaining interconnecting linkages and corridors. The subject site is identified as a Greenweb "core" area.

The proposed development involves the removal of 36 trees in total. These comprise of 15 trees within the building footprint and 10 trees within the northern portion of the site to provide a managed asset zone for bushfire protection measures. The remaining 11 trees are located within the northern unmade portion of Acacia Road to provide an extended managed asset zone for bushfire protection and for the creation of a sunken external courtyard area adjacent to the eastern side of the proposed building.

As well as being affected by bushfire hazards, the site has a riparian zone within close proximity of the northern edge of the existing lower level car park. Additionally a 30 metre wide electricity transmission line easement traverses the site impacting upon the height of vegetation that can be retained.

Consequently there is a conflict between the natural and created landscape qualities of the site and adjacent lands. It is noted that there has been a general clearing of the undergrowth near the edges of the Oyster Creek watercourse, creating a pleasant public walkway access along the embankments for residents of the complex.

However, as the site is very large, it appears that a balanced solution would be to allow the removal of trees as proposed but provide for appropriate replacements with native species within other parts of the site and within the proposed planting areas of the new development. It is noted that the overall site sustains a very significant number of mature trees and is "undevelopable".

Having regard for the nature of the proposed development, conditions have been included in relation to additional Greenweb plantings. However, In order to fulfil these conditions the site's owner will need to enter an agreement with Council to allow the provision of a suitable asset protection zone within the unmade Acacia Road reserve. As previously mentioned, this will need to be subject to a deferred commencement consent.

10.6 Car Parking Demand and Traffic Generation Impacts

Concerns have been raised by some surrounding residents that the adjoining kerbside area in Magnolia Street may be affected by 'overflow' car parking that is generated by the use of the development. The traffic management report submitted with the application analyses the resultant car parking and traffic impacts as capable of being managed within the site based upon a study of existing traffic/parking conditions and the expected increase generated by the proposed development.

It is proposed to provide additional car parking well above the minimum required by the Seniors SEPP. Consequently, it would be expected that such impacts external to the site are to be alleviated. However, to ensure that these impacts are minimised, conditions have been included in relation to the operation and management of all car parking on the site.

10.7 Electromagnetic Radiation from Transmission Lines

Ausgrid have reviewed the proposal in regard to impacts of development along the border of their easement for the existing high electricity transmission lines. They have raised concerns in two respects, firstly, being issues of interference on any sensitive medical equipment that may be in use within the new development, such as heart pace makers and dialysis machines. Secondly, it has been estimated that the 'swing' of the existing transmission wires can breach the limit of the easement boundary in strong winds.

An Electro Magnetic Assessment report provided at a later date has been forwarded to Ausgrid for their comment however, at the time of preparing this report, no response has been received. It is noted that the report concluded that there would be no risk to the public created from these transmission lines within the area of the site.

It is understood the Ausgrid authority will undertake the process to provide an agreed resolution with the owner of the site for the Ausgrid issues and subsequently, an approval of this development application will need to be subject to a deferred commencement consent for a reasonable period to finalise an agreement.

10.8 Draft Sutherland Shire Local Environmental Plan 2013 (Draft SSLEP 2013)

The land is proposed to be rezoned E4 under Draft SSLEP 2013. The proposed development, being an Aged Care Facility, would become prohibited in the proposed zone.

DSSLEP 2013 was placed on exhibition on 19 March 2013 and re-exhibited to 1 November 2013. At its Meeting on 30 September 2013, Council resolved to:

- i) request the Minister for Planning and Infrastructure to direct the Planning and Assessment Commission to conduct a public hearing in accordance with Section 57 of the Environmental Planning and Assessment Act, 1979 into the content of Draft Sutherland Shire Local Environmental Plan 2013, and
- ii) that it be made clear to all parties that due to the public hearing, Sutherland Shire Local Environmental Plan 2013 can no longer be considered imminent or certain and as such all development applications and their determination need to be focused on the provisions of Sutherland Shire Local Environmental Plan 2006.

Following Council's resolution, DSSLEP2013 has very limited statutory weight at this stage. It remains a matter for consideration under S.79C(1)(a)(ii) of the EP&A Act, though with no degree of certainty or imminence.

11.0 SECTION 94 CONTRIBUTIONS

Due to its nature, the proposed development will not require or increase the demand for local and district facilities within the area. Accordingly, it does not generate any Section 94 contributions.

12.0 DECLARATIONS OF AFFILIATION, GIFTS AND POLITICAL DONATIONS

Section 147 of the Environmental Planning and Assessment Act, 1979 requires the declaration of donations/gifts in excess of \$1000. In addition Council's development application form requires a general declaration of affiliation. In relation to this development application no declaration has been made.

13.0 CONCLUSION

The proposed development is for demolition of existing independent living units and construction of a 120 bed residential aged care facility within "Thomas Holt Village" at Lot 100 DP 1083371 (Nos. 1-25) Acacia Road, Kirrawee.

The subject land is located within Zone 12 - Special Uses (Seniors Housing) pursuant to the provisions of Sutherland Shire Local Environmental Plan 2006. The proposed development, being a Residential Aged Care Facility, is a permissible land use within the zone with development consent.

The application was placed on public exhibition and submissions were received from three (3) households. The matters raised in these submissions have been discussed in this report and include parking, context, visual and privacy impacts, zoning controls and building height.

The proposal includes a significant variation to building height. The proposed new building responds well to the landscape in that the tallest section is located at the lowest point of the site, well away from any residential neighbours. Notably, the building will not exceed the overall height of the existing tallest building on the site. It will not result in unacceptable privacy or overshadowing impacts. This variation has been discussed and is considered acceptable subject to conditions of consent.

The application has been assessed having regard to the Heads of Consideration under Section 79C (1) of the Environmental Planning and Assessment Act 1979. Following detailed assessment it is considered that Development Application No. 13/0898 may be supported for the reasons outlined in this report.

A deferred commencement consent is recommended in order to address bushfire, private use of Council land and electromagnetic radiation issues prior to commencement.

14.0 RECOMMENDATION

- 14.1 Pursuant to the provisions of Clause 6 of State Environmental Planning Policy No.1 (SEPP 1), the Objection submitted in relation to the requested variations of the maximum building height and number of storeys development standards under Clause 33(4) of Sutherland Shire Local Environmental Plan 2006 is considered to be well founded and is therefore supported. It is recommended that the provisions of SEPP 1 be invoked and that the 9.0 metres and two (2) storey maximum height development standards are varied to 22.2 metres and seven (7) storeys in respect to this application.
- 14.2 That Development Application No. 13/0898 for Demolition of Existing Independent Living Units and Construction of a 120 Bed Residential Aged Care Facility Within “Thomas Holt Village” at Lot 100 DP 1083371 (Nos. 1-25) Acacia Road, Kirrawee be approved by the granting of a deferred commencement development consent, subject to the conditions contained in Appendix “A”.