

JOINT REGIONAL PLANNING PANEL (Sydney East Region)

JRPP No:	2015SYE134
DA No:	DA15/1148
Local Government Area:	Sutherland Shire
Proposed Development:	Stage 1 - Demolition of three existing dwellings and construction of a three storey addition to an existing residential aged care facility over basement car parking and Stage 2 - Alterations and additions to an existing residential aged care facility with a portion of the rear to be demolished and extension of basement car park
Street Address:	133-139 Jannali Avenue, Sutherland Lot 14, 20, 21, 24, 25 & 28 DP 9306
Applicant/Owner:	Gerendas Family Trust
Number of Submissions:	Nine
Regional Development Criteria (Schedule 4A of the Act)	General Development over \$20 million
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"> • State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 • Seniors Living Policy • State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 • Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment • Sutherland Shire Local Environmental Plan 2015 • Draft Sutherland Shire Development Control Plan 2015 • Council's Section 94 Contribution Plans
Recommendation:	Refusal
Report By:	Frances Beasley, Sutherland Shire Council

1.0 EXECUTIVE SUMMARY

1.1 Reason for Report

The application is referred to the JRPP as the development has a capital investment value of more than \$20 million and is nominated under Schedule 4A (3) of the Environmental Planning and Assessment Act 1979. The applicant's submission indicates that the proposed development has a value of \$23,031,910.

1.2 Proposal

An application has been received for alterations and additions to an existing residential aged care facility known as "Lark Ellen". A total of 133 residential aged care beds are proposed.

1.3 The Site

The site is located on the western side of Jannali Avenue, approximately 35m north of the intersection with Leonay Street. The Illawarra rail line is located opposite the site to the east. A pedestrian overpass connects Jannali Avenue with Toronto Parade. Development in the immediate vicinity and the wider locality is predominantly residential in character of low density scale. Sutherland Urban Centre and Transport Interchange are located approximately 550m to the south.

1.4 The Issues

The main issues identified are as follows:

- Application of the Seniors Housing SEPP
- Building height, bulk and scale
- Impact on neighbouring properties

1.5 Conclusion

Council acknowledges that Residential Aged Care is a valuable resource for the community however; the proposal has failed to adequately satisfy the accessibility requirements contained within Clause 26 of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* (Seniors Housing SEPP). Even if it were able to utilise the benefits of the SEPP, the design exceeds key development controls within that policy.

The proposed development has therefore been assessed against the provisions of the Sutherland Shire Local Environmental Plan 2015 (SSLEP2015). The proposal does not comply with the applicable development standards in respect to building height, floor space ratio and landscaped area and will significantly impact on the amenity of neighbouring low density residential land.

Council notes that the design has been amended and is not completely without merit. The new building has an important interface between the existing heritage building and the new 'south wing'. Significant improvements have been made to the form and articulation of the Jannali Avenue façade and side elevations and the relationship between the heritage ten and the new building. However, the development remains of a height, bulk and scale that is incompatible with the character of

neighbouring development, particularly at the rear of the site, and is unworthy of support in its current form. Of particular concern is the 3 storey rear (west) component which is of a height, bulk and scale that will result in unreasonable amenity impacts to the residents adjoining the development site.

It is acknowledged that attempts have been made to modify the design in response to Council requests, however a number of permissibility and amenity issues remain unresolved. Following detailed assessment the application is not considered worthy of support, and should be refused for the reasons outlined in this report.

2.0 DESCRIPTION OF PROPOSAL

The proposal is for alterations and additions to an existing, heritage-listed residential aged care facility involving 2 stages of works. At completion, the facility will provide a total of 133 residential aged care beds in the form of 51 x 1 bedroom suites and 41 x 2 bedroom suites. The facility will provide a range of care options from limited care to high level care including 38 dementia beds. The facility would operate 24 hours a day with 3 rotating shifts. A maximum of 42 staff are proposed to be on duty at any one time. A total of 49 car parking spaces are proposed consisting of 20 (Stage 1) and 17 (Stage 2) basement car parking spaces and 12 car parking spaces in an existing forecourt car parking area.

Details of the proposal include:

Stage 1

- Demolition of existing buildings and structures excluding the existing heritage-listed Residential Aged Care facility
- Construction of a new 3 storey rear addition containing 77 beds
- Basement level containing 20 parking spaces
- Café with courtyard on the ground floor fronting Jannali Avenue

Stage 2

- Demolition of the western (rear) portion of the existing residential aged care facility and construction of a 2 storey addition to the rear of the heritage building
- The basement constructed as part of Stage 1 is to be extended as part of Stage 2 works to include an additional 17 parking spaces.
- A connection will be provided on the ground and first floors to the new 3 storey building to the south.
- The existing at grade parking at the front of the site accommodating 12 car parking spaces is proposed to be retained

The proposal will maintain the existing driveway crossing and forecourt parking area associated with the existing aged care facility. Vehicle access to the basement level is provided via an existing driveway adjoining the south east boundary. The existing dedicated ambulance bay located within the forecourt area is to be maintained.

3.0 SITE DESCRIPTION AND LOCALITY

The site is located on the western side of Jannali Avenue. The site is an irregular shaped lot and has an area of 4822m² and a frontage to Jannali Avenue of 92.2m. The site comprises 6 lots. No.133 Jannali Avenue contains the existing residential aged care facility which presently accommodates 62 high care beds and is known as “Lark Ellen Aged Care”.

The existing building is listed as a heritage item of local significance under Sutherland Shire Local Environmental Plan 2015 (SSLEP 2015). The three lots to the south (No. 135, 137 and 139 Jannali Avenue) which also form part of the site are currently occupied by detached dwellings. The land, and all of the land adjoining the site is zoned R2 Low Density Residential, with development in the immediate vicinity comprising of a mixture of detached dwelling houses and dual occupancies. Adjoining the rear (west) boundary are 4 single dwellings, including a land locked parcel at No. 18A Kurrajong Street and the rear yard of no. 1 Leonay Street. Adjoining the northern boundary are two single dwellings and a dual occupancy at no. 2 Glenelg Street.

The wider locality is predominantly residential in character and comprises mainly of low density residential development which is anticipated to remain as such for the near future. The Illawarra rail line is located opposite the site to the east. A pedestrian overpass connects Jannali Avenue with Toronto Parade. Sutherland Transport Interchange and Urban Centre are located approximately 550m to the south.



Image 1: Detail Aerial View of Site



Image 2: Aerial View of Locality

4.0 BACKGROUND

A history of the development proposal is as follows:

The site has been the subject of a pre-application discussion between the applicant and Council for a Residential Care Facility development of a slightly different form and layout.

- A pre-application discussion (PAD) was held on 6 February 2015 regarding a development of a similar nature to that proposed.
- The current application was submitted on 2 October 2015.
- The development application was placed on exhibition; nine (9) submissions were received.
- An Information Session was held on 5 November 2015 and was attended by four (4) parties.
- Council officers sent a letter requesting amendments on 26 February 2016, and had a number of discussions with the applicant confirming Council's expectations for the modified plans and additional information.
- Amended plans and additional information were submitted on 11 May 2016 and responded to some of the concerns raised in Council's letter.
- The JRPP was briefed on 10 December 2015

5.0 ADEQUACY OF APPLICANT'S SUBMISSION

Insufficient information has been submitted to demonstrate that the application meets the Seniors Housing SEPP accessibility requirements. In particular, the application failed to demonstrate the following:

- The application has failed to demonstrate compliance with Seniors Housing SEPP clause 26(2)(b)(iii) in that there is no accessible inbound public transport service to the proposed development (that is to say, in theory residents can leave the site using public transport but no evidence has been provided as to how they can return).

- The application has failed to meet the requirements of Seniors Housing SEPP clause 26(1)(b)(ii) in that the distance travelled from a public transport service to community services (Medicare, Centrelink etc.) exceeds 400m;
- The application has failed to demonstrate that the pathway to an area of recreation within 400m of a public transport service is accessible and complies with the grades required as per Seniors Housing SEPP clause 26(2)(a).

6.0 PUBLIC PARTICIPATION

The application was publicly exhibited until 12 November 2015 in accordance with the provisions of draft Sutherland Shire Development Control Plan 2015. Eighteen (18) owners of adjoining properties were notified of the application. An information session was held during the exhibition period on 5 November 2015 and was attended by four (4) parties.

A total of nine (9) written submissions were received. These raised various issues, including impact on amenity, privacy, height/bulk/scale, character, traffic and parking, inadequate setbacks, construction and safety, and overshadowing and maintenance impacts associated with proposed landscaping. Most of the issues are considered to be reasonable, and reinforce the planning merits issues which are discussed in further detail in the assessment section of this report.

7.0 STATUTORY CONSIDERATIONS

The following environmental planning instruments apply:

- *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (Seniors Housing SEPP)*
- *State Environmental Planning Policy (Infrastructure) 2007*
- *Sutherland Shire Local Environmental Plan 2015 (SSLEP2015)*
- *Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment*

The following policies and codes also apply:

- *Sutherland Shire Council's Section 94 Contribution Plans*
- *Draft Sutherland Shire Development Control Plan 2015*
- *Seniors Living Policy*

8.0 STATEMENT OF COMPLIANCE

The statement of compliance below contains a summary of applicable development standards and controls.

8.1 State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (Seniors Housing SEPP)

State Environmental Planning Policy (Housing for Seniors or People with a Disability) and the accompanying Seniors Living Policy (SLP) seek to improve the design quality of housing for seniors or people with a disability through the application of a series of design principles and accessibility

controls. A brief assessment of the proposal having regard to the development standards and access requirements is provided below.

Standard/Control	Required	Proposed	Complies (% variation)
State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004			
Location and access to facilities			
Cl. 26(1) Access to services	a. Shops, bank service, retail and commercial services	Sutherland centre retail and commercial, Westpac and Commonwealth Bank	Yes
	b. Community services and recreation facilities	Community service not within 400m of public transport service. Not enough information to determine pathway grade and accessibility from public transport service to area of recreation	No – Inadequate information and distance of travel exceeds 400m
	c. The practice of a general practitioner	Sutherland Medical Centre	Yes
Cl. 26(2)(a) Suitable access pathway	Facilities and services referred to in Cl. 26(1) must be no more than 400m from the site of the proposed development and be accessible by means of a suitable access pathway Overall average gradient is no more than 1:14	A suitable access pathway has been demonstrated for travel between the site and an outbound public transport service. No evidence has been provided for the accessibility from the public transport service to the facilities required in Cl. 26(1).	No – Inadequate information (access to bus stop not at grade and services are not scheduled – 'hail driver' type service only).
Cl. 26(2)(b) Access to a public transport service	The service must: (i) be located no more than 400m from the site and the distance is accessible by means of a suitable access pathway	A suitable access pathway has been demonstrated for travel between the site and an outbound public transport service.	Yes
	(ii) that will take those residents to a place that is located a distance of not more than 400m from the facilities and services referred to in Cl. 26(1) and is accessible by means of a suitable access pathway	The bus stop provided on Leonay Street services bus route 965 (Sutherland to Woronora). Not all services are within 400m of the public transport service drop-off at Sutherland Centre. No evidence has been provided for the path of access between the public transport drop-off in Sutherland and the facilities required in Cl. 26(1).	No – Inadequate Information
	(iii) that is available	A bus zone has been	No – Bus service is

Standard/Control	Required	Proposed	Complies (% variation)
	both to and from the proposed development during daylight hours at least once each day from Monday to Friday	provided on Leonay Street and is serviced by bus route 965 to Sutherland. No evidence has been provided that a service is available to residents for the return journey.	available to Sutherland Centre, yet no evidence has been provided that a return service is available and accessible.
Development standards			
Cl.40(2) Site size	1000m ²	4822 m ²	Yes
Cl.40(3) Site frontage	20m	92.19m	Yes
Cl.40(4) Building height	8m	9.6m	No (20%)
	Max. 2 storey adjacent to boundary	2 storey	Yes - Steps down to 2 storey at southern boundary
	1 storey for rear 25%	2 storeys at rear + portion of terrace on 3 rd storey	No (100%)
“Cannot refuse” standards (i.e. a consent authority ‘cannot refuse’ the proposal on this criteria if compliance is demonstrated)			
Cl.48(a) building height	8m	9.6m	No (20%)
Cl. 48(b) density and scale	1:1	1.11:1 (5335m ² including 678m ² of existing heritage building)	No (11%)
Cl. 48(c) landscaped area	25m ² per bed	1608m ² /12.09m ² per bed	No (51.6%)
Cl. 48(d) car parking	1 per 10 beds plus 1 space for each 2 employees = 35	49	Yes
	1 ambulance space	1 (existing)	Yes

8.2 Local Controls

The proposal is located in R2 – Low Density Residential under SSLEP15. The proposed development, being a residential aged care facility is a permissible land use within the zone with development consent.

The objectives of the zone are as follows:

Zone R2 Low Density Residential

1 Objectives of zone

- To provide for the housing needs of the community within a low density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To protect and enhance existing vegetation and other natural features and encourage appropriate bushland restoration particularly along ridgelines and in areas of high visual significance.

- To allow the subdivision of land only if the size of the resulting lots retains natural features and allows a sufficient area for development.
- To ensure the single dwelling character, landscaped character, neighbourhood character and streetscapes of the zone are maintained over time and not diminished by the cumulative impact of multi dwelling housing or seniors housing.

Although the proposal does provide for the housing needs of a section of the community which is in housing stress (seniors, and high care aged care), it is the conclusion of this assessment that the design does not satisfy the other relevant objectives of the zone, as:

- The proposal does not respond sympathetically to the existing low density character, in particular along the side (south) and rear (west) boundary interfaces, where Council and SEPP controls are exceeded and there are impacts upon the amenity and privacy of neighbours.
- The proposal is of a scale and density that is inconsistent with the adjoining residential uses which is evidenced by its inconsistency with the SSLEP2015 and SEPP controls relating to height, floor space ratio and landscaped area.

These matters are discussed further in the “assessment” section of this report.

The compliance table below contains a summary of the applicable development controls. Draft Sutherland Shire Development Control Plan 2015 is silent in terms of specific development controls for Seniors Housing. Multi-dwelling housing is considered to be the most similar permissible use within the zone and has been applied in substitute. The most relevant controls are listed below:

Clause	Standard/Control	Required	Proposed	Complies? (% Variation)
Local Environmental Plan 2015				
4.3	Height of Buildings	Maximum 8.5m	9.6m max.	No (12.9%)
4.4	Floor Space Ratio	Maximum 0.55:1 (2652.1m ²)	1.11:1 (5335m ²)	No (101.1%)
6.14	Landscaped Area	35% (1687.7m ²)	34% (1608m ²)	No (4.7%)
Draft Sutherland Shire Development Control Plan 2015				
Chapter 4 – Multi Dwelling housing in R2 Zone				
	Minimum site width	20m.	90m	Yes
	Landscape setback	1m deep soil setback adjoining driveways to basement car parks	No landscape strip provided	No (100%)
Part 2.2(2) Minimum Building Setbacks				
Street	Primary frontage	7.5m 6.0m ‘articulation zone’	2.8m min.	No (62.6%)
	Secondary frontage	3m	n/a	n/a
Side	Ground floor	0.9m for front 60% of site 4.0m for rear 40% of site *setback may be reduced to 1.5m in the rear 40% for single	3m min. (front 60%) 1.7m min. (rear 40%) and 2 storey	Yes No (57.5%)

Clause	Standard/Control	Required	Proposed	Complies? (% Variation)
		storey		
	Second storey	1.5m for front 60% of site 4.0m for rear 40%	6.83m min. (front 60%) 3.7m min. (rear 40%)	Yes No (7.5%)
Rear	Rear setback	4m	5.5m	Yes
	Basement	Any basement that extends beyond the building foot print must be setback a minimum of 3m.	n/a – but basement setback is <3m at points and this is generally unacceptable in an R2 zone	n/a
	Articulation	Where a second storey wall adjacent to a side boundary exceeds 15m in length, the side setback shall be increased by a further 500mm.	Acceptable	Acceptable

8.3 Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment

The Greater Metropolitan Regional Environmental Plan No. 2- Georges River Catchment (GMREP2) includes a number of aims and objectives for the environment and water quality within the catchment. Appropriate stormwater management and water quality measures are proposed and there are minimal likely adverse impacts on existing riparian processes anticipated. Council is of the view that if the proposal was deemed worthy of support, the proposal would be consistent with the aims and objectives of GMREP2, subject to the implementation of conditions of consent.

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. Architectural Review Advisory Panel

The application was considered by Council's ARAP on 22 October 2015, during which concerns regarding the development proposal were outlined including streetscape impact, bulk and scale, landscape setting and amenity. ARAP recommended some design changes be considered to provide a sense of architectural continuity with adjacent houses along the street elevation and to enhance the relationship between the scale of the retained heritage element and the new building. It was also suggested that the design of the existing street frontage car-park and driveway could be reconsidered in order to create a pleasant sunny forecourt that also has the capacity to act as an appropriate landscape setting and curtilage for the heritage building.

A full copy of the ARAP report is attached at **Appendix B**.

9.2. Sydney Trains

The proposed development is located within close proximity to a rail corridor. In accordance with State Environmental Planning Policy (infrastructure) 2007 the application was referred to Sydney Trains for concurrence. Concurrence from Sydney Trains was not yet received at time of finalisation of this report.

9.3. Engineering

Council's Engineers have provided comment regarding the impact of the development on existing road infrastructure, car parking and stormwater management. The following issues were raised:

- Car parking spaces in the proposed basement must comply with AS2890.1.
- A dedicated covered Ambulance Bay must be provided in accordance with Ambulance Service of NSW requirements. The covered area must be a minimum 8m long, 5.5m wide and 3.5m internal height clearance.
- The proposed garbage collection from the street is not supported. The development must provide a suitable loading bay for a minimum size "MRV" vehicle within the site.

The applicant was requested to respond to these issues, and no response to these specific engineering concerns was provided to Council. Should the application be considered worthy of support, these matters could be addressed by way of conditions of consent.

9.4. Landscape Architect

Council's Landscape Architect has undertaken an assessment of the application. Design changes were requested and included the following:

- Delete northern courtyard
- Provide additional screen planting to prevent overlooking
- Native tree planting in the front setback
- Introduce more native species into proposed planting scheme
- Delete individual rainwater tanks and introduced shared underground OSD system
- Canopy trees, awnings or pergolas should be provided in the courtyards
- Levels within the courtyards require further detailed resolution
- Doors opening onto courtyards should be provided with wet weather coverings
- Fire fighting booster pipes, exhaust stacks from the basement car park and substation (if required) be coordinated as part of the landscape design

Some design changes were made in response to Council's request, with some of the issues being resolved. A number of minor issues still remained unresolved, however, should the development be worthy of support, most of these issues could be resolved by way of conditions of consent.

9.5. Heritage

The application was referred to Council's Heritage Architect who commented that the revised scheme provided less physical and visual separation between the heritage building and the proposed new

southern wing than the original scheme, however the overall design did not warrant a refusal on heritage grounds.

9.6. Environmental Health

Council's Environmental Health Officer has reviewed the proposal and raised no objections subject to suitable conditions relating to food preparation, lighting, garbage, noise control (road and rail), building and basement ventilation and demolition.

10.0 ASSESSMENT

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

10.1 State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004

The proposed development has been lodged with reliance on the application of the Seniors Housing SEPP. Clause 26 of the Seniors Housing SEPP contains specific requirements regarding access to facilities and public transport services to and from the site of the proposed development. If a proposed development fails to satisfy all of the requirements listed under Clause 26, then a consent authority cannot grant development consent under the SEPP.

The applicant has demonstrated that an outbound public transport service is available to residents, at a distance of less than 400m from the site, via a suitable access pathway and stops at an Urban Centre location (Sutherland).

However, the proposed development has failed to demonstrate that it meets the requirements listed under Clause 26(1)(b), 26(2)(a) and 26(2)(b)(ii). Those clauses require the aged care residents to have access once they alight from the public transport service, within 400m, at accessible grades, to all of the services and facilities itemised in the SEPP. Specifically, no evidence has been provided that the pathway from the public transport service to the facilities required in Cl. 26(1) is less than 400m distance and is accessed via a suitable access pathway that meets the required grades to community facilities in the Sutherland Centre, and to a suitable area of recreation. Refer to **Appendix A** for a map of the bus stop at the Sutherland Interchange and the local services and facilities (e.g. general medical practice).

The service proposed by the applicant is not a scheduled regular service but a 'hail the driver' type facility and was installed during the finalisation of this report. The bus stop has no shelter or access to the kerbside provided for seniors. Even if the panel were satisfied that this was an acceptable outcome, and that the access to recreation and community facilities were not problematic, there is a more fundamental problem in terms of the accessibility criterion on which the proponent relies. The bus service that collects residents from Leonay Street does not have a return bus service that stops within 400m of the site.

In the case where the application is able to meet all of the accessibility requirements listed in Cl. 26, the proposed development still contains a number of significant non-compliances with the Seniors Housing SEPP development standards. In particular, number of storeys within the rear 25% of the site (100% variation), building height (20% variation), building density and scale (11% variation) and landscaped area (51% variation). The proposed variations, whilst justified by the applicant with a State Environmental Planning Policy No. 1 objection, are considered unworthy of support as, if supported, would result in a development that generates unreasonable amenity impacts to adjoining residents and detracts significantly from the adjoining low density residential character.

Given that the development would provide a large amount of residential aged care on a consolidated allotment, with a frontage to a railway line and so having a reduced number of neighbours to at least one side, there is a reasonable case for a larger facility on this site than would otherwise be acceptable. The heritage item is a constraint but also an opportunity in that its conservation 'unlocks' some of the planning restrictions which apply to the northern half of the site. However, the way that the building has been massed concentrates the bulk unacceptably towards the rear of the site and relies on the benefits of the SEPP which cannot be enjoyed unless the site is *bona fide* accessible as defined in the SEPP. 3-storey built form in the rear yards of low density residential properties behind the site is an unacceptable outcome, particularly with the minimal setbacks and minimal landscaping selected by the applicant in this scheme.

In pre-DA discussions, Council indicated support for a larger development which was both respectful of the heritage item and the neighbouring properties. It is the conclusion of this assessment that the heritage outcome is acceptable but the impact on neighbours is not. The applicant cannot rely on the Seniors SEPP, and even if they could in future, the development should respect the parameters in the SEPP which seek to minimise impacts on adjacent residential land.

10.2 Building form, bulk and scale

Should the Panel agree that the Seniors SEPP cannot be relied upon, then the proposed development would be assessed against the SSLEP2015 controls. In this respect, the proposed development fails to achieve compliance with the height, density, and landscaping requirements.

The proposal would also be set well beyond the ordinary setback requirements for development in the R2 zone. This would result in a large building mass which would dominate many of the neighbour's private open spaces, and reduce solar access and privacy to an unacceptable extent.

The proposal exceeds the maximum FSR permitted on the site by 101%, resulting in a building form that is visually bulkier than that anticipated by the development controls. The proposed development also exceeds the maximum 8.5m height control and presents as a 3 storey building which further contributes to the unreasonable bulk and scale. The consequence is a scheme which struggles to 'fit' within its boundaries and still provide adequate amenity to its occupants and adjoining residents.

Reducing the overall floor space, height, and 'stepping' the development down towards the rear (west) boundary would reduce the visual bulk and result in a development that is of a more compatible scale which could be supported.

11.0 SECTION 94 CONTRIBUTIONS

Should the development be deemed worthy of support, the works would trigger the payment of section 94 levies.

12.0 DECLARATION OF AFFILIATION

No gifts, donations or political affiliations were declared with the application.

13.0 CONCLUSION

The proposed development is for the construction of a residential aged facility with 133 beds over basement parking at 137, 139, 133 and 135 Jannali Avenue, Sutherland.

The subject land is located within the R2 – Low Density Residential zone, pursuant to the provisions of Sutherland Shire Local Environmental Plan 2015. The proposed development, being Seniors Housing is a permissible land use in the zone.

Council acknowledges the community benefit of providing a residential aged care facility on the subject site. However, the proposal has failed to demonstrate that it can meet the accessibility requirements of the Seniors Housing SEPP and can only rely on the development controls contained within SSLEP2015. There has not been a genuine attempt to balance the benefits of aged care with the impacts on adjacent low density residential land. This is particularly obvious when considering that the application has been prepared to exceed the 'bonus' controls within the Seniors SEPP, which does not apply in any case.

In this regard, the proposed development is considered, in its most current form, to be of a height, bulk and scale that is incompatible with its neighbourhood.

Council would, however, be prepared to support a scheme which resolves access and massing issues given the benefits associated with residential aged care.

The application has been assessed having regard to the Heads of Consideration under Section 79C (1) of the Environmental Planning and Assessment Act 1979 and the provisions of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, Sutherland Shire Local Environmental Plan 2015 and all relevant Council DCPs, Codes and Policies. Following

detailed assessment it is considered that Development Application No. DA15/1148 should not be supported for the reasons outlined in this report.

14.0 RECOMMENDATION

14.1 That Development Application No. DA15/1148 for Seniors Housing at 139, 135 and 133 Jannali Avenue, Sutherland be refused for the following reasons:

- a) The applicant has failed to demonstrate that the proposed development meets the accessibility requirements contained within clause 26 of the Seniors Housing SEPP and therefore relies on the SSLEP2015 for permissibility.
- b) The application is considered unacceptable in that the proposed development fails to comply with the development standards for maximum floor space ratio, maximum height and minimum landscaped area set out in Council's LEP and the proposed building results in a bulk and scale which is unsympathetic with the adjoining low density residential character and will result in immediate impacts upon the amenity of residential neighbours.
- c) In light of the above, the applicant has failed to demonstrate that the site can sustain a development of the bulk and mass proposed and, as such, has not demonstrated that the site is suitable for the proposed development.