

SYDNEY SOUTH PLANNING PANEL

Panel Reference	2016SSH001
DA Number	DA16/1620
LGA	Sutherland Shire
Proposed Development:	Seniors housing development comprising independent living units, a health services facility and associated uses, and boundary adjustment of 2 existing lots
Street Address:	Lot 11 DP 1103619, Lot 200 DP 1110295 - 99R Acacia Road, Sutherland, 42 Auburn Street, Sutherland
Applicant/Owner:	Bupa Aged Care Australia Pty Ltd
Date of DA lodgement	29/11/16
Number of Submissions:	
Recommendation:	Approval Subject to Conditions
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"> • Sutherland Shire Local Environmental Plan 2015 • State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 • State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development • State Environmental Planning Policy 55 – Remediation of Land • State Environmental Planning Policy (Infrastructure) 2007 • NSW Planning & Environment – Apartment Design Guide • Sutherland Shire Development Control Plan 2015 • Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment • Draft planning agreement that has been entered into under section 93F
List all documents submitted with this report for the Panel's consideration	
Report prepared by:	Pemberton L, Planner Sutherland Shire Council
Report date	

Summary of s79C matters

Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report? **Yes**

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? **Yes / No / Not Applicable**

e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **Yes**

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S94EF)? **Not Applicable**
Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

Have draft conditions been provided to the applicant for comment? **No**
Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

EXECUTIVE SUMMARY

REASON FOR THE REPORT

Pursuant to the requirements of State Environmental Planning Policy (Major Development) 2005, this application is referred to the Sydney South Planning Panel (SSPP) as the development has a capital investment of more than \$10,000,000. The application submitted to Council nominates the value of the project as \$43,227,636.000.

PROPOSAL

The proposal is for the construction of a Seniors Housing development on the eastern side of the site adjoining Acacia Road. The development comprises 80 independent / self-contained living units located within two residential apartment towers. The development also includes a café, health and wellbeing, indoor pool, hair salon and various multi-purpose rooms on the ground floor. These are primarily intended as supporting residents within the development. The wellness centre is proposed to also be accessed by the general public.

Vehicular access is proposed from Acacia Road, with two levels of basement car parking including accessible, ambulance and ancillary storage provisions. The basement connects to the basement of the existing residential care facility on the western side of the site.

The land is proposed to be subdivided (Torrens Title) to separate the existing RACF to the west operating under federal legislation including the Aged Care Act 1997 from the proposed independent living units which are proposed to be managed under the NSW Retirement Villages Act 1999. The applicant advises that the existing RACF and the proposed development will share the facilities proposed as part of this development.

The development also includes a land-swap/ boundary adjustment with the small Council reserve to the north. This facilitates a more rational land parcel for the developer and both a regular land shape for Council's reserve and the embellishment of the reserve as a public park (under a Planning Agreement, as discussed below).

THE SITE

The subject land is known as No. 42 Auburn Street, Sutherland. The site is currently occupied by a two storey residential aged care facility (RACF), generally sited in the western two-thirds of the site adjacent to Auburn Street. The eastern third of the site is currently undeveloped.

ASSESSMENT OFFICER'S RECOMMENDATION

THAT:

- 1) Pursuant to the provisions of Clause 4.6 of Sutherland Shire Local Environmental Plan 2015, the written submissions in relation to the requested variations detailed below satisfy the relevant provisions of Clause 4.6 and are therefore supported in respect of Building A only. It is recommended that the provisions of Clause 4.6 be invoked and these development standards be varied as detailed below, in respect to this application.

Development Standards	Clause	Requirement	Proposal	% Variation
Building Height	4.3	20m	26.02m max (Building A)	30.1%

- 2) That Development Application No. DA16/1620 for Seniors Housing on Lot 11 DP 1103619, Lot 200 DP 1110295 99R Acacia Road, Sutherland, 42 Auburn Street, Sutherland be approved, subject to the draft Deferred Commencement conditions of consent detailed in **Appendix "A"** of the Report, including a requirement to enter into a Planning Agreement with Council regarding the land swap and delivery of the reserve embellishment.

ASSESSMENT OFFICER'S COMMENTARY

DESCRIPTION OF PROPOSAL

The proposal is for the construction of a seniors housing development on the eastern side of the site at the northwest corner of the Old Princes Highway and Acacia Road. The development comprises 80 independent /self - contained living units located within two residential buildings:

- Building A contains 43 units (a mix of 2 and 3 bedroom dwellings) and is located toward the corner of Old Princes Highway and Acacia Road, and is 8 storeys in height
- Building B contains 37 units (a mix of 1, 2 and 3 bedroom dwellings) and is to the north of Building A, addressing Acacia Road and the proposed reserve on adjoining the northern side boundary. Building B is 7 storeys in height.

The development also includes a café, wellness centre, indoor pool, hair salon, landscaping and various multi-purpose rooms on the ground floor. These are primarily intended as supporting residents within the development. The wellness centre is proposed to also be accessed by the general public.

Two vehicular crossings (northern entry driveway and southern entry driveway) are proposed to access the development from Acacia Road. Two levels of basement car parking accommodating 88 residential spaces and 5 spaces for the wellness centre, the basement also includes including ambulance bay, garbage bay and ancillary storage. The basement connects to the basement of the existing residential care facility on the western side of the site.

The land is proposed to be subdivided (Torrens Title) to separate the existing RACF operating

under federal legislation including the Aged Care Act 1997 from the proposed independent living units which are proposed to be managed under the NSW Retirement Villages Act 1999.

The proposal also includes a land transfer between associated with a Council owned reserve and the subject site in order to regularise the lot shape of the site and adjacent reserve (see *Background* and Figures 1, 5 and 6 below) the applicant has offered to enter into a Planning Agreement for the land transfer and the embellishment of the reserve.

Figure 1 below identifies the draft plan of subdivision, indicating the Council reserve (proposed lot 302), a lot with the existing RACF (proposed lot 301) and a lot with the proposed independent living facility (proposed lot 303).

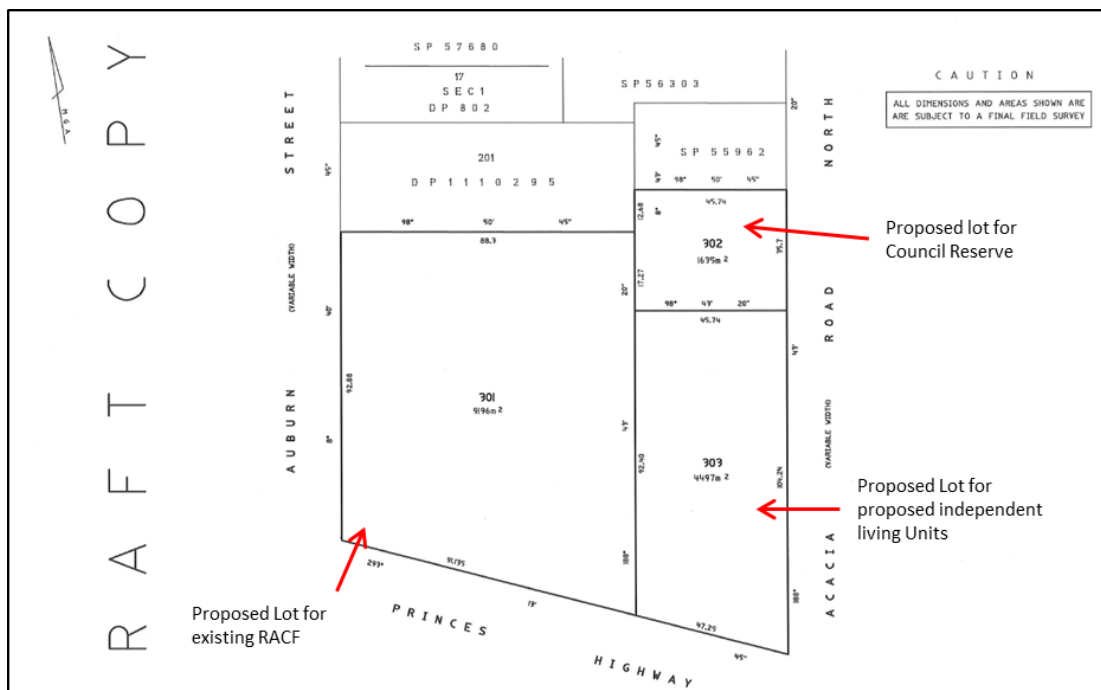


Figure 1: Proposed plan of subdivision

The applicant advises that the existing RACF and the proposed development will share the facilities at ground level such as the pool and café. The proposal will be constructed in the following stages:

Phase 1

- Land transfer of Part Lot 11 DP1103619 and Part Lot 200 DP1110295 in accordance with the terms of the Planning Agreement.

Phase 2

- Construction of all basement levels, including link to existing BUPA Aged Care facility at 42 Auburn St, Sutherland (Lot 200 DP 1110295);
- Embellishment of the adjacent Council reserve works subject to terms of the Planning Agreement.
- Construction of all common ground floor facilities, including links to existing BUPA Aged Care facility at 42 Auburn St, Sutherland (Lot 200 DP 1110295);

- Construction of Southern Residential Tower (Building A);
- Porte Cochere, and vehicular access to the site and basement;
- Landscape surrounding tower A and adjacent to the Porte Cochere.
- Works in the public domain (including footpath and landscaping)
- Drainage

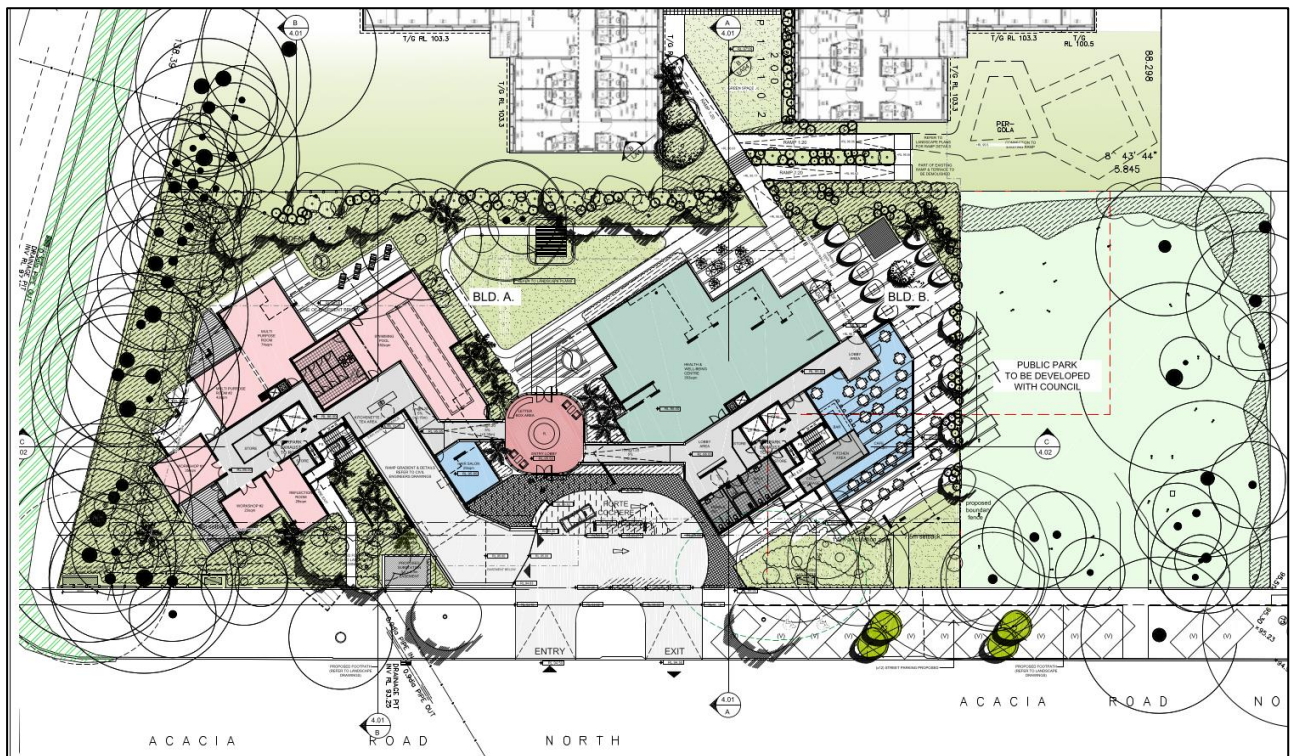
These works must be complete prior to the issue of any occupation certificate for this Phase 2.

Phase 3

- Construction of Northern Residential Tower (Building B)
- Drainage
- Subdivision of residual Lot 200 DP1110295
- Works in the public domain (including footpath and landscaping)
- Landscaping

These works must be complete prior to the issue of any occupation certificate for this Phase 3.

A site plan is show below



SITE DESCRIPTION AND LOCALITY

The subject land is located at 99R Acacia Road, Sutherland and 42 Auburn Street, Sutherland. The site is currently occupied by a two storey 'seniors housing' development - residential aged care facility (RACF). This RACF is generally sited in the western two-thirds of the site adjacent to Auburn Street. The eastern third of the site is currently undeveloped.

The site has frontages of 92.88 metres to Auburn Street, 81.93 metres to Acacia Road and

138.37 metres to Princes Highway and has a total area of 13,690m². The land falls away from Princes Highway, generally in a northerly direction, with an approximate change of levels between the highest and lowest points of the site of 4.3 metres.

There are numerous mature trees located throughout the site, mainly situated adjacent along the street frontages and, to a lesser extent, along the northern site boundary and a small cluster in the middle of the site. The subject site contains remnants of the Sydney Turpentine-Ironbark Forest, which is an Endangered Ecological Community.

Some major trees also exist to the south of the site along the Old Princes Highway and extend to the eastern boundary. These trees straddling the southern boundary and Council verge are identified as local Heritage items under the Sutherland Shire LEP 2015 (SSLEP 2015), and provide effective screening to the existing development.

The streetscape and urban environment in the immediate vicinity of the subject land, and in particular the development area, are characterised predominantly by low and medium density residential development. To the west of the site across Auburn Street are 3 storey residential flat buildings. To the east of the site across Acacia Road are predominantly single storey detached dwelling houses. To the north of the development site is an L-shaped public reserve. Immediately to the north of the existing RACF and to the west of the existing Council reserve are a Telstra exchange building and telecommunications tower. Beyond the public reserve to the north are 3 storey residential flat buildings facing Acacia Road. To the south of the site across Princes Highway are motor showrooms. An aerial plan showing the existing lot configuration and Council reserve is included in Figure 3, and a locality plan of the site can be seen in Figure 4 below.



Figure 3- Aerial Plan

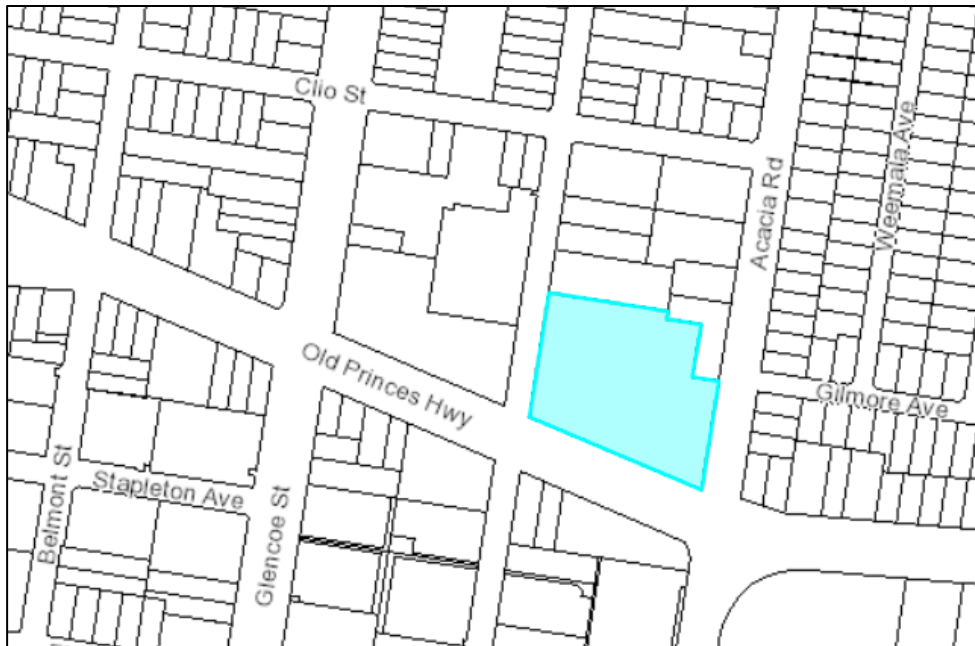


Figure 4 Locality Plan

BACKGROUND

A history of the development proposal is as follows:

- The subject development application DA was lodged on 29 November 2016.
- A Pre-Application Discussion (PAD) was held with Council on 2 November 2016, which was followed by a Pre- DA ARAP on 17 November 2016 (a copy of the letter is attached at **Appendix 'B'**)
- *Planning Proposal* - An application was accepted by Council as a Planning Proposal (PP) for the reconfiguration of land boundaries between the development site and Council's reserve adjacent to the north. The PP involved a reciprocal land transfer and associated rezoning and reclassification of the southern portion of the 'L' shaped land owned by Council zoned R1 Public Recreation to R4 High Density Residential (see Figure 5 below).

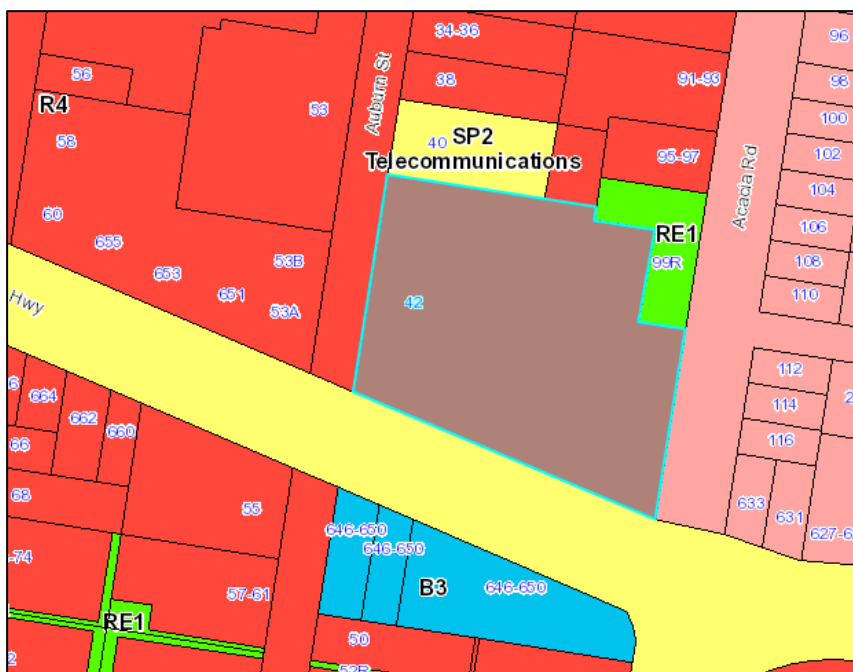


Figure 5: Zoning at time of DA lodgment

Amendment 10 to the SSLEP2015 (formerly known as the Planning Proposal for 99R Acacia Road and 42 Auburn Street, Sutherland) was made on Friday 8 September 2017. As seen in Figure 6 below.

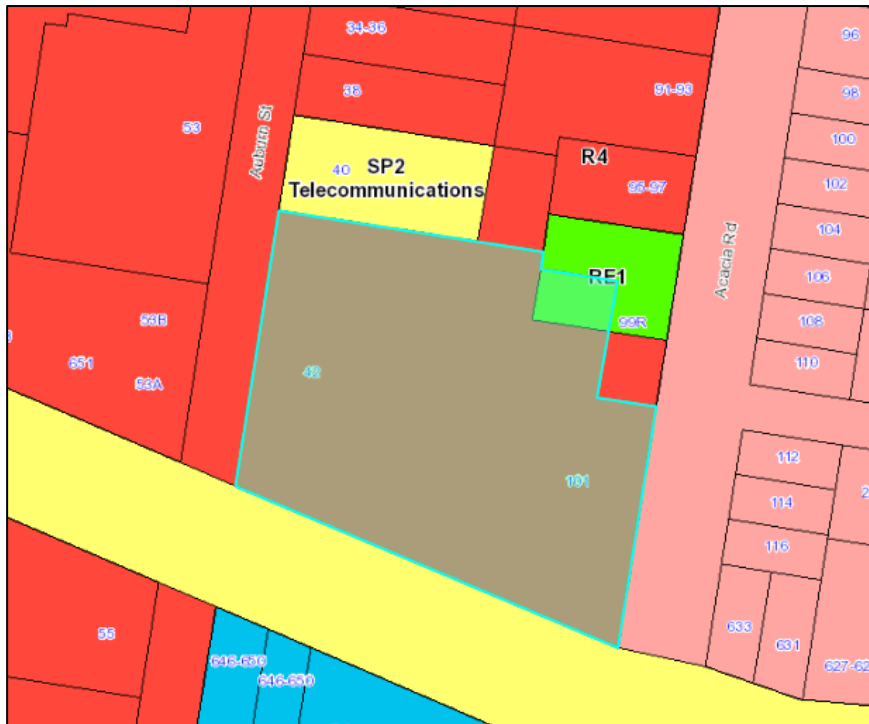


Figure 6: Rezoning as per Amendment 10 to SSLEP 2015

- Land transfer/ reserve embellishment – The boundaries of the site and Council owned RE1 land will be adjusted to align with the zones as per Amendment 10 and Figure 6 above, in order to regularise the shape of both allotments, this will occur via a Planning Agreement. As part of the land transfer the applicant has offered to embellish the reserve (see **Appendix 'E'** for indicative reserve embellishment plans) owned by Council through the Planning Agreement. The Planning Agreement will require separate exhibition for a period of 28 days.

Council resolved to accept and exhibit the Planning Agreement on 20 November 2017. Works to the reserve include rehabilitation and revegetation of the EEC (through a Vegetation Management Plan), and embellishment, including play equipment.

- Historically (DA06/1503) the reserve was to be dedicated to Council and embellished by a previous developer/ applicant. The reserve was dedicated to Council however the reserve was not embellished (as per a Deed of Agreement). This Deed runs with the land which currently contains a BUPA Residential Aged Care facility in the west of the site.
- The application was placed on exhibition with the last date for public submissions being 31 January 2017. Council has received 38 written submissions in response (including 1 petition). A summary of main issues is provided below.
- An Information Session was held on 17 January 2017 and 21 people attended.
- The SSPP Briefing session was held on 23 May, 2017. The Panel recommended that an Independent review undertaken of Council's Assessment Report. This independent review is being

undertaken. The review will be finalised prior to the SSPP Determination meeting, and provided to the Panel for consideration.

- Council wrote to the applicant on 12 August 2016 advising of concerns regarding building mass; character of the area; neighbourhood amenity; street scape; height and FSR; requesting a reduction in the bulk of building B, including the deletion of two dwellings; requesting an increase in the setback from the reserve; querying the permissibility of café and hair dresser; parking; amenity of a number of unit layouts; privacy issues between Building A and B; retention of a number of trees (STIF).
- Council officers met with the Applicant and their consultants on various occasions to discuss amendments to the proposal, the Planning and Agreement, land transfer and embellishment/delivery of the reserve.
- A full set of amended plans and supporting information was lodged by 25 October 2017.
- The amended plans were renotified, with submissions closing on 13 September 2017.
- The application was considered by Council's Submissions Review Panel on 28 November 2017.

ADEQUACY OF APPLICANT'S SUBMISSION

In relation to the Statement of Environmental Effects, plans and other documentation submitted with the application or after a request from Council, the applicant has provided adequate information to enable an assessment of this application, including a Clause 4.6 requesting a variation to the height standard.

PUBLIC PARTICIPATION

The application was advertised in accordance with the provisions of Sutherland Shire Development Control Plan 2015 (SSDCP 2015). The proposal was also re-notified after an amended proposal had been submitted. In addition to the statutory requirements of the Act and Regulations, Council extended the notification period over the Christmas/ New Year's period, with the notification period commencing 12 December 2016 and closing 31 January 2017.

493 adjoining or affected owners were notified of the proposal and 38 submissions (including one petition with 104 signatures) were received as a result of the first exhibition period. As part of the notification of amended plans 527 people were notified and 17 objections were received.

A full list of the locations of those who made submissions, the dates of their letters and the issues raised is contained within **Appendix 'D'** of this report.

Relevant issues are discussed below:

Issue 1: Urban Design and Site Suitability

Overdevelopment of the area, the development does not respond to the existing streetscape and scale of surrounding development (incompatible with R2 Low Density Residential zone to the east), bulk and height is excessive and no transition in built form.

Comment: This matter is discussed below in the assessment section.

Issue 2: Non Compliances

The proposed buildings are above the Council's SSLEP 2015 height limit, SSDCP 2015 (setbacks and building separation).

Comment: This matter is discussed below in the assessment section.

Issue 3: Traffic, Parking, Waste and Pedestrian Safety

Adequacy of parking provision (including visitor, resident and staff) within the site and impact upon the surrounding road network to accommodate increase in population and traffic / pedestrian movements. Suggestion that Acacia Road be made a 'no through' road to the Princes Highway. Waste management and bin collection from the street.

Comment: This matter is discussed below in the assessment section.

Issue 4: Residential Amenity

Overshadowing and overlooking of adjoining properties. Safety and security (increased crime) and privacy.

Comment: This matter is discussed below in the assessment section.

Issue 5: Construction

Impacts on surrounding development from construction and excavation works, including construction traffic.

Comment: This matter is discussed below in the assessment section.

Issue 6: Public participation and adequacy of applicant's submission

Comment: This matter is discussed below in the assessment section.

Issue 7: Impact upon the natural environment

Loss of vegetation, including habitat for native animals, the vegetation acts as a noise buffer to adjacent development, the site contains an Endangered Ecological Community.

Comment: This matter is discussed below in the assessment section.

Issue 8: Delivery of the proposed reserve and privatisation of the park for private BUPA use

The reconfiguration of the site and the Council reserve will not have any community benefit, but only a private benefit to the applicant. Concern that the reserve won't be embellished/ delivered to the benefit of the community once the development is complete, and that the reserve will be privatised by BUPA.

Comment: This matter is discussed below in the assessment section.

Issue 9: Additional Uses

Impacts of Café, hair salon and Health and wellbeing centre - these uses should have separate development applications lodged.

Comment: This matter is discussed below in the assessment section.

Issue 10: Contamination

Concern that the site is contaminated, and that asbestos and other particles may become airborne during construction.

Comment: This matter is discussed below in the assessment section.

Issue 11: Use as Seniors Housing

Seniors Housing – concerns that the development will not only be occupied by “Over 55’s”, and how this can be controlled.

Comment: A covenant will be placed on the title of the site in accordance with the Seniors SEPP to ensure that the residents using the site are consistent with the requirements of the Seniors SEPP.

Issue 12: Evacuation of the site during a fire from the upper levels

Comment: There are relevant Building Code of Australia standards applicable to fire safety for buildings. Any development must comply with the BCA.

Issue 13: Infrastructure Capacity

Council should ensure that the area is adequately supporting by concurrent growth or provision on infrastructure due to the growth occurring in this part of Sutherland/ Kirrawee.

Comment: The site is located close to the Sutherland Centre which is well serviced by public transport and has good access to civic services and health and recreation facilities.

Issue 14: Downstream Flooding

A resident has raised concerns that this development may exacerbate “flooding” in the area downstream of the site that may impact 22 Gilmore Avenue.

Comment: Council's Assessment Engineer has assessed the stormwater management design for the site and possible impacts upon neighbouring properties, including 22 Gilmore Avenue. The Engineer formed the view that the post development peak discharge will most likely be reduced when compared to the pre-development discharge. A recommend condition of consent will require the development to have appropriate stormwater and retention and detention measures in place,

Issue 15: Construction impacts

Impacts of construction traffic, parking and noise.

Comment: Appropriate conditions of consent will be imposed including hours of construction, and measures to minimise dust and control traffic movement.

Issue 16: Facility will not comply with its policies on disease and hygiene.

Concerns that there will be increases in the spread of communicable diseases as the operator does not adhere to its own policies regarding hygiene and waste storage and removal.

Comment: The proposed independent facility is not a ‘nursing home’ where medical/ healthcare is provided to residents within their home/ unit. Council will impose conditions regarding hygienic operations in relation to ground floor uses such as the hair salon, café, pool and wellbeing centre.

Issue 17: Wildlife on site

A number of cats to live on the subject site, concerns for their safety during construction.

Comment: This is not a matter for planning consideration. Ordinary requirements for the protection of native species under relevant legislation will apply to the construction phase and ongoing operation of the development.

STATUTORY CONSIDERATIONS

The subject land is located within *Zone R4 High Density Residential* pursuant to the provisions of Sutherland Shire Local Environmental Plan 2015. The proposed development, being a Seniors Housing development, is permissible within the zone with development consent.

The following Environmental Planning Instruments (EPI's), Development Control Plans (DCP's), Codes or Policies are relevant to this application:

- *Sutherland Shire Local Environmental Plan 2015*
- *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*
- *State Environmental Planning Policy 55 – Remediation of Land*
- *State Environmental Planning Policy (Infrastructure) 2007*
- *State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development*
- *Sutherland Shire Development Control Plan 2015*
- *NSW Planning & Environment – Apartment Design Guide*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*
- *Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment*

The applicant seeks consent pursuant to the provisions of the State Environment Planning Policy (Housing for Seniors or People with a Disability) 2004 (Seniors SEPP). However based on an assessment of the proposal (see Section 7 below) the proposal does not satisfy Clause 15 of the Seniors SEPP as the development is not carried out in accordance with the policy. In particular, the design significantly exceeds the development standards identified in Clause 50 of the Seniors SEPP (height, density and landscaped area, among others) .

Nonetheless, as the development is permissible within the zone the proposal will be assessed pursuant to the development controls within the SSLEP 2015 and the SSDCP 2015. However as *Self Contained Dwelling* housing for Seniors is proposed as defined in the Seniors SEPP, standards within the SEPP are used as a guideline where Council's controls are silent and a covenant will be placed on title to restrict the use of the development in accordance with Clause 18 of the Seniors SEPP.

COMPLIANCE

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

Local Controls – SSLEP 2015 and SSDCP 2015

The table below details the main standards / controls within SSLEP2015 & SSDCP2015 relevant to this application.

Sutherland Shire Local Environmental Plan 2015			
Clause	Standard	Proposed	Complies
4.3	Height of Buildings - 20m	Building A (Highway corner) = 26.02m (to lift overrun) Building B= 22.65m (to lift overrun)	No Building A= +6.02m Building B= +2.65m (up to 30.1%) See discussion below
4.4	Floor Space Ratio Max – 1.5:1 1.8:1 - <i>Bonus</i> 0.3:1 for Area 12	Pre-subdivision=1.27:1 Post subdivision=FSR 2.2:1	Yes No – Variation <u>23.6%</u> See discussion below
6.14	Landscaped Area (deep soil) 30%	Pre-subdivision=34% Post subdivision=32%	Yes

Sutherland Shire Development Control Plan 2015			
Clause	Standard	Proposed	Complies
Chapter 5 – R4 Residential Flat Buildings			
1.2.1	Minimum frontage width 26m	Proposed Development Site (based on proposed subdivision) Old Princes Highway= 47.25m wide Acacia Road= 104.24m	Yes
1.2.5	1m landscaped setback to driveway to basement	Yes	Yes
2.2.1	Street Setback - 7.5m (permitted to encroach 1.5m for 1/3 of façade)	7.5m (articulation zone)	
2.2.4	3m landscape strip along frontage where courtyards located in setback	N/A	N/A
3.2.4	Basement setback – 3m	2.5m min from the Acacia Road frontage 9.3m from the Old Princes Highway boundary	No (but acceptable) Yes
4.2.11 and 4.2.12	Communal open space 100m ² where FSR is less than 2:1 and with a minimum dimension of 3m or 25% of the site where the FSR of	Min 100m ² or 35%	Yes

	>2:1		
6.2.2	70% units to receive 2 hours sunlight between 9am – 3pm mid winter	71%	Yes
6.2.5	Sunlight to 10m ² of usable POS of adjoining dwellings must not be reduced to less than 2 hours between 9am – 3pm mid winter	No impact	Yes
10.2.1	Parking 1 space per 1 bed (5 spaces) 1.5 spaces per 2 bed (100.5 spaces) 2 spaces per 3 bed (16 spaces) TOTAL= 122 spaces	88	No – 28.6% variation - see discussion below
	Visitor Park 1space per 4 units 20 spaces required	Nil	No – see discussion below
10.2.6	Car wash bay 1 for 10 units 1 per 20 where > 30 units (4 Required)	None Proposed	No - 4 carwash bays to be provided via condition of consent
10.2.8	Minimum crossing / driveway width is 4m for separate with 3m separation	Yes	Yes
11.2.8	On site MRV waste collection required units exceeding 50.	Yes in Basement level 1	Yes
Chapter 36 – Roads, Access, Traffic, Parking and Bicycles			
1.2.1	Business Premises (Hair salon) in a business zone. 1 space per 30m ² GFA (Hair salon 29m ² = nil car parking requirement)	N/A	N/A
1.2.1	Retail (café) in a business zone. 1 space per 30m ² GFA (Café 131m ² = 4 spaces)	Nil	N/A café for use by residents and visitor only
1.2.1	Medical Centre (health and well being centre) in a	5	No – See discussion

	business zone 1 space per 30m ² GFA (Proposed GFA 353m ² = 12 spaces)		below
1.2.7	Motorcycle Parking 1 space per 25 car spaces.	None shown on plan	No – Scooter Charging Spaces provided in basement.
2.2.1	Dimensions in accordance with AS2890.1 and AS2890.6	No	See Discussion Below

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

State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004			
Objective	Design Criteria	Proposal	Complies
Part 2. 26(2)(b) Location and Access to Facilities 26(2)(b)(i) 26(2)(b)(ii)	400m This transport will take residents to within 400m of services and facilities	Approximately 165m to the nearest bus stop at the corner of Clio St and Acacia Road, Sutherland (969 Bus route to Sutherland, and Cronulla via Miranda) Yes	Yes Yes
“Cannot refuse standards” Clause 50			
Cl.50(a) Building Height	8m	>8m (Building A= 23.02m Buildings B= 22.65 Height to lift overrun)	Reason for refusal NOTE: Does not comply with the SSLEP2015.
Cl. 50(b) Building Density	0.5:1	Pre-subdivision= 1.3:1 Post-subdivision= 2.2:1	Reason for refusal
Cl. 50(c) Landscaped Area	30% landscaped	Pre-subdivision= 48% Post-subdivision= 42%	Yes Yes
Cl 50(d) Deep Soil	Not less than 15%	Pre-subdivision=35% Post-subdivision= 34%	Yes
Cl. 50(e) Solar Access	Minimum of 70% of living areas and private open space to receive a minimum of 3hrs sunlight between 9am and 3pm in mid-	Min 70%	Yes

	winter.		
CL 50(f) Private open space	There is a balcony with an area of not less than 10 square metres (or 6 square metres for a 1 bedroom dwelling), that is not less than 2 metres in either length or depth and that is accessible from a living area,	Min 10m ²	Yes
CL 50(h)	0.5 car spaces for each bedroom (163 bedrooms total) min 82 residential spaces	88 Residential spaces and 5 Wellbeing centre spaces	Yes
“Part 1 of Schedule 3 Standards Concerning Accessibility and useability for hostels and self – contained dwellings			
General (1)-(21)	Accessibility, Facilities and Fixtures standards	Able to comply	Recommend appropriate conditions of consent
(5) Private Car accommodation	(a) 95% of spaces to comply - Car parking to comply with parking for persons with a disability set out in AS2890 (b) 5% of the total number of car parking spaces must be designed to enable the width of spaced to be increased to 3.8metres (3) any garage to have a power operated door, or be able to be fitted with one.	No Design to be modified Yes	See discussion below See discussion below Yes

Clause 33 Neighbourhood Amenity and streetscape

The height of both buildings exceeds the permitted 20m height control as per the SSLEP 2015, see discussion below in “Assessment”. Whilst Building A exceeds the height limit set by the SSLEP 2015, it is considered that the additional bulk at the corner is an acceptable architectural treatment as it is adjacent to the highway and removed from the majority of the low-density residential land to the north. Impacts such as overshadowing, dominance and privacy are reduced by the siting and orientation of Building A at the southern corner of the site.

Building A proposes an appropriate response to its context and setting in relation to the highway. The scale of Building A is consistent and relates to development across the highway to the south, which is set in a similar context to this portion of the subject site. The buildings to the south across the highway include a Seniors Living (previous iteration of the SEPP) development on the south eastern corner of the Princes Highway and a ‘big box’ Car Showroom on the south western corner. These existing developments provide a gateway-type entrance to the part of the Sutherland Shire, the proposed Building A will continue this scale in its proposed location.

The proposed northern building B is at the interface of a Council reserve and existing residential flat buildings of 3 storeys in height. To the east and west of it are low rise buildings, being the houses across Acacia road and the existing Bupa RACF. It is considered that in order for this proposal to address the streetscape and rationally transition to adjacent development including the public open space in accordance with the SEPP 'neighbourhood' Clause, that Building B be reduced to 6 storeys in height (down from 7 storeys as proposed). This is recommended via a condition of consent.

This design change will reduce the bulk and scale of the northern building, and will provide an improved response to the landform, where the site slopes down towards the north. The interface between the new buildings and the development in the lower density zones surrounding it will be improved, whilst only resulting in a small reduction in yield to the developer. It is noted that both proposed towers are over the height limit as proposed and, whilst Council will support the two storeys variation on the highway side, the variation at the sensitive residential interface does not have a strong planning justification and cannot be supported.

Subject to the above, the development is consistent with Clause 33.

Clause 34 Visual and acoustic privacy

A number of balconies that face onto bedroom windows and other balconies between Building A and B require privacy treatment given their reduced separation and direct offset. A condition of consent is recommended which requires privacy screens to north-facing balconies on Building A.

The balustrading on the eastern façade of both Building A and B is made up of solid masonry and glazing. In order to improve the privacy of future occupants of the proposed development, as well as to mitigate impacts upon the lower density dwellings to the east, a condition of consent is recommended which requires the eastern facing balustrades on both buildings be of solid masonry or opaque glass.

Clause 34 also requires the development comply with the Australian and New Zealand Standard entitled *AS/NZS 2107-2000, Acoustics-Recommended design sound levels and reverberation times for building interiors* and the Australian Standard entitled *AS 3671-1989, Acoustics-Road traffic noise intrusion-Building siting and construction*. It is recommended that a condition of consent require compliance with these standards.

Subject to the above, the proposal is satisfactory relating to this Clause.

Clause 35 Solar Access and design for climate

The proposal complies with the solar access requirements of the Apartment Design Guide (see assessment below). In addition to this the proposal complies with the solar access requirements of Council's 2015 DCP. The dwellings are appropriately sited with 74% of the dwellings receiving a minimum of 3 hours direct sunlight between 9am and 3pm mid-winter.

In addition, 86% of the apartments are natural ventilated.

The application has also submitted a BASIX certificate which sets requirements for achieving energy and water uses mitigation/ minimisation measures upon this development.

Clause 37 Crime Prevention

The proposed development provides for adequate surveillance of the street, and to internal common open space. The development also provides for adequate surveillance over the adjacent Council reserve to the north.

There is a shared secure entry central to the proposed residential buildings A and B.

The proposal was referred to the NSW Police who have under taken an assessment of the proposal and provided recommendations; their recommendations are to be imposed as conditions of consent.

Clause 38 Accessibility

The application has a clearly identifiable entry via a pedestrian path and driveway to a *port cochere* and residential entry foyer of Acacia Road.

There are safe pedestrian links to public transport, and to the Sutherland Centre. The applicant will be providing paved footpaths along the frontage of the development.

Access to parking for residents will be via a driveway to the basement, this includes parking for users of the health and wellbeing centre. There is on-street parking along Acacia Road.

Statutory accessibility standards have been largely demonstrated on the submitted plans and are to be imposed as a requirement as a standard condition of consent.

State Environmental Planning Policy (Infrastructure) 2007

The proposed *Health and Wellbeing Centre*– for use by residents and the public – is a permissible land use under the SEPP (Infrastructure) 2007. An assessment has been undertaken below:

SEPP (Infrastructure) 2007			
Clause	Standard	Proposed	Complies
Part 3 - Division 10CI 57 – Development permitted with	Development for the purpose of health services facilities may be carried out by any person with consent on land	R4 Zone	Yes – <i>'wellbeing centre'</i>

The following provisions of State Environmental Planning Policy (Infrastructure) 2007 (SEPP 2007) apply to the development.

Clause 101 - Development with frontage to classified road

The development site has a direct frontage to an arterial road, being Princes Highway. The development will have direct vehicular access from Acacia Road. The Roads and Maritime Service is proposing to widen the Princes Highway adjacent to the site as part of its planned upgrades to the highway.

The proposed development is appropriately sited and designed to ensure no adverse amenity impacts will arise as a result of its proximity to the Princes Highway. Building A is setback approximately 7.1m its boundary with the Princes Highway, with the ground floor presenting a defensive elevation to the highway, and the residential dwellings appropriately located and designed. The applicant has submitted an acoustic report, and appropriate conditions are recommended to provide appropriate acoustic attenuation measures.

Clause 102 - Impact of road noise or vibration on non-road development

This clause requires the consideration of the impact of road noise or vibration on the proposed development. Proposed Building A fronts the Princes Highway which is an arterial road. The applicant has submitted an Acoustic Report prepared by JHA Services to demonstrate the assessment criteria against which the proposed development has been assessed. The acoustic report concludes that the building will comply with the internal noise criteria of 35 dBA and 40 dBA as per Clause 102. On this basis an acceptable acoustic environment and compliance with SEPP 2007 can be achieved.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

State Environmental Planning Policy (Building Sustainability Index) 2004 (BASIX) aims to establish a scheme to encourage sustainable residential development across New South Wales. BASIX certificates accompany the development application addressing each building within the development. The proposal achieves the minimum performance levels / targets associated with water, energy and thermal efficiency.

State Environmental Planning Policy No. 55 - Remediation of Land

State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55) requires a consent authority to consider whether the land is contaminated and, if so, whether the land will be remediated before the land is used for the intended purpose.

A site inspection and search of Council records has revealed that the subject site is partially remediated. Council's Environmental Science Officer has undertaken a review of historic information, and supporting documents submitted with this application. The Officer has advised that the site is suitable for its proposed use, subject to recommended condition of consent regarding the preparation of a site audit statement regarding both the subject site and Council reserve.

Greater Metropolitan Regional Environmental Plan No. 2- Georges River Catchment

Greater Metropolitan Regional Environmental Plan No. 2 (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 the Georges River, catchment and tributaries. Council is of the view that with the implementation of

the recommended conditions of consent the proposal would be consistent with the aims and objectives of GMREP2.

State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development – Design Quality Principles (SEPP 65)

State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (SEPP 65) and the accompanying Apartment Design Guide (ADG) seeks to improve the design quality of residential flat development. The proposal is affected by SEPP 65. Sutherland Shire Council engages its Architectural Review Advisory Panel (ARAP) to guide the refinement of development to ensure design quality is achieved in accordance with SEPP 65. ARAP comments are included in Annexure 'B' to this report.

An assessment against the ADG is included in the table below:

Apartment Design Guide			
Objective	Design Criteria	Proposal	Complies
3D-1 (1)(2) Communal Open Space (COS)	Communal open space has a minimum area equal to 25% of the site.	Pre-subdivision= Min 4514m ² - 32%	Yes
	Post-subdivision= Min 1124m ² required	Post-subdivision= 1916m ² provided or 42%	Yes
	Developments achieve a minimum of 50% sunlight to COS for min. 2 hrs 9am-3pm mid winter	Yes	Yes
3E-1(1) Deep Soil Zones	Sites > 1500m ² = Minimum dimension 6m 7% of site area	Min 34% deep soil	Yes
2F - 3F-1(1) Building Separation & Visual Privacy	<u>Internal Separation</u> <u>Up to 4 storeys(approx 12m)</u> <i>12m between habitable rooms/balconies</i> <i>9m between habitable and non-habitable rooms</i> <i>6m between non-habitable rooms</i>	min 13.7m	Yes
	<u>Up to 25m (5-8 Storeys)</u> <i>18m between habitable rooms/balconies</i> <i>12m between habitable and non-habitable rooms</i>	min 14m (including balcony to balcony and balcony to bedroom)	No – Condition recommends privacy screens to affected balconies.

	9m between non-habitable rooms		
	<p><u>Boundary Setbacks</u></p> <p><u>Up to 4 storeys(approx 12m)</u></p> <p>6m habitable rooms/balconies</p> <p>3m non-habitable rooms (+3m at zone interface)</p>	<p>Building A:</p> <p>8.3m to proposed rear western boundary</p> <p>7m to southern boundary (side)</p> <p><u>Building B:</u></p> <p>min 7.5 to proposed western boundary (rear)</p> <p>Ground Level: 5.1m to the northern side boundary (to Council Reserve)</p> <p>Level 1-4: 3m to north boundary (to Council Reserve)</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>No - See discussion below</p> <p>No – See discussion below</p>
	<p><u>Up to 25m (5-8 Storeys)</u></p> <p>9m habitable rooms/balconies</p> <p>4.5m non-habitable rooms (+3m at zone interface)</p>	<p><u>Building A:</u></p> <p>8.3m to western boundary (rear)</p> <p>6.3m to southern boundary (side)</p> <p><u>Building B:</u></p> <p>min 10.3m to proposed rear western boundary</p> <p>3m to north boundary (setback to public park)</p>	<p>No – See discussion below</p> <p>No – See discussion below</p> <p>Yes</p> <p>No – See discussion below</p>
4A-1(1)(3) Solar and Daylight Access	<p>Living rooms and private open spaces of at least 70% of apartments receive min. 2 hrs sunlight 9am-3 pm midwinter (56 units)</p> <p>Max. 15% apartments</p>	<p>57 Units - 71%</p> <p>10 apartments receive no</p>	<p>Yes</p> <p>Yes</p>

	building receive no sunlight 9am-3pm midwinter (12)	sunlight - 12.5%	
4B-3(1) (2) Natural ventilation	At least 60% of apartments are naturally cross ventilated.	86% are cross ventilated	Yes
4C-1(1) Ceiling heights	Habitable rooms 2.7m	2.7m	Yes
4D-1(1)(2) Apartment Size & Layout	1br bedroom – 50m ² 2br Bedroom – 70m ² 3br Bedroom – 90m ² (+5m ² for 2 bath)	Yes	Yes
4D-2 (1)(2) Room Depth	In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window	Maximum 8m	Yes
4D-3(1)(2)(3)(4) Living Room Depth	Master bedrooms - min area of 10m ² other bedrooms 9m ² (excluding wardrobe space) Bedrooms to have min dimension of 3m. Living rooms or combined living/dining rooms have a min width of: <ul style="list-style-type: none"> • 3.6m for 1 bedroom • 4m for 2 and 3 bedroom 	Yes	Yes
4E-1(1)(2) Private Open Spaces / Balconies	1br = 8m ² / depth 2m 2br = 10m ² / depth 2m 3br = 12m ² / depth 2.4m	All apartments meet the minimum area and depth requirements	Yes
4F-1(1)(2) Common Circulation and Spaces	Maximum apartments of single circulation core = 8	Level 1-5 Max 7 dwellings Level 6 – Max 6	Yes
4G-1(1) Storage	1br apartment = 6m ³ 2br apartment = 8m ³ Storage 3br apartment = 10m ³ At least 50% of storage to be located within the apartments	Min 6m ³ Min 8m ³ Min 10m ³ Min 50% Storage within Apartments	Yes Yes Yes

SEPP 65 and the ADG also aim to improve development through the application of a series of 9 design principles. A brief assessment of the proposal having regard to the design quality principles of SEPP 65 is set out below:

DESIGN QUALITY PRINCIPLES	ASSESSMENT
Principle 1: Context & Neighbourhood Character	<p>This proposal is an appropriate response to the desired future character of Sutherland. The design has responded to the context of the locality of the site on the corner of the Princes Highway through the introduction of a higher residential tower (Building A) on the corner of the site, and a lower tower (Building B) closer to a council reserve and lower scale residential development. A further condition of consent will lower the height of Building B in order to improve the relationship with the adjacent open space and lower scale residential development to the north and east.</p>
Principle 2: Built Form & Scale	<p>The proposed development achieves an appropriate form in terms of scale, proportions and building composition envisaged for the south eastern corner of the site adjacent to the corner of the Princes Highway and Acacia Road, being Building A. Building A incorporates articulation and materials in the composition of the facades which serves to break up the visual scale and bulk of the development, reducing the apparent building mass.</p> <p>Building B, whilst architecturally matched to Building A, is located away from the highway and in closer vicinity to lower scale residential development and a Council reserve. Building B is 7 storeys in height. A condition of consent recommends that this building be reduced to 6 storeys in order to improve the transition to the reserve and existing residential development.</p> <p>Overall the development will provide a contemporary building, reinforce the desired future character of the area and enhance the amenity of the locality.</p>
Principle 3: Density	<p>The unit areas and proportions are in keeping with the rules of thumb in the Apartment Design Guide, and provide a level of openness and amenity. The proposed density is distributed appropriately across the site.</p>
Principle 4: Sustainability	<p>The development incorporates BASIX requirements and sustainability measures into its overall design so as to enhance water and energy efficiency and to provide suitable amenity to the building's future occupants.</p>
Principle 5: Landscape	<p>Trees on the neighbouring properties will be protected through the provision of adequate tree protection zones. Deep soil areas within</p>

	the rear communal open space and along the southern, western and western boundaries will contribute to preserving the existing landscaped character. Further planting and appropriate species selection will reinforce the existing and desired future character of the locality. In addition to the Council's reserve to the north of the site the applicant proposes to rehabilitate the Endangered Ecological Community of the Sydney Turpentine-Ironbark Forest and embellish other parts of the reserve with paths and pay equipment.
Principle 6: Amenity	The proposal adequately satisfies the provisions of the Apartment Design Guide in terms of residential amenity, including appropriate building and floor plan layout, acceptable building separation distances, visual/acoustic privacy and solar access.
Principle 7: Safety	The proposed development incorporates suitable Crime Prevention Through Environmental Design (CPTED) Principles in the design.
Principle 8: Housing Diversity & Social Interaction	The proposal provides a mix of apartment types. The Seniors Housing 'product' within the development is delivered without compromising design quality or housing standards. The facility will interact with the neighbourhood as an RFB-style development.
Principle 9: Aesthetics	An appropriate composition of building elements, proportions, textures, materials and colours within the development has been achieved.

SPECIALIST COMMENTS AND EXTERNAL REFERRALS

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

NSW Police Force

The NSW Police Force has been notified in accordance with Council's crime prevention Protocol. Crime prevention through environmental design recommendations have been made.

Architectural Review Advisory Panel

Council engages an independent panel for review of medium to large projects. The ARAP considered this application on 2 February 2017, and they raised a number of significant concerns associated with the development scheme including site layout / planning, non compliance with building height, architectural expression and form, public domain interface, resident amenity and viability if vegetation including heritage trees along the Old Princes Highway frontage. The applicant has been made aware of ARAP's comments and has been requested to directly address these issues and provide amendments to the development proposal. A full copy of the ARAP report is attached at **Appendix "C"**.

Engineering

Council's development engineer has undertaken an assessment of the application and has advised that the car parking should comply with AS2890.6 (2009). The Engineer has provided suitable conditions of development consent with respect to other matters including access, drainage and waste management.

Landscape Architect

Council's Landscape Architect has undertaken an assessment of the application has provided suitable conditions of development consent regarding landscaping, tree planting and tree protection.

Architect

Council's Architect has undertaken an assessment of the application has provided comments including regarding privacy between the proposed buildings A and B. The architect has also recommended the reduction in height of Building B to provide a transition to adjoining development and reduce the bulk of this building to Acacia Road.

Privacy screens will be recommended to be erected via a condition of consent.

Environmental Scientist

Council's Environmental Scientist has reviewed historic and current documents regarding the subject site. As discussed above, regarding SEPP 55 the Officer has advised that the site is suitable for its intended use, and recommends an up-to-date site audit statement be prepared as a condition of consent.

The Officer has also reviewed the Vegetation Management Plan in conjunction with Council's Greenweb Officer, and has recommended a number of amendments to be made via a recommended condition of consent. Including that the VMP be incorporated into the Planning Agreement, planting densities, and on-going maintenance.

Traffic Engineer and Public Assets Engineer

Council's Traffic Engineer and Public Assets Engineer have undertaken an assessment of the application and have advised that the driveway is in a suitable location. Final detail design of the footpath, driveway and other works within the road reserve are recommended subject to consent under the Roads Act, and a condition of consent is recommended to this effect.

The RMS is proposing to widen the road along the Princes Highway as part of its Gateway to the South Pinch Point Program as can be seen below in Figure 8. Councils Traffic and Public Asset Engineer have advised that any long term changes to access to and from the Highway at this intersection will be subject to the RMS.



Figure 7 Road widening as per the RMS Gateway to the South Pinch Point Program

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 and the provisions of relevant environmental planning instruments, development control plans, codes and policies, the following matters are considered important to this application.

Height of Buildings

The proposed development fails to comply with the development standard for height. Clause 4.3 of SSLEP 2015 stipulates a maximum height of 20m for this site.

The objectives of the height of buildings development standard set out in clause 4.3 (1) of SSLEP 2015 are as follows:

- (a) *to ensure that the scale of buildings:*
 - (i) *is compatible with adjoining development, and*
 - (ii) *is consistent with the desired scale and character of the street and locality in which the buildings are located or the desired future scale and character, and*
 - (iii) *complements any natural landscape setting of the buildings,*
- (b) *to allow reasonable daylight access to all buildings and the public domain,*
- (c) *to minimise the impacts of new buildings on adjoining or nearby properties from loss of views, loss of privacy, overshadowing or visual intrusion,*
- (d) *to ensure that the visual impact of buildings is minimised when viewed from adjoining properties, the street, waterways and public reserves,*
- (e) *to ensure, where possible, that the height of non-residential buildings in residential zones is compatible with the scale of residential buildings in those zones,*
- (f) *to achieve transitions in building scale from higher intensity employment and retail centres to surrounding residential areas.*

In response to Council's preliminary assessment and advice to delete two dwellings from level 7 of Building B in order to address bulk and scale, the applicant removed the two dwellings from Building B and added them to Building A. This was achieved by increasing Building A from 7 storeys to 8 storeys in height, keeping the overall dwelling yield at 80.

The applicant submitted amended plans and documents supporting their proposed amendments.

As such, the bulk and scale of the overall development has not significantly reduced due to the addition of an eighth floor to Building A.

Council considers that the bulk at the Princes highway is acceptable, but considers that Building B with a closer relationship to surrounding development needs to be reduced in height to further address the bulk issue arising from the amendment. A recommended condition of consent proposes to reduce the height of Building B to 6 storeys in height, this is discussed further below.

The two residential towers are a greater height than the permissible 20m as per the SSLEP 2015, and the development overall is inconsistent with the desired future character of the area. However with a reduction in height of Building B the proposal provides a transition to the Council reserve to the northern and existing lower scale residential development to the north and east.

When assessing the general scale of buildings in the vicinity of the site and Sutherland centre, it is considered that the bulk of Building A (the southern tower) in the corner of the site adjacent to the Princes Highway is appropriate when viewed in the context of the surrounding area. The applicant has provided block modelling for the site and the surrounding area including the Sutherland Centre, and Kirrawee Brick Pit development. The block modelling is identified below in Figure 8 and is based on the SSLEP 2015.

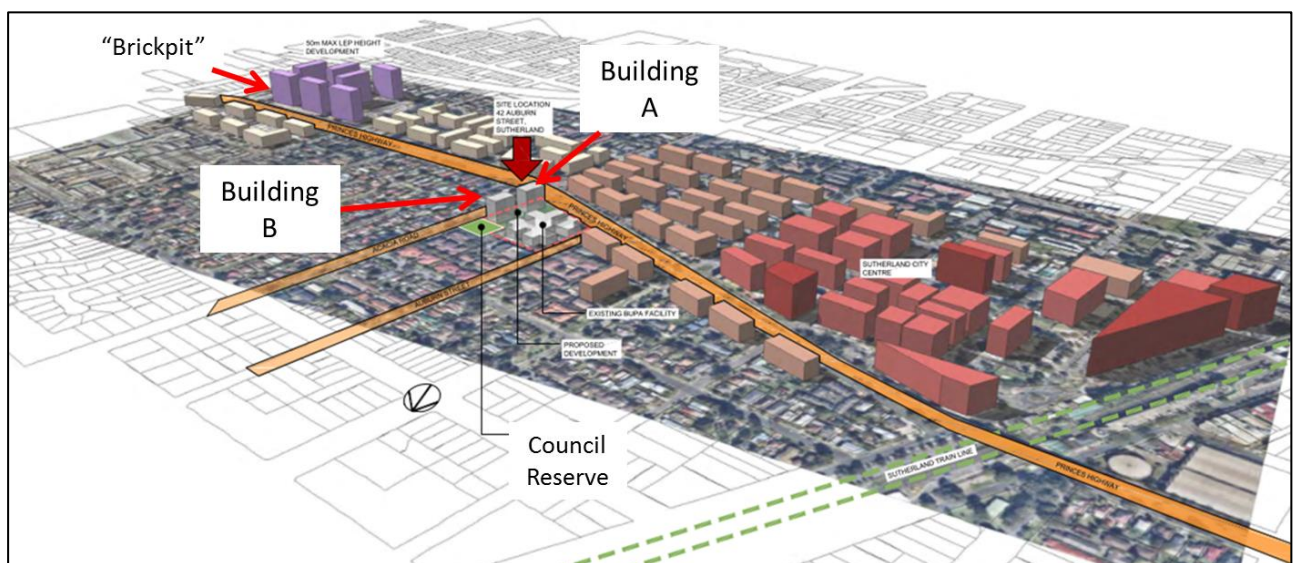


Figure 8 Block modelling of the site and parts of Sutherland.

As indicated above Building A provides a scale that relates to adjacent development across the

highway and to the west of the site. The shadows from Building A would fall essentially onto the highway roadway, and other bulk and dominance impacts would be concentrated towards the south, which is largely occupied by an eight lane roadway and commercial buildings. Building B however adjacent the reserve should have a more sympathetic bulk and scale to adjacent development and should provide a transition in accordance with the SSLEP 2015 height and zoning objectives.

Based on this it is considered that Building B should have an improved relationship with the scale of the surrounding development whilst still satisfying the desired future character of this area. In this case it is recommended that Building B be reduced in height to be no greater than 6 storeys (ie. complying) in height. A design change condition is recommended to this effect.

The proposed development is located within zone R4 High Density Residential. The objectives of this zone are as follows:

Zone R4 High Density Residential

- *To provide for the housing needs of the community within a high density residential environment.*
- *To provide a variety of housing types within a high density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To encourage the supply of housing that meets the needs of the Sutherland Shire's population, particularly housing for older people and people with a disability.*
- *To promote a high standard of urban design and residential amenity in a high quality landscape setting that is compatible with natural features.*
- *To minimise the fragmentation of land that would prevent the achievement of high density residential development.*

The development does provide a variety of housing types within a high density environment resulting in a mix of 1 to 3 bedroom dwellings within two residential towers. This development is to provide housing for Seniors. In addition, the development provides facilities and services that meets the needs of residents including a health and wellbeing centre for both residents and the wider community close to the Sutherland centre as well as services such as a hair dressing salon and café for senior citizens.

The applicant has lodged a written request in accordance with the requirements of clause 4.6 of SSLEP 2015. A full copy of this request is on the file and the most relevant section is reproduced below:

"The proposal specifically addresses all the objectives of the R4 zone, as in as much as: -

- *The buildings provide high density housing;*
- *The proposal provides for a mix of unit types suitable for use by seniors;*
- *A variety of ancillary facilities and services are provided within the development to that will meet the day to day needs of residents;*
- *The proposed accommodation and services are purpose built for older people and people with a disability;*

- *The proposal retains and enhances adjoining landscape features (the trees on its perimeter and the park to the north) and provides a high standard of urban design; and*
- *The proposal seeks to consolidate the services already provided on the site by BUPA with additional facilities and self-contained accommodation”.*

“The streetscape along Old Princes Highway is characterised by the row of heritage listed trees which provide a visual screen to development on the site. The site is located at a transitional point between the lower density residential dwellings to the east and north and the higher density residential buildings along Auburn Street and to the west. This transition point is reflected in Council's current planning controls introducing higher residential densities around the Sutherland commercial centre.”

“The site is located on a prominent corner of the Old Princes Highway and opposite the main road (Acacia Road south) to Wollongong and beyond. The site is also located in the Sutherland commercial centre precinct and can be considered a gateway site and a point of arrival to Sutherland with the character of the Princes Highway changing at this point with the main traffic flow turning to the south.”

“The proposed development makes efficient use of an underutilised site being land specifically prepared and serviced for redevelopment and in this regard is consistent with the objects of the EP&A Act 1979 to promote the orderly and economic use and development of land. The development provides a much needed seniors housing in the area.”

Based on an assessment of the proposal and Clause 4.6 variation, the applicant’s written submission demonstrates that compliance with the height development standard is unreasonable or unnecessary in the circumstances of the case of Building A, but not in the case of Building B. It also demonstrates sufficient environmental planning grounds to justify varying this development standard in relation to Building A. The urban design arguments reflecting the transitional, gateway nature of the site and its current underutilisation carry weight in respect of Building A’s height variation. However, in respect of Building B it is the very aspect of a transition between zones, land uses and building densities that fails to sustain a reasonable argument to breach the height limit for Building B.

Subject to the lowering of height of Building B to a compliant 6 storeys, the proposed development is in the public interest as the proposal satisfies the objectives for both building height and the R4 zone.

The proposed variation does not raise any matters of State or regional environmental planning significance. In addition there is no public benefit to maintain the height development standard in the circumstances of this case for Building A.

There is a public benefit to maintain the height development standard of Building B (northern tower) in the circumstances of this case. Building B will be required to be reduced to 6 storeys in height in order to provide for a transition in bulk and scale down to the adjacent reserve to the north, and across the road to the existing residential development to the east.

In conclusion:

- the variation to the height development standard satisfies all relevant parts of clause 4.6 regarding Building A and therefore the variation can be supported for this Building A.
- the variation to the height development standard for Building B fails to satisfy all relevant parts of clause 4.6 and therefore the variation cannot be supported.

Urban Design, Massing and Floor Space Ratio

The development proposes a FSR of 1.27:1 which complies with the SSLEP 2015 control of 1.5:1, based on the existing site area, which includes the residential aged care facility on the western portion of the site. As the application is proposing subdivision, the proposed eastern lot containing this development would measure approximately of 4497m² (see Figure 1 above), resulting in an FSR of 2.2:1. Concern has been raised that the proposal represents an overdevelopment of the 'development portion' of the site.

Of course, the FSR control applies across the consolidated site and the applicant should not be deprived of their reasonable expectation to develop the land up to its potential. By the same token, the development subject to this proposal is massed up against a zone boundary with the R2 low density zone and over the height limit – circumstances where the FSR is likely to be curtailed.

The objectives of the floor space ratio development standard set out in clause 4.4(1) of SSLEP 2015 are as follows:

- (a) *to ensure that development is in keeping with the characteristics of the site and the local area,*
- (b) *to ensure that the bulk and scale of new buildings is compatible with the context of the locality,*
- (c) *to control development density and intensity of land use, taking into account:*
 - (i) *the environmental constraints and values of the site, and*
 - (ii) *the amenity of adjoining land and the public domain, and*
 - (iii) *the availability of infrastructure to service the site, and*
 - (iv) *the capacity of the road network to accommodate the vehicular and pedestrian traffic the development will generate, and*
 - (v) *the desirability of retaining the scenic, visual, and landscape qualities of the area.*

Following the discussion above regarding height, including the recommendation to reduce the height of Building B to 6 storeys, it is considered that the development is acceptable in this case relating to Floor Space Ratio, which is a control above all else of building bulk. The massing of the two towers is acceptable as Building A articulates the street corner and concentrates impacts on the highway; whilst Building B with a reduced height is preferred as a transition to the lower density lands to the north and east. The development satisfies the objectives of Clause 4.4 of the SSLEP 2015, in particular as the development takes into account the environmental constraints of the site and the amenity of the public domain, in particular through the provision of adequate landscaping, including the rehabilitation of the EEC and the embellishment of the reserve, as a public benefit resulting from this application.

The development has been assessed as being acceptable in relation to the road network, including the proximity of the site to the Princes Highway. A foot path will be provided along the front of the site and the reserve to facilitate pedestrian movement.

Clauses 6.16 and 6.17 of SSLEP 2015 contain certain matters of consideration relating to urban design. The relevant matters have been considered as a part of the above consideration of the application and the proposal is considered to be acceptable.

The proposed development promotes a high standard of urban design; it also provides a variety of housing types, including housing for seniors and persons with a disability. The proposal is consistent with the objectives of the zone. The recommended reduction in building height to Building B will result in a small reduction in FSR which will bring the built form into greater sympathy with the lower density development in the adjacent zone.

Setbacks

The side setback of Building B to the northern boundary with the Council reserve is non-compliant with the ADG controls for all but the ground level of this 7 storey building. Building B provides surveillance over the reserve and the setback from the boundary is acceptable in this instance, with the northern façade being well articulated on its northern façade.

It should be noted that the building elevation steps in-and-out along this edge. When coupled with the articulation, surveillance and the reduction in height of Building B (as discussed above) the non-compliance with setback is acceptable in this case.

Parking

Parking is proposed across two basement levels, with a total of 88 spaces are allocated for residents and 5 spaces for users of the Health and Wellbeing Centre.

The application does not provide sufficient parking numbers as per the SSDCP 2015 as discussed above in the *Compliance* section, however the subject site is close to bus services connecting to Sutherland, Miranda and Cronulla, and is within easy walking distance of the Sutherland Centre which contains substantial civic and health services and dining and recreation facilities.

It is considered that whilst the application provides a sufficient number of parking spaces in accordance with the Seniors SEPP, these parking space dimensions do not accord with the current dimension standards within AS2890.6 and with the parking dimension requirements of Schedule 3 Part 2 Seniors SEPP. Given that the proposal is assessed as being made under Council's LEP rather than under the SEPP, this requirement is not taken to strictly apply and is very demanding at 95% of spaces at disabled standard in any case.

However, given that older residents will occupy the building and will age-in-place (and many will suffer mobility impairment), it is considered appropriate to push for as many disabled-standard spaces on

site as possible. A condition of consent is recommended that at least 25% of the parking spaces comply with AS2890.6 (2009) – Off Street Parking for People with a Disability.

The applicant proposes to provide parking on the street along Acacia Road; this however cannot be solely relied upon, or set aside for exclusive use by the proposed development.

Whilst the parking rates for commercial development do not apply to an R4 zone, as the centre is permitted by the Infrastructure SEPP, 'Medical Centre' parking rates from the SSDCP have been applied in the absence of any other parking rates within the Infrastructure SEPP or Seniors SEPP. The rates have been applied as a guide to the health and wellbeing centre, as this facility will be open to the public, as well as residents. Based upon an assessment of the parking rates in the SSDCP for the health and wellbeing centre will generate the need for 12 spaces, 5 spaces are proposed in the basement. A condition of consent will also recommend that an additional 7 parking spaces be provided in the basement to accommodate parking for the wellness centre.

There are no requirements in the Seniors SEPP for visitor or staff parking. However, as the site is not a care facility as such but a cluster of apartment-style independent living units, staff numbers are likely to be minimal.

Traffic and Pedestrian Safety

As discussed above the number of parking spaces is compliant with the Seniors SEPP, however the dimensions of the spaces are not in accordance with the Seniors SEPP or the current AS2890.6. Additional parking will be required to be provided in the basement via a recommended condition of consent for the health and wellbeing centre, with an additional 7 spaces required.

Council's traffic engineer has reviewed the proposal in terms of traffic, and requested that the driveway be reconfigured to address safety in the vicinity of the Gilmore Avenue intersection. The changes to the driveway are noted on the plans and are considered acceptable.

The preparation of a construction management plan is recommended via a condition of consent, addressing a number of site management matters including traffic and vehicular movement during the construction phase.

The proposal will involve the construction of a pedestrian footpath along the frontage of the site, improving pedestrian access and safety in the vicinity of the site.

The works at the intersection of the Princes Highway and Acacia Road are part of the *RMS Gateway to the South Pinch Point Program* as discussed above. Any changes to this intersection, including restricting the movement of traffic to/ from Princes Highway into Acacia road will be dependent on the RMS.

Delivery of the proposed reserve/ use of park

The land transfer will be required to occur as Phase 1 of the development, prior to the issue of a Construction Certificate. A recommended condition of consent specifies the delivery of the park, time of delivery and that the delivery of the reserve, including embellishment, is to occur in accordance with the Planning Agreement. This will enable the regularisation of the reserve allotment, and the embellishment of the reserve.

In order to ensure that the reserve is embellished Council and the applicant will enter into a Planning Agreement for the delivery and embellishment, this agreement will also include a bond to secure the works should the applicant fail to deliver all or part of the reserve.

The reserve will be required to be delivered prior to the issue of any occupation certificate for Phase 2 of the development as the embellishment of the reserve did not occur historically (as discussed above). This is recommended as a condition of consent. The park is a public reserve. There will be low fencing to the Acacia Road frontage to prevent vehicular entry. There will also be regulatory and information signage erected in the reserve.

Additional/ Ancillary Uses

These uses are ancillary to the Seniors Housing development. The café and hair dressing salon will be for use by residents only and visitors of residents. Given that standalone cafes or retail premises are not permissible in the zone, they will not be opened to the public, and a condition of consent is recommended to restrict use of these facilities. Hours of operation are also recommended as a condition of consent, including for the outdoor seating associated with the café. There are also additional conditions of consent recommending the maximum number of indoor and outdoor seating for the café.

A condition of consent also recommends hours of operation for the Health and Wellbeing Centre in order to minimise impacts upon the neighbourhood.

Infrastructure capacity to support growth in Sutherland/ Kirrawee.

Under the Sutherland Shire LEP 2015 the site is in the R4 High Density Residential zone where seniors housing and residential flat buildings are permissible. The site is within an area of the Sutherland Shire which has been granted a priority uplift in zoning, including changes to permissible development types, including those types of development that result in increased residential density such seniors housing and residential flat building. The proposed development is in keeping with the desired future character of its immediate surrounds.

The site is within close proximity to the Sutherland Centre which has good public transport links and access to civic services and recreation and health facilities.

Earthworks

The proposal includes earthworks and clause 6.2 of SSLEP 2015 requires certain matters to be considered in deciding whether to grant consent. These matters include impacts on drainage; future

development; quality and source of fill; effect on adjoining properties; destination of excavated material; likely disturbance of relics; impacts on waterways; catchments and sensitive areas and measures to mitigate impacts. The relevant matters have been considered and the application is acceptable.

Stormwater Management

Clause 6.4 requires Council to be satisfied of certain matters in relation to stormwater management prior to development consent being granted. These matters include maximising permeable surfaces; on-site stormwater retention minimising the impacts on stormwater runoff. These matters have been addressed to Council's satisfaction.

Terrestrial biodiversity

The subject land is identified as "Biodiversity" on the Terrestrial Biodiversity Map and the provisions of clause 6.5 are applicable.

Clause 6.5 requires Council's assessment to consider certain matters. Council must consider the impact of the development on flora; fauna; vegetation; biodiversity and habitat and any appropriate mitigation measures. The relevant matters have been considered as part of the assessment of this application and the proposal is acceptable in this regard.

Further, clause 6.5 requires Council to be satisfied of certain matters prior to development consent being granted. These matters include the design of the development to avoid or minimise impact; management to minimise the impact if it cannot be avoided and mitigation if the impact cannot be minimised. These matters have been addressed to Council's satisfaction.

Threatened Species

Threatened species are particular plants and animals that are at risk of extinction and include threatened populations and endangered ecological communities. Threatened species, populations and ecological communities are protected by the NSW Threatened Species Conservation Act 1995, NSW Fisheries Management Act 1994 and the commonwealth Environmental Protection and Conservation of Biodiversity Act 1999.

Council has mapped the known threatened species, populations and ecological communities. The site contains remnants of the Endangered Ecological Community (EEC) of Sydney Turpentine-Ironbark Forest. An assessment of the Vegetation Management Plan (VMP) submitted with this application has been undertaken by Council's Environmental Assessment Officer and Environmental Scientist. Further the Office of Environment and Heritage has reviewed and is satisfied with the report submitted by the applicant. Relevant conditions of consent will be imposed regarding this EEC.

Heritage

There is a stand of trees which straddle the southern boundary and Council land identified as heritage items on the SSLEP 2015. Council's Heritage Officer has advised that according to the Heritage inventory that the trees on private land are of very low Heritage Significance. The Officer advised that

the impact of the proposed works upon these trees is acceptable in this instance, and that the trees should be examined as part of any landscape strategy due to their low significance from a heritage stance.

Archaeological Sensitivity

Council records indicate that the subject site is rated low in terms of Archaeological Sensitivity. A site inspection did not reveal any evidence of shell material or significant sandstone features within the development zone. The proposal does not warrant an Archaeological Study being undertaken.

Access to the Site

Vehicular access to the site will be via a separate driveway on Acacia Road. Pedestrian access will be via Acacia Road. To the rear of the proposed development pedestrian access to the existing RACF to the west is also proposed.

Waste Management

Waste collection will occur wholly within the site from within the basement.

SECTION 94 CONTRIBUTIONS

The proposed development will introduce additional residents to the area and as such will generate Section 94 Contributions in accordance with Council's adopted Contributions Plans. These contributions include:

Open Space: \$696,413.43

Community Facilities: \$115,575.76

Land within the Sutherland Centre: \$276,771.53

These contributions are based upon the likelihood that this development will require or increase the demand for local and district facilities within the area. It has been calculated on the **basis of 78 new residential units with a concession of 1 existing allotment.**

DECLARATION OF AFFILIATION

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.

CONCLUSION

The proposed development is for Seniors Housing at 42 Auburn Street and 99R Acacia Road Sutherland.

The subject land is located within *Zone R4 High Density Residential* pursuant to the provisions of Sutherland Shire Local Environmental Plan 2015. The proposed development, being Seniors Housing is a permissible land use within the zone with development consent.

The application was placed on public exhibition on two (2) separate occasions and in response to public exhibition, submissions were received from a total of 56 objections were received including one petition with 104 signatures. The matters raised in these submissions have been discussed in this report and include bulk and scale, character, parking and contamination.

The proposal includes a variation to height. This variation has been discussed and is acceptable for Building A only. The proposal is considered acceptable subject to the reduction in the height of Building B by one storey (to an LEP-compliant 6 storeys) in order to provide an appropriate transition to the lower density lands to the north and east.

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 Sutherland Shire Local Environmental Plan and all relevant Council DCPs, Codes and Policies. Following detailed assessment it is considered that Development Application No. DA16/1620 may be supported for the reasons outlined in this report.

RESPONSIBLE OFFICER

The officer responsible for the preparation of this Report is the Manager, Major Development Assessment (LP).