



08 December 2017

SSPP Ref: **2016SSH001**

DA Number: DA16/1620

### **Addendum to Report prepared for Sydney South Planning Panel**

|                              |                                                                                                                                                             |
|------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>LGA</b>                   | Sutherland Shire                                                                                                                                            |
| <b>Proposed Development:</b> | Seniors housing development comprising independent living units, a health services facility and associated uses, and boundary adjustment of 2 existing lots |
| <b>Street Address:</b>       | Lot 11 DP 1103619, Lot 200 DP 1110295 - 99R Acacia Road, Sutherland, 42 Auburn Street, Sutherland                                                           |
| <b>Applicant/Owner:</b>      | Bupa Aged Care Australia Pty Ltd                                                                                                                            |

#### **Background**

This Addendum has been prepared by Sutherland Shire Council in response to a Peer Review of Council's Assessment report for the above development application. The Peer Review was conducted at the direction of the SSPP, given that part of the proposal involves a land transfer between Council and the Applicant.

The peer review was undertaken by Cardno, and concluded:

*"Cardno considers that the draft consent adequately reflects the assessment report and the outcomes of the ARAP meeting.*

*Cardno recommends that the assessment report be amended to include appropriate justification for the following issues:*

- Absence of staff parking for the development other than the proposed wellness centre, despite the proposal including the establishment of an indoor pool and change room, a hair salon, a café, and two workshops;*
- The assessment report notes that Building A has setback inconsistencies with the Apartment Design Guide for the western and southern boundaries. These inconsistencies are approved but not justified in the assessment report.*

*Otherwise, the application was properly assessed under the applicable controls and the objections were adequately addressed. The recommendation to approve the application is appropriate subject to the proposed conditions and Cardno's proposed amendment of the assessment report."*

### **Response to the Peer Review**

A response to the outstanding issues raised by Cardno is as follows:

- *Absence of staff parking for the development other than the proposed wellness centre, despite the proposal including the establishment of an indoor pool and change room, a hair salon, a café, and two workshops"*

Comment: As identified in the assessment report submitted to the SSPP, the proposed development, being independent living units for seniors, will have minimal staff as the proposed development is not a care facility.

Also as stated in the assessment report, the hair salon does not meet the minimum required (based on GFA) for a parking allocation in accordance with Council's DCP 2015. The workshop is intended for use by the residents only, therefore staff parking is not required for this use.

The change room and pool will be predominately used by residents and there may be some use of the pool by the health and wellbeing centre patrons. Parking for the health and wellbeing centre has been accounted for in the assessment, and via a recommended condition which requires additional parking to be provided.

Cardno has identified a potential deficiency in staff parking for the café. This is in accord with Council's assessment that there is an overall deficiency in car parking for the development.

Whilst the café is not a major traffic generator as it will not be open to the general public, it will need to be staffed. Council has no objection to the SSPP requiring staff parking for the café, based on the issue raised by Cardno, and its own assessment of the proposal. Council notes that based on the GFA of the café (131 m<sup>2</sup>), under the DCP 2015, the café would generate the need for 4 parking spaces - this rate does not specify parking for visitors and staff. This parking can be accommodated within a potential additional part basement level. It is anticipated that the applicant will need to explore additional car parking volume in any event, as per the recommended conditions relating to the assessment of carparking to comply with AS289.6, as discussed in the assessment report.

- *"The assessment report notes that Building A has setback inconsistencies with the Apartment Design Guide for the western and southern boundaries. These inconsistencies are approved but not justified in the assessment report"*

Comment: The Apartment Design Guide is a design template for residential flat buildings. The objectives for side setbacks and building separation are to provide adequate and reasonable levels of both internal and external visual privacy.

The setbacks of Building A to the southern boundary are considered acceptable in this instance, as there is no immediately adjacent residential neighbour given the location of this building on the corner of the Princes Highway and Acacia Road.

The setback of Building A at the upper levels (where the non-compliance exists) to the western boundary is also considered acceptable in this instance. The non-compliance with the side setback is measured to a future Torrens boundary with the applicant's own aged care facility to the west.

The minimum building separation between the proposed Building A and the existing facility is approximately 13 metres, the ADG specifies that building separation to habitable area rooms and balconies is to be 9m, therefore overall the development complies with this control.

In addition, the internal amenity of the residential aged care facility is maintained. This facility is mostly high care, with the key amenity of residents provided and enhanced by landscaping and views to the northern skyline, neither of which are disturbed by the proposed development. Amenity for residents in the high care component of the Bupa site will be adequately protected and will be enhanced through additional landscaping to the west of proposed Building A and B.

By way of summary, it is noted for the Panel that Cardno raised no other issues with Council's assessment and was supportive of the overall recommendation of the report and draft consent.

A copy of the Cardno Peer Review is included in **Appendix A** of this Addendum Report, and a copy of this document has been provided to the Applicant. A copy of this update report has also been provided to the applicant.

**Mark Adamson**  
**Manager Major Development Assessment**

Our Ref: 80218040:JOG  
Contact: John O'Grady

8 December 2017

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Dear Ms Plummer,

**PEER REVIEW OF SYDNEY SOUTH PLANNING PANEL ASSESSMENT  
DA16/1620 – 42 AUBURN STREET, SUTHERLAND**

|           |                                                                                                                                                               |
|-----------|---------------------------------------------------------------------------------------------------------------------------------------------------------------|
| DA No.    | DA16/1620                                                                                                                                                     |
| Proposal  | Seniors housing development comprising independent living units, a health services facility and associated uses, and boundary adjustments of 2 existing lots. |
| Property  | 42 Auburn Street, Sutherland<br>991R Acacia Road, Sutherland<br>Lot 220 DP 1110295<br>Lot 11 DP 1103619                                                       |
| Applicant | Bupa Aged Care Australia Pty Ltd                                                                                                                              |

## The Brief

Cardno (NSW/ACT) Pty Ltd (Cardno) has been engaged by Sutherland Shire Council (SSC) to undertake an independent desktop file review of the assessment of this DA, with particular regard to ensuring that the relevant planning controls were properly applied and the objections were adequately addressed. This peer review was a requirement of the Sydney South Planning Panel (SSPP) as Council, as a consequence of a favourable determination, will then negotiate a VPA with the applicant.

## Background

Council received the development application on 29 November 2016, having held a Pre-Application Discussion on 2 November 2016, and a Pre-DA ARAP on 17 November 2016.

The application was placed on exhibition with the last date for public submissions being 31 January 2017 with the exhibition period having been extended due to Christmas / New Year. Council received 38 written submissions in response, including one petition with 104 signatures. Furthermore, an information session was held on 17 January 2017, with 21 people in attendance.

After numerous meetings between Council and the applicant to discuss amendments to the proposal, a full set of amended plans and supporting information was submitted on 25 October 2017. The plans were renotified to the public, with a further 17 objections received. The application was considered by Council's Submissions Review Panel on 28 November 2017.

## Limitations

This report is for Council use only for the specific purpose to which it refers. Cardno disclaims any responsibility to any third party acting upon or using the whole or part of its contents. This review is based on the documentation from Council received via email on 1 December 2017. An inspection of the site was not carried out by the reviewer.

## Assumptions

- > Due to the cost of development being greater than \$20 million, the application was assessed by SSC and is to be determined by the SSPP;
- > The information supplied to Cardno by SSC is a true and accurate record of the application.

## Review

Cardno has reviewed the documentation received from SSC, which includes:

- > The assessment report;
- > Statement of Environmental Effects and associated appendices;
- > Draft consent;
- > Pre-Application Discussion Letter (Meeting held 2 November 2016);
- > Architectural Review Advisory Panel Report (Meeting held 2 February 2017);
- > Summary of submissions received, and
- > Architectural plans.

## Statutory Considerations

### Sutherland Local Environmental Plan 2015

Under the LEP, the site is predominantly zoned R4 – High Density Residential. Seniors housing is permitted with consent under the LEP.

| Planning Control  | Permitted                                 | Proposed                                             | Compliant                                                                           |
|-------------------|-------------------------------------------|------------------------------------------------------|-------------------------------------------------------------------------------------|
| Height            | 20m                                       | Building A – 26.02m<br>Building B – 22.65m           | Non-compliance of 30.1% to lift overrun<br>Non-compliance of 13.25% to lift overrun |
| Floor Space Ratio | 1.5:1<br><i>+ Bonus 0.3:1 for Area 12</i> | Pre-subdivision – 1.27:1<br>Post-subdivision – 2.2:1 | Yes<br>Non-compliance of 23.6%.                                                     |
| Landscaped Area   | 30%                                       | Pre-subdivision 34%<br>Post-subdivision 32%          | Complies                                                                            |

### Height

The non-compliance with the building height was justified by the applicant through the submission of a Clause 4.6 variation request with regard to both Building A and Building B. The request was considered by SSC to be reasonable for Building A considering the building's siting adjacent to Princes Highway, and that it provides a scale that relates to adjacent development across the highway and to the west of the site. The variation was considered unacceptable for Building B, with SSC considering that it should have a more sympathetic bulk and scale to adjacent development and should provide a transition in accordance with the LEP height and zoning objectives. The draft consent has included a design change condition to lower Building B to a maximum of 6 storeys to remain below height control established by the LEP.

Cardno agrees with the position held by SSC. Specifically, the proposed height variation for Building A maintains the zoning and height objectives in the LEP, and strict compliance with the LEP height control would result in an inflexible application of the control. The proposed consent condition to lower the height of Building B will reinforce the transition zone to the Council reserve and the existing three-storey residential development to the north and low density residential area to the east.

### Floor Space Ratio

SSC considers that, accounting for the conditioned reduction in height of Building B, the FSR of the development will be acceptable. Consent condition 2 (A) (i) requires that, along with the conditioned height reduction, the total number of dwellings must not increase above 78, and the gross floor area lost must not be added to Building A.

Cardno agrees with the position held by SSC. The recommended reduction in building height to Building B will result in a lower FSR across the site, and particularly in the area adjacent to public open space and lower density residential development.

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

A number of non-compliances with the Seniors SEPP were identified and resolved by SSC.

| Clause                                                                                                                                | Standard                                                                                                                                                                                                                         | Non-Compliance                                                                                  | Resolution                                                                                                                                                                       |
|---------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Clause 50 – Standards that cannot be used to refuse development consent for self-contained dwellings</b>                           |                                                                                                                                                                                                                                  |                                                                                                 |                                                                                                                                                                                  |
| (a) Building Height                                                                                                                   | If all proposed buildings are 8m or less in height                                                                                                                                                                               | Both proposed towers are greater than 8m in height.                                             | SSC's response to the proposed building heights has been discussed above. Cardno considers the SSC's response to be appropriate.                                                 |
| (b) Density and Scale                                                                                                                 | If the density and scale of the buildings when expressed as a floor space ratio is 0.5:1 or less                                                                                                                                 | The development proposes a floor space ratio in excess of 0.5:1.                                | SSC's response to the proposed FSR has been discussed above. Cardno considers SSC's response to be appropriate.                                                                  |
| <b>Division 2 – Design Principles</b>                                                                                                 |                                                                                                                                                                                                                                  |                                                                                                 |                                                                                                                                                                                  |
| Clause 34 – Visual and acoustic privacy                                                                                               | The proposal should consider the visual and acoustic privacy of neighbours and residents by appropriate site planning, location of windows and balconies, and the use of screening devices and landscaping.                      | A number of balconies face onto bedrooms and other balconies between Building A and Building B. | SSC has recommended glazing and screening measures as conditions of consent to mitigate any privacy issues that may arise.<br>Cardno considers these measures to be appropriate. |
| <b>Schedule 3 – Standards applying to hostels and self-contained dwellings, and additional standards for self-contained dwellings</b> |                                                                                                                                                                                                                                  |                                                                                                 |                                                                                                                                                                                  |
| Clauses (1) – 4, (6) – (21)                                                                                                           | Accessibility, facilities and fixtures standards                                                                                                                                                                                 | Able to comply.                                                                                 | SSC has recommended appropriate conditions of consent to ensure compliance with the relevant standards in Schedule 3.                                                            |
| Clause (5) Private car accommodation                                                                                                  | (a) Car parking to comply with parking for persons with a disability set out in AS2890<br>95% of spaces to comply<br>(b) 5% of total number of car spaces must be designed to enable the width of spaces to be increased to 3.8m | a) Parking spaces comply with AS2890.1, but not with AS2890.6.<br>b) Does not comply            | a) As discussed in the DCP table below. SSC has conditioned for 25% of spaces to comply with AS2890.6.<br>b) SSC has conditioned for a further 5% of spaces to comply.           |

## Sutherland Draft Development Control Plan 2015

In line with Council's policy at the time of lodgement, the proposed development was assessed against Sutherland Draft DCP 2015.

The proposal contains non-compliances with the Draft DCP under Chapter 5 – Residential Flat Buildings, and Chapter 36 – Roads, Access, Traffic, Parking and Bicycles.

| Draft DCP Clause                                                 | Standard                                                                                                                                 | Non-Compliance                                                      | Resolution                                                                                                                                                                                                                                                                                                                                       |
|------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Chapter 5 – Residential Flat Buildings</b>                    |                                                                                                                                          |                                                                     |                                                                                                                                                                                                                                                                                                                                                  |
| 3.2.4                                                            | Basement setback – 3m                                                                                                                    | Basement is setback minimum 2.5m from Acacia Road frontage.         | This non-compliance with the standard is considered to be acceptable.                                                                                                                                                                                                                                                                            |
| 10.2.1                                                           | Parking<br>122 spaces required                                                                                                           | 88 residential spaces proposed<br>5 wellness centre spaces provided | The proposed parking rates comply with the controls from the Seniors SEPP, but not with the Draft DCP.<br>SSC has conditioned that 7 additional spaces be added to meet the wellness centre parking requirements.<br>Furthermore, a minimum of 25% of spaces must comply with AS2890.6 (2009) – Off-Street Parking for People with a Disability. |
|                                                                  | Visitor Parking<br>1 space per 4 units = 20 spaces                                                                                       | No visitor parking spaces proposed                                  | SSC considers that since the proposed multi-dwelling development is for seniors housing,                                                                                                                                                                                                                                                         |
| 10.2.6                                                           | Car wash bays<br>1 per 20 units                                                                                                          | No car wash bays proposed.                                          | The draft consent conditions include a requirement for the provision of 4 car wash bays in the basement.                                                                                                                                                                                                                                         |
| <b>Chapter 36 – Roads, Access, Traffic, Parking and Bicycles</b> |                                                                                                                                          |                                                                     |                                                                                                                                                                                                                                                                                                                                                  |
| 1.2.1                                                            | Medical Centre in a business zone – Parking<br>1 space per 30 m <sup>2</sup><br>Proposed GFA = 353 m <sup>2</sup><br>12 spaces required. | 5 parking spaces proposed.                                          | SSC has conditioned 7 additional parking spaces to be provided.                                                                                                                                                                                                                                                                                  |
| 1.2.7                                                            | 1 motorcycle space required per 25 parking spaces                                                                                        | No motorcycle spaces specified on plans.                            | Motorised scooter charging stations provided.                                                                                                                                                                                                                                                                                                    |
| 2.2.1                                                            | Parking dimensions are to be in accordance with AS2890.1 and AS2890.6.                                                                   | Not consistent with AS2890.1 and AS2890.6.                          | The proposed development complies with AS2890.1. SSC has conditioned that 25% of the parking spaces provided must comply with AS2890.6.                                                                                                                                                                                                          |

### Setbacks

The minimum basement setback, as per the Draft DCP, is 3m. A small portion of the basement is setback 2.5m from the Acacia Road frontage to allow for ample services and storage area in the basement. SSC considers this departure from the Draft DCP control to be acceptable.

Cardno agrees with SSC's interpretation of this control.

### Parking

The Seniors SEPP has no specific requirements for visitor or staff parking. As the site is not a care facility, but rather a cluster of independent living units, staff numbers are likely to be minimal. Ample street parking is available in the vicinity of the site to accommodate the small number of staff employed at the site.

Cardno agrees with SSC's interpretation of this control.

## State Environmental Planning Policy (Infrastructure) 2007

The proposed wellness centre is a permissible land use under the Infrastructure SEPP. SSC identified no non-compliances with the Infrastructure SEPP.

## State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development

SSC's Architectural Review Advisory Panel (ARAP) found no non-compliances in the assessment of the proposal against the Design Quality Principles set out in SEPP 65. Cardno has reviewed the package and determined this to be an adequate appraisal of the proposed development.

### Apartment Design Guide

Six non-compliances with the Apartment Design Guide have been noted in SSC's assessment report.

| ADG Standard                                                                                                                                                                                                            | Non-Compliance                                                                                                                                                                                                           | Resolution                                                                                                                                                                                                                                                                                                                                |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>2F – Building Separation</b>                                                                                                                                                                                         |                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                           |
| Minimum separation distances for buildings are:<br><i>Five to eight storeys (25m)</i><br>18m between habitable rooms/balconies<br>12m between habitable rooms and non-habitable rooms<br>9m between non-habitable rooms | The current application design proposes a minimum of 14m separation between buildings.                                                                                                                                   | SSC has included consent conditions to ensure that privacy screens are included for all affected balconies to mitigate any privacy impacts that may arise.<br><br>Cardno considers this to be an appropriate course of action.                                                                                                            |
| <b>3F – Visual Privacy</b>                                                                                                                                                                                              |                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                           |
| Minimum required distance from buildings to side and rear boundaries – Buildings up to 12m (4 storeys)<br><i>6m for habitable rooms / balconies</i><br><i>3m for non-habitable rooms</i>                                | Building B has setbacks of: <ul style="list-style-type: none"> <li>&gt; 5.1m ground floor setback to the northern boundary (Council Reserve)</li> <li>&gt; 3m setback for levels 1-4 to the northern boundary</li> </ul> | SSC considers the Building B setbacks to be reasonable considering the development will provide surveillance over the reserve and due to northern façade being well-articulated.<br><br>Cardno considers this to be an appropriate response to the proposed development.                                                                  |
| Buildings up to 25m (5-8 storeys)<br><i>9m for habitable rooms / balconies</i><br><i>4.5m for non-habitable rooms</i>                                                                                                   | Building A has setbacks of: <ul style="list-style-type: none"> <li>&gt; 8.3m to the western boundary (Existing aged care facility)</li> <li>&gt; 6.3m to the southern boundary (Princes Hwy)</li> </ul>                  | SSC has noted the existence of these non-compliances with the ADG in the assessment report. However, SSC's assessment report does not explicitly justify these non-compliances.<br><br><b>Cardno considers that an appropriate justification for this non-compliance is required to guarantee an adequate assessment of the proposal.</b> |
|                                                                                                                                                                                                                         | Building B has setbacks of: <ul style="list-style-type: none"> <li>&gt; 3m to northern boundary (Council Reserve)</li> </ul>                                                                                             | SSC considers the Building B setbacks to be reasonable considering the development will provide surveillance over the reserve and due to northern façade being well-articulated.<br><br>Cardno considers this to be an appropriate response to the proposed development.                                                                  |

## Submissions

The application was advertised in accordance with the relevant DCP provisions, and then re-notified after an amended proposal was submitted.

493 adjoining or affected owners were initially notified, and 38 submission were received, including a petition with 104 signatures. 527 people were notified regarding the amended plans, with 17 objections received.

Cardno considers that SSC has provided adequate and appropriate responses to the submissions received.

## Conclusion and Recommendations

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Cardno considers that the draft consent adequately reflects the assessment report and the outcomes of the ARAP meeting.

Cardno recommends that the assessment report be amended to include appropriate justification for the following issues:

- > Absence of staff parking for the development other than the proposed wellness centre, despite the proposal including the establishment of an indoor pool and change room, a hair salon, a café, and two workshops;
- > The assessment report notes that Building A has setback inconsistencies with the Apartment Design Guide for the western and southern boundaries. These inconsistencies are approved but not justified in the assessment report.

Otherwise, the application was properly assessed under the applicable controls and the objections were adequately addressed. The recommendation to approve the application is appropriate subject to the proposed conditions and Cardno's proposed amendment of the assessment report.

Yours sincerely,



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