

SYDNEY SOUTH PLANNING PANEL

SSPP No:	2017SSH005
DA No:	DA16/1810
Local Government Area:	Sutherland Shire
Proposed Development:	Stage 3 of construction of an aged care facility being the erection of a 5 storey building containing 33 self contained seniors housing units and amendment to Stage 1 Masterplan Development Consent DA08/0808
Street Address:	Lot 1 DP 1097917 19 Kiama Street (also known as 86-110 Bellingara Road), Miranda
Applicant/Owner:	HammondCare
Number of Submissions:	Three
Regional Development Criteria (Schedule 4A of the Act)	General Development over \$20 million
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"> State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (Senior's SEPP) State Environmental Planning Policy No. 55 - Remediation of Land State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (SEPP65) State Environmental Planning Policy (Infrastructure) 2007 (ISEPP) State Environmental Planning Policy (Building Sustainability Index: BASIX 2004) (BASIX) Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment (REP2) Sutherland Shire Local Environmental Plan 2015 (SSLEP2015) Draft Sutherland Shire Development Control Plan 2015 (SSDCP 2015)
List all documents submitted with this report for the panel's consideration:	<ul style="list-style-type: none"> Draft Conditions of Development Consent Architectural Review Advisory Panel (ARAP) comments Public Submissions Visual Analysis of Masterplan and Proposed Development Taylor Brimmer Landscape Masterplan
Recommendation:	Approval
Report By:	Daniel Lukic – Environmental Assessment Officer (Planner) Sutherland Shire Council

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**
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? **Yes**
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 Report

This development application (DA) is referred to the Sydney South Planning Panel (SSPP) as the proposal has a capital investment value of more than \$20 million and is nominated under Schedule 4A(3) of the Environmental Planning and Assessment Act, 1979 (EP&A Act). The proposed development has a value of \$24,054,529.

Proposal

Development Consent is sought for the erection of a 5 storey building for 33 self-contained seniors housing units and associated landscaping, car parking and site infrastructure works and an amendment to Stage 1 'Masterplan' Development Consent DA08/0808 (the Masterplan).

The Site

The site is located between Kiama Street and Bellingara Road, Miranda.

ASSESSMENT OFFICER'S RECOMMENDATION

THAT:

Development Application No. 16/1810 for the erection of a 5 storey building for 33 self-contained seniors housing units, communal resident facilities, basement car parking for 36 cars and at grade parking for 4 visitors, tree removal, site landscaping and associated site infrastructure works and amendment to Stage 1 'Masterplan' Development Consent DA08/0808 be determined by the way of granting development consent, subject to conditions.

ASSESSMENT OFFICER'S COMMENTARY

1.0 DESCRIPTION OF PROPOSAL

The application seeks development consent for the following:

- a) Construction of a 5 storey building consisting of 33 self-contained seniors housing units, communal resident facilities, basement and at grade car parking, tree removal, site landscaping and associated site infrastructure works
- b) In accordance with s80A(1)(b), impose a condition to require the beneficiary of the consent to modify the Masterplan approval so as to ensure that the development is consistent with the Stage 1 development consent as required by s83D(2) of Environmental Planning and Assessment Act 1979

This development is known as Stage 3A and is located in the north-west corner of the site. The building will have a floor area of 5,679m² and a maximum building height of 18.1m above natural ground level (NGL). The ground floor will contain a lounge with bar and a theatre/cinema room. There will be no sale of alcohol from the bar or meals made onsite. Light meals can be purchased and supplied from the café located within the Stage 2 building directly to the south.

Two green spaces are proposed. The northern green space is located between the development and the industrial building located at No.s 84-86 Bellingara Road. The southern green space is located between the 2 wings of the development and will form part of the access to the residential and lounge/theatre areas. Seven trees are proposed to be removed to accommodate the development.

The basement will provide 36 parking spaces with access from an internal road that connects Kiama Street to Bellingara Road. Four parking spaces will be provided at grade for visitors.



Image A: site plan of the proposed development

2.0 SITE DESCRIPTION AND LOCALITY

The site is 4.985 hectares in area and has frontages to both Bellingara Road and Kiama Street. Approval has been granted by the Masterplan for the construction of a senior's living development in a number of stages. Stages 1 and 2 have been finalised.

Stage 1 has been constructed and was occupied in 2015. This development comprised 92 independently living units across 6 unit blocks and is located in the south-east portion of the site. Stage 2 has been constructed and was occupied in 2016 and is located within the western section of the site fronting Bellingara Road. This development comprised 82 dwellings within 5 unit blocks and 10 independent living unit villas, car parking, landscaping, community centre with open space areas, a bowling green, communal barbeque facility and associated works. The unit blocks range between 5 to 6 storeys in height.

The site has access to both Bellingara Road and Kiama Street. An internal road through the subject land connects both public roads. The internal road is not a public road.

South of the site are residential dwellings while to the west are residential dwellings, an outdoor sporting facility (netball courts) and a seniors living villa estate. To the east and north are a number of

industrial developments and a small maintenance depot facility. A major electricity transmission easement traverses the site in a generally east-west direction.



Image B: Site plan with stages of the development notated

3.0 BACKGROUND

A history of the development proposal is as follows:

- The application was lodged with Council on 23 December 2016
- The application was publicly exhibited between 16 January 2017 to 9 February 2017. Three submissions were received.
- On 1 February 2017, an Information Session was held at Council. One resident from the HammondCare development attended.
- On 2 February 2017, the application was presented at the Architectural Review Advisory Panel (ARAP). Minutes were provided to Council on 15 February 2017. A full copy of the advice forms **Appendix B** to this report.
- On 22 March 2017, the Sydney South Planning Panel (SSPP) was briefed on the development proposal. Six key issues were discussed, being: landscape/streetscape, compatibility with earlier approval, application of the Senior's SEPP, access to transport facilities, protection of residents from noise from adjoining industrial activities, car parking provision.
- On 22 March 2017, a letter was sent to the applicant requesting additional information and plan amendments.
- On 18 April 2017, amended plans were received from the applicant.
- On 12 May 2017, further plans and information were received.
- On 15 May 2017, further clarification on the operation of the site was provided.

4.0 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.

5.0 PUBLIC PARTICIPATION

The application was advertised in accordance with the Administrative Provisions of Draft Sutherland Shire Development Control Plan 2015. Three submissions were received. A full list of the locations of those who made submissions, the dates of their correspondence and the issues raised is contained within **Appendix C** of this report.

A summary of the main issues is provided below:

Address	Date of submission	Issues
Unit 503, 85-110 Bellingara Road	20 January 2017	5
82-84 Bellingara Road	23 January 2017	4, 6
89 Bellingara Road	3 February 2017	1, 2, 3,

5.1 Issue 1: Traffic generation

Concern was raised with the increase in the number of construction vehicles travelling along Bellingara Road and associated safety concerns.

Comments: the objector's concerns are valid however construction impacts are only short term and construction vehicles are not likely to cause significant delays along Bellingara Road. Traffic generation modelling was undertaken during the assessment of the Masterplan application and it found that the development was acceptable and will not result in any adverse impacts upon the operation of the public road system.

5.2 Issue 2: Construction Noise

Concern was raised with regards to loss of amenity due to construction noise from the site and local roads.

Comments: Standard conditions of consent are recommended to limit construction activities between 7am to 6pm, Monday to Friday and 8am to 3pm, Saturdays with no works on Sunday or Public Holidays. This will ensure that the amenity of the adjoining residents is maintained during the construction phase of the development.

5.3 Issue 3: Loss of on-street car parking and site access:

Loss of on-street parking during the construction phase of the development as access was to be limited to only Kiama Street.

Comments: It is recognised during the construction of the development that some on-street parking may be used by contractors. Loss of on-street parking is a short term impact during the development

of the site. Upon completion, all residents and visitors will have sufficient parking onsite so as to not create any on-street parking deficiencies.

The Masterplan approval (**Appendix E**) shows access to and from the site was always envisaged from Kiama Street and Bellingara Road.

5.4 Issue 4: Impacts from existing and proposed vegetation

It was noted that vegetation causes impacts to drainage - block gutters, roots invading pipes and damage walls. Vegetation proposed along the boundary will impede access required for building maintenance and falling branches have damaged boundary fences.

Comments: overhanging branches and boundary fencing are civil matters regulated by Trees (Disputes between Neighbours) Act 2006 and the Dividing Fences Act 1991. The plans of development show a 1m wide pathway along the majority of the common property boundary that can be used for access.

5.5 Issue 5: View Loss

The proposed building will impact upon views from balconies towards Captain Cook Bridge and the land/water interface at Rocky Point.

Comments: this matter has been addressed in the “Assessment” section of this report.

Revised Plans

The applicant lodged revised architectural plans on 18 April 2017. The amended plans addressed most of the issues that were brought to the applicant's attention. The amendments made generally related to the development's setback to Bellingara Road and the northern property boundary, changes to the basement design and building footprint to preserve onsite vegetation and minor internal configuration of units. The changes to the plans were considered to be minor in nature and re-exhibition was not warranted.

6.0 STATUTORY CONSIDERATIONS

The subject land is located within the R3 Medium Density Residential Zone pursuant to the provisions of Sutherland Shire Local Environmental Plan 2015 (SSLEP2015). The proposed development, being 'senior's housing', is a permissible land use within the zone with development consent from Council.

The following Environmental Planning Instruments (EPIs), draft Development Control Plan (DCP), Codes or Policies are relevant to this application:

- State Environmental Planning Policy No. 55 - Remediation of Land (SEPP55)
- State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (SEPP65)
- State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (Senior's SEPP)

- State Environmental Planning Policy (Infrastructure) 2007 (ISEPP)
- State Environmental Planning Policy (Building Sustainability Index: BASIX 2004)
- Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment (REP2)
- Sutherland Shire Local Environmental Plan 2015 (SSLEP2015)
- Draft Sutherland Shire Development Control Plan 2015 (SSDCP2015)

7.0 STATEMENT OF COMPLIANCE

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

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

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. 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 and neighbourhood character	The proposal is designed well and accords with the Stage 2 multi-level unit development while having its own identity so as to not be repetitious in design. The design has incorporated building elements to create interest and variety in form. The development, subject to conditions, will not detract from the streetscape character and/or neighbourhood.
Principle 2: Scale and built form	The scale of the development is consistent with Stage 2. The development is considered to be satisfactory in regard to bulk, scale and height. The building is articulated well with a variety of building elements. The respite care building to the east will be dwarfed by the development, however, the buildings are separated sufficiently where adequate solar access is afforded to rooms and open space areas.
Principle 3: Density	There are eight unit typologies comprising two and three bedroom apartments with studies, ranging from 107m ² to 186m ² in size. It is considered that the development is reflective of the ageing population trends. The development provides a range of onsite facilities to sustain the site's population. The development as a whole provides a wide range of unit and dwelling types to account for different requirements of the future residents of the site.

Principle Sustainability 4:	The development is considered to be designed to satisfy environmental, social and economic outcomes. Water tanks are proposed for water reuse across the site. Substantial landscaping is proposed throughout the development area for passive and active recreation opportunities. The development has been designed to ensure sufficient solar access, cross ventilation, thermal mass and the like to comply with BASIX requirements.
Principle Landscape 5:	The proposed landscaping is considered well thought for the development. However, a cluster of trees existing within the front setback to Bellingara Road is proposed to be altered. This cluster is a significant stand of vegetation and they will provide continuity to streetscape planting and screening to the development.
Principle 6: Amenity	The units are generous in design and floor space, achieve satisfactory solar access and cross ventilation. Units on ground floor will have outlook towards gardens and green spaces while above ground units will have water views. ARAP made comments on design amendments which have been undertaken in the revised plans. ARAP commented on studies cannot be enclosed rooms and be open to living areas. Conditions are recommended.
Principle 7: Safety	The proposed development considers Crime Prevention Through Environmental Design principles. The development is satisfactory.
Principle Housing Diversity and social interaction 8:	The development is located approximately 100m from the 'whole-of-site' communal open space areas with the Stage 2 precinct. Conditions of consent will require the activation of the northern open space areas to the ground floor units. This will be discussed later in the assessment section.
Principle Aesthetics 9:	The development is consistent with the existing Stage 2 multi-level unit block, but there are sufficient differences to ensure that the development does not form a repetitious or monotonous design when viewed from the streetscape.

7.2 Apartment Design Guide

The ADG applies to the proposal. The following table contains an assessment of the proposal against key controls of the ADG. Refer to the Assessment section of this report for further details with respect to performance of the proposal against the ADG.

Apartment Design Guide (ADG) – Key Controls			
	Control	Proposed	Complies
Building separation	<p><u>Up to 4 storeys</u> 12m (between habitable rooms/balconies)</p> <p>9m (between habitable and non-habitable rooms)</p> <p>6m (between non-habitable rooms)</p>	<p><u>Stage 2:</u> min. 30m to unit block</p> <p><u>Respite Care Facility:</u> Habitable/habitable: 8.2m</p> <p>Habitable/non habitable: 6m</p> <p>non habitable/non habitable: 6m</p>	<p>Yes</p> <p>Yes. The single storey respite care facility is not used for any habitable purposes.</p>

	<u>5-8 storeys</u> 18m (between habitable rooms/balconies) 12m (between habitable and non-habitable rooms) 9m (between non-habitable rooms)	<u>Stage 2:</u> min. 30m to unit block <u>Respite Care Facility:</u> Habitable/habitable: 8.2m Habitable/non habitable: 6m non habitable/non habitable: 6m	Yes Yes. The single storey respite care facility is not used for any habitable purposes.
Solar access (proposed dwelling)	Living rooms and private open space, 2 hours direct sunlight in mid-winter to 70% of units.	76% of units to receive mid-winter solar access	Yes
Solar access (neighbouring dwellings)	Ensure 10m ² of private open space has 3 hours solar access between 9am and 3pm.	Overshadowing to respite are facility but bedroom windows and communal open space will received more than minimum solar access requirement	Yes
	Ensure windows of living areas have 3 hours solar access between 9am and 3pm.	Complies	Yes
Natural ventilation	60% of apartments to be naturally cross ventilated.	67% naturally ventilated	Yes
Apartment size	1br: 50m ² 2br: 70m ²	All units comply	Yes
Ceiling heights	2.7m	3m min ceiling height	Yes
Private open space	<i>Primary Balconies</i> 1 bed – 8m ² , min. 2m depth 2 bed – 10m ² , min. 2m depth Ground level & podium – 15m ² , min. 3m depth	All units comply	Yes
Communal open space – size	25% of site area	Communal open space north of building is compliant Garden Terrace and Southern Garden areas does not comply	Yes Yes. Area is not a primary communal open space area. This is provided within Stage 2 “Village Green”
Communal space - solar access	50% of communal open space to receive 2hrs of direct sunlight in mid-winter		As above
Residential storage	6m ³ per 1br apartment 8m ³ per 2br apartment Note: At least 50% of storage to be located within the apartments	Ample storage provided	Yes

7.3 Local Controls – SSLEP2015 and SSDCP2015

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

Clause	Standard/ Control	Required	Proposed	Complies? (% Variation)
Local Environmental Plan 2015				
	Site Area	49,845m ²		
4.3	Height of Buildings	Maximum 20m	18.5m	Yes
4.4	Floor Space Ratio	Maximum 0.75:1 (37,384m ²)	Stage 1: 6,522m ² Stage 2: 13,482m ² Stage 3A: 5,679m² Stage 3B: 534m ² Total GFA: 0.52:1 (26,217m ²)	Yes
6.14	Landscaped Area	30% (14953.5m ²)	Parts of site remain undeveloped so sufficient area exists to satisfy clause	Yes
Draft Sutherland Shire Development Control Plan 2015				
Chapter 5 – Residential Flat Buildings				
	Minimum site width	26m	195m	Yes
	Landscape setback	1m deep soil setback adjoining driveways to basement car parks	Acceptable	Yes
Minimum Building Setbacks				
Street	Primary frontage	7.5m 6.0m 'articulation zone'	10.7m to building wall (lounge/theatre) 6.4m to garden terrace retaining wall to lounge outdoor area	Yes
	Secondary frontage	3m	n/a	n/a
Side /Rear Boundary Setbacks	Up to 12m (GF, 1 st , 2 nd Floors)	Non-habitable/highlight windows: 4.5m min.	7.4m	Yes
		Habitable rooms/balconies: 6m min.	7.4m	Yes
	12m – 25m (3 rd and 4 th floors)	Non-habitable/highlight windows: 6m	6.6m	Yes
		Habitable rooms/balconies: 9m min.	7.6m (Apt 9,17 & 25)	No 15.5% variation. Acceptable on merit
	Basement construction that extends beyond the building footprint	3m from side and rear boundaries	3m	Yes
Landscape Design				
	Street tree planting	2 trees for every 10m of frontage planted at least 1m from kerb and/or footpath.	5 eucalypts are proposed within 20m in front of building	Yes
	Planting beds	Planting beds should be a minimum 900mm wide to support shrubs and small trees	Planter box west of Apartment 4 is less than 900mm. All others >900mm	No. Condition recommended to increase planter box width.
	Planting on basement	Minimum 30% of exposed basement must be planted	Planting has been provided over basement podium in north east corner	Yes

Clause	Standard/ Control	Required	Proposed	Complies? (% Variation)
<i>Private Open Space</i>				
	Private Open Space	1 bed = 8m ² , 2m depth 2 bed = 10m ² , 2m depth 3+ bed = 12m ² , 2.4m depth GF Apartments = 15m ² , 3m depth	All units comply	Yes
<i>Solar Access</i>				
	Proposed development	2 hours solar access to minimum 70% of units	76% achieve solar access	Yes
	Neighbouring dwellings	A minimum 2 hours solar access to north facing windows of habitable rooms and 10m ² of private open space	Compliant. Windows to respite care facility will have adequate solar access. Respite care facility private open space has adequate solar access	Yes
	Adaptable Housing	Developments of 6 or more dwellings – 20%	All units have been designed to comply	Yes
	Liveable Housing	Developments of 6 or more dwellings – 10%	All units have been designed to comply	Yes
	Car parking (minimum)	1.5 spaces/ 2 bed dwellings x 30 = 45 spaces 2 spaces/ 3 bed dwellings x 3 = 6 spaces. 1 visitor space per 4 units = 8.25 spaces Total: 59.25 spaces	Residential: 36 spaces Visitor: 4 spaces Total: 40	No. 32.2% variation. Considered acceptable with provisions of s50(h) Senior's SEPP. See assessment section.
	Car Wash Bay	10 or more units 1 bay Additional bays required >30 rate of 1/20 units	None	No. 200% variation. Acceptable on merit. See Assessment section.

8.0 SPECIALIST COMMENTS AND EXTERNAL REFERRALS

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

8.1 AusGrid

The application was referred to Ausgrid as works are proposed within the power transmission easement traverses the site, being the pedestrian pathway. Conditions are recommended.

8.2 Sydney Water

The application was referred to Sydney Water as the proposed development will create extra demand on water supplies. Conditions are recommended.

8.3 Architectural Review Advisory Panel (ARAP)

The application was referred to ARAP on 2 February 2017. ARAP recommended that a detailed Masterplan be prepared for the remainder of the site, compliance with ADG separation distances, that the pedestrian bridge be designed to reinforce pedestrian movements and traffic calming, retention of

existing mature trees, avoidance of habitable rooms without windows, relocate the theatre to better relate to the public domain and avoid conflict and detailed design of the frontage to Bellingara Road.

8.4 Architect (Assessment Team)

The amendments that have been undertaken in response to the ARAP recommendations are considered tokenistic and have not achieved and improved outcome for the design for the residents and community. The reversal of Unit 1 and the theatre has resulted in better functionality of the theatre and privacy for Unit 1. However, the curved wall around the theatre creates an unresolved external area to the southern garden and presents as a weak building form when viewed from the pedestrian circulation and approach. The location of the vegetable patch is poor and its location should be reconsidered.

The internal studies are screened from natural light and ventilation access and dividing walls must be removed. The road corridor crossing needs to be designed to reinforce pedestrian movement, for traffic calming and mitigate the visual impact of the power transmission lines. Coloured asphalt is not an acceptable use of material.

The essential matter that has not been addressed appropriately is the retention of existing stand of vegetation in the north-west street frontage. This can be achieved without any degradation of the amenity or uses of the development's internal spaces, simply by removing the bend in the building in the building form's frontage. The resultant adjustment will allow for the retention of the cluster of vegetation and provide a more suitable front entry point to the theatre entrance and lobby. This will also allow for a break out space without interfering with residents from other parts of the building.

Further, there is still no resolution for landscape design as outlined by ARAP. The role of landscaping was not clear and a Masterplan for all stages should be prepared for the remainder of the Stage 3 development area.

8.5 Landscape Architect

The application was referred to Council's Landscape Architect for comment. The Landscape Architect has advised that the cluster of trees (Trees No.3-7) (refer to **Appendix D**) in the north-west of the development site is a significant group of vegetation that provides continuity to streetscape planting along Bellingara Road. Trees 5 Grey Gum (*Eucalyptus punctata*) and 6 Eucalypt (*Eucalyptus sp.*) are 2 significant Eucalypt trees located forward of the building line. Their retention will provide good screening to the proposed development. The Landscape Architect advised their retention has been recommended by ARAP and is consistent the Masterplan consent.

Landscaping is discussed in detail in Section 9.2 of this report.

8.6 Engineering (Assessment Team)

The application was referred to Council's Engineering Assessment Team for comments. No issues have been raised in regard to the amended plans and information. Conditions are recommended.

8.7 Health Regulations Unit

The application was referred to Council's Health Regulation Unit for comment. No issues and/or concerns are raised and conditions are recommended.

8.8 Flooding, Stormwater and Drainage

The application was referred to Council's Stormwater and Waterways Engineer for comment. The south-east corner of site is located within the 1% AEP and probable maximum flood area. The proposed development is located with a floor level RL18.5, approximately 8m above the 1% AEP. As such, the development is not prone to any inundation or localised flooding. Regarding stormwater, Council's Engineer has recommended that overflow from rainwater tanks to be connected to the onsite detention tank and the design of the basement level pump to comply with Council's specifications. Conditions are recommended.

8.9 Environmental Scientist (Assessment Team) – Contamination

The application was referred to Council's Assessment Environmental Scientist for comment. The Environmental Scientist advised that a Site Audit Statement has been issued for the site which verified that the site is suitable for sensitive residential use, including aged care facilities. The development satisfied the provisions of Section 7 of SEPP55 and conditions of consent are recommended.

8.10 Strategic Planning

The application was referred to Council's Strategic Planning Team for comment as the land adjoining the subject site is subject to a Local Environmental Plan Amendment. The amendment seeks to amend the minimum lot size to be consistent with the draft Development Control Plan and give greater statutory weight. The planning proposal has no effect on the assessment of the application.

9.0 ASSESSMENT

Following a detailed assessment of the application having regard to the Heads of Consideration under Section 79C(1) of the EP&A Act and the provisions of relevant environmental planning instruments, development control plans, codes and policies, the following matters are considered important to this application.

9.1 Masterplan Consistency

The Masterplan shows 5 individual unit blocks across the Stage 3 area ranging between 4 and 6 storeys in height. Consent is sought to consolidate Unit Blocks 1 and 2 (to be known as Stage 3A) and to limit the building to 5 storeys. A visual analysis and comparison between the Masterplan approved and the proposed development forms **Appendix E** to this report. **Appendix F** shows the Building and Height Envelopes approved in the Masterplan application.

To facilitate this development, the applicant has sought an amendment to the Masterplan by the way of condition pursuant to Section 80A(1)(b) of the Act. As HammondCare is a Masterplan site, the amendments to the development must satisfy Section 83D(2) of the Act, which states:

“83D Status of staged development applications and consents

(2) While any consent granted on the determination of a staged development application for a site remains in force, the determination of any further development application in respect of that site cannot be inconsistent with that consent.”

To ensure there is no inconsistency, the consent authority is tasked with the following:

- a) to compare the proposal against the approval and determine the extent of the inconsistency
- b) on balance, whether the inconsistency can be supported.
- c) if it can be supported, what is the planning pathway to resolve the inconsistency and amend the Masterplan

Given the merits of the application, the consolidation of the unit blocks does not give rise to any primary planning issues such as noise, view loss and parking. The height and the scale of the development are comparable to the building envelope approved in the Masterplan. Council is of the opinion that the amendment to the built form can be supported, except for streetscape issues identified in Section 9.2 below.

9.2 Landscaping, retention of site vegetation and streetscape adjacent to Bellingara Road

The Masterplan consent DA08/0808 approved the location of building envelopes around the site and consequently approved the removal of vegetation to accommodate the future buildings. A significant cluster of vegetation in the north-west corner of the site, comprising 5 Eucalypts and 1 Red Bloodwood, has been approved for removal subject of the original Masterplan approval; however; opportunity exists with this amending Masterplan application to preserve the cluster through design amendments. A landscape plan submitted amending Masterplan application for Stage 2 (**Appendix G**) highlighted that the subject cluster of trees would be preserved however; the applicant has advised that the aforementioned landscape plan did not amend the original landscape Masterplan and/or amend the location of the unit blocks in the Stage 3 area of the site.

The arborist report submitted with the subject application states Trees 1, 4, 5 and 6 are highly significant with Trees 4, 5 and 6 having a medium retention value, while Trees 3 and 7 have medium significant value but a lower retention value. Council is of the opinion that while some trees have lower retention value according to the arborist, collectively they form a significant stand and efforts must be undertaken to retain them. The retention of the vegetation has been recommended by both ARAP and Council's Landscape Architect due to their contribution to the streetscape.

In order to preserve the cluster of trees, the west wing of the development must be setback a further 5.6m from the trunk of Tree 6 in accordance with Tree Protection Zone (TPZ) requirements. The increased distance will protect all 5 trees within the cluster. The setback can be achieved by either stepping the lounge/lobby, garden terrace and theatre rooms away from the trees or repositioning the western wing of the development so that it is angled 90° to the remainder of the development. Both

options are not considered to significantly impact upon the design and/or compliance with the relevant legislation and policies yet will have a significant impact on improving the streetscape.

The changes above will satisfy the vegetation retention objectives and clauses from SSLEP2015 and will ensure that the current streetscape is maintained. Their retention will be highly effective in softening the development from the outset rather than having to wait a significant number of years for newly planted vegetation to mature.

9.3 Car Parking and Car Wash facilities

The development proposes 40 parking spaces to be provided for the development, 4 of those being located on the ground level and the remaining 36 in the basement level. While Chapter 5 of SSDCP2015 requires a total of 59 spaces for residential flat buildings, the Senior's SEPP requires 0.5 parking spaces for each bedroom requiring a total of 35 parking spaces for this development. As the subject development will be used for senior's living, which in general does not generate the same level of parking demand and/or traffic generation, the proposed parking is supported.

SSDCP2015 and the ADG require the provision of a car wash facility for the development. Sufficient facilities have been provided for in the Stage 2 building.

9.4 View Loss

Objections on view sharing and/or loss are often contentious, however, in the Land and Environment Court judgement *Tenacity Consulting v Waringah [2004] NSWLEC 140* (Tenacity), the Court established a four step assessment process to assist in the assessment of view loss provided below:

Step 1: Assessment of the views to be affected

Views from the objector's apartment (Unit 503, Stage 2) are of the Captain Cook Bridge, the land/water interface around Rocky Point and planes arriving and leaving the airport (refer to Images C and D below). The views of the bridge and the point are distant (approximately 2.7km) and partially obscured by mature vegetation and power lines.

Step 2: What part of the property are the views obtained from?

Views are only obtained from the side of both front and rear balconies and only from a standing position. Views are obtained looking over the site's side property boundary and over a significant number of properties, aided by the height of the fifth level apartment. Views are not available from any internal spaces. The unit has a view plane of 123° and of that view plane, views towards the bridge and the point account for only 42°, or 34%.

Step 3: Assess the extent of the impact

Views from the rear balcony are likely to be lost completely whereas views from the front balcony will be partially lost by the proposed development. The Masterplan approved 5, 4 to 6 storey unit blocks located between the Stage 2 development and the northern property boundary and as such, some

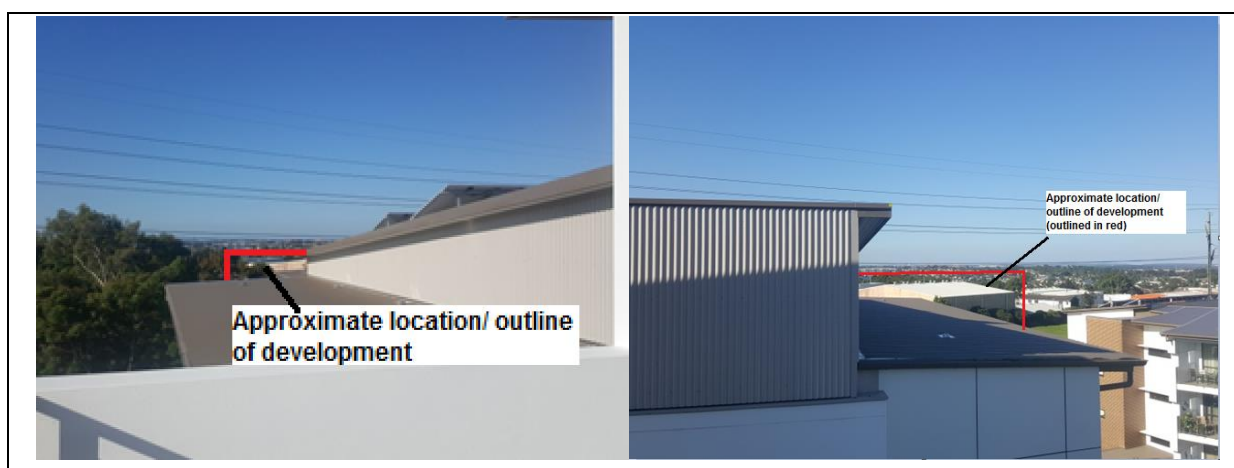
level of view loss from Stage 2 dwellings towards the bridge and land/water interface (refer to **Appendices E & F**) was to be expected.

Further, the proposed development has a roof height of RL35.0 while the floor level of the objector's unit has a level of RL33.5, a 1.5m difference. From a standing position, it is likely that views towards the bridge and land/water interface will be retained from the front balcony, albeit with some impact.

Based on the Tenacity principals, the view impact is considered minor.

Step 4: Assess the reasonableness of the proposal that is causing the impact

The development substantially complies with all the relevant legislative requirements and controls contained within SSDCP2015. The applicant has designed the subject development to be generally consistent with the Masterplan. It is considered that any design change to the roof to reduce the impact will be tokenistic. Based on the merits of the case, the impact of the development is considered acceptable. However, given the recommendations contained in Section 9.2 of this report, an increased setback will be beneficial to decreasing the view loss of the bridge and Rocky Point.



Images C and D: views from objector's balcony (front and rear respectively) towards the Captain Cook Bridge and the land/water interface around Rocky Point

9.5 Accessibility to transport facilities

The SSPP raised concerns with access to transport facilities at the Panel Briefing. The JRPP Report for the Stage 2 Amending Masterplan application assessment (November 2013) confirmed that Section 26 Location and Access to Facilities of the Senior's SEPP was satisfied as there are regular bus services on Route 972 that stops adjacent to the site on Bellingara Road. HammondCare also provides a bus service for residents.

9.6 Side setbacks

Units 9, 17 and 25 do not comply with the minimum side setback requirements of SSDCP, being 9m. These units have habitable rooms located 7.6m from the northern property boundary, which is a 15.5% variation. Section 3.2, Chapter 5 of SSDCP permits reduced side setbacks where *"a new development is adjacent to an existing development on a neighbouring site with non-habitable rooms facing the side boundary, the side setback of a new development could be reduced accordingly."*

There are no windows on the adjoining industrial development's southern wall. Only 3 of the 33 units (9% of units) do not comply with setback control. Based on the merits of the case, a reduced setback is supported.

9.7 Communal Open Space

The proposed development contains 2 open/green spaces, located north and south of the building. The area located to the south forms the entrance to the building and the lounge/theatre/bar facility, and will only provide limited passive recreation opportunities. This area will have little solar access throughout the year. The area located to the north has the ability to become a vibrant active/communal open space for the residents residing in the Stage 3A complex with ample solar access throughout the year. Presently, this space is proposed as a passive landscaped area.

The Whole Site Landscape Strategy shows a vegetable patch located within the front setback to Bellingara Road. The location of this patch has streetscape impacts, is impacted by road noise and is in conflict with Greenweb planting requirements. No activity is proposed within the northern garden with all active communal space provided within the Stage 2 development.

It is recommended that an active communal open space be established within the northern garden, including the relocation of the vegetable garden. The benefits of activating this area include reduced road noise levels, greater accessibility for residents (relative to communal pace within Stage 2) and adequate space for embellishments such as toilet facilities, shade, seating, barbeque and the like. It is recommended that access to this communal area can be achieved by way of a 2m corridor between Apartments 2 and 3 by relocation Apartments 1 and 2 to the west.

9.8 Archaeological Sensitivity

The site is rated medium in terms of Archaeological Sensitivity. A site inspection did not reveal any evidence of shell material or significant sandstone features within the development zone. Conditions of consent are recommended in accordance with the National Parks and Wildlife Act 1974 in the event any artefacts are located during site works.

10.0 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. Page 9 of *Sutherland Shire Council Contribution Plan Shire-Wide Open Space and Recreation Facilities 2005* states the following:

"2.6 APPLICATION OF THE PLAN

Except as provided by this plan, this plan applies to development (as defined in section 4(1) of the EP & A Act) on land within the Shire of Sutherland, being:

- *development to which State Environmental Planning Policy (Seniors Living 2004) applies except any such development carried out by or on behalf of the Crown, a council or a community*

housing provider or development by any person for the purposes of serviced self-care housing (within the meaning of that Policy)”

As such, the development is exempt from any developer contributions.

11.0 DECLARATION OF AFFILIATION

Section 147 of the EP&A Act requires the declaration of donations or gifts in excess of \$1,000. In addition, Council's DA form requires a general declaration of affiliation. In relation to this DA, a declaration has been made that there is no affiliation.

12.0 CONCLUSION

Development Consent is sought for the erection of a 5 storey building for 33 self-contained seniors housing units, communal resident facilities, basement car parking for 36 cars and at grade parking for 4 visitors, tree removal, site landscaping and associated site infrastructure works and amendment to Stage 1 'Masterplan' Development Consent DA08/0808 (the Masterplan).

Based on the merits of the application Council recommends that the SSPP support the variations and approve the development, subject to conditions.

However, the removal of a number of significant trees within the front setback is not supported. While the Masterplan has given consent for their removal, this application seeks consent to extensively amend the Masterplan and it is Council's opinion that additional minor amendments to retain these trees is not unreasonable. These trees are of high conservation and streetscape value and can be used to mitigate the visual impact of the development and will prove a valuable asset to the development.

Three submissions were received during the public exhibition period. The matters raised have been discussed in the report and conditions, where required, are recommended to ensure that the proposal does not have any adverse impacts on those who made representations drawing a number of matters for Council's and the Panel's consideration.

In accordance with the Heads of Consideration pursuant to Section 79C of Environmental Planning and Assessment Act 1979, Sutherland Shire Local Environmental Plan 2015, Draft Sutherland Shire Development Control Plan 2015 and relevant policies, codes and plans, it is recommended that the Sydney South Planning Panel grant consent to the application.

13.0 RECOMMENDATION

That Development Application No. 16/1810 for the erection of a 5 storey building for 33 self-contained seniors housing units, communal resident facilities, basement car parking for 36 cars and at grade parking for 4 visitors, tree removal, site landscaping and associated site infrastructure works and amendment to Stage 1 'Masterplan' Development Consent DA08/0808 at Lot 1 DP 1097917, (No. 19) Kiama Street, Miranda be approved subject to conditions of consent.

RESPONSIBLE OFFICER

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