

SUTHERLAND SHIRE COUNCIL ASSESSMENT REPORT

Panel Reference	2018SSH035
Modification Number	MA18/0241 (Modification to DA16/1620)
LGA	Sutherland Shire
Approved Development DA16/1620	Seniors Housing Development comprising independent living units, a health services facility and associated uses, and subdivision of 2 existing lots to create 3 lots
Proposed Modifications	Section 4.55(2) Modification to DA16/1620 - Deletion of wellness centre and replacement with 4 additional residential units; relocation of hairdressing room; reduction in cafe area; extension to pool concourse; additional plant area; adjustment to footprint of building A; design changes to units; removal of 2 units from building B and change to roof form; deletion of conditions requiring design changes, deletion of roof top communal open space to Building A.
Street Address	Lot 11 DP 1103619 (No. 99R) Acacia Road and Lot 200 DP 1110295, (No. 42) Auburn Street, Sutherland
Applicant	Pact Pm
Date of MA lodgement	17 July 2018
Number of Submissions	Nil
Recommendation	Approval in part
Regional Development Criteria for Original DA DA16/1620	Schedule 4A of the Act - General Development over \$20 million (since repealed)
List of all relevant s4.15(1)(a) matters	• 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	• Plans
Report prepared by	L Pemberton Sutherland Shire Council
Report date	14 March 2019

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?

Yes / No

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

Yes

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?

**Not
Applicable**

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)?

Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

**Not
Applicable**

Conditions

Have draft conditions been provided to the applicant for comment?

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

No

EXECUTIVE SUMMARY

REASON FOR THE REPORT

This report is referred to the Sydney South Planning Panel as the original proposal (DA16/1620) was determined by the Panel on 13 December 2017, this application is a Section 4.55(2) and the Council does not have the delegation to determine this modification application.

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

The land is proposed to be subdivided (Torrens Title). 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 the applicant has entered into a Planning Agreement for the land transfer and the embellishment of the reserve.

PROPOSED MODIFICATION

The specific modification sought to the approved development involves:

- Deletion of the ground level Wellness Centre and replacement with 4 additional residential units;
- Relocation of hairdressing salon at ground level;
- Reduction in cafe area;
- Extension to pool concourse;
- Additional plant area; adjustment to footprint of building A;
- Design changes to units in response to design change condition for DA16/1620;
- Removal of 2 units from building B and change to roof form in response to design change condition for DA16/1620; and
- Amendment/deletion of a number of conditions.

THE SITE

The subject land is located at 99R Acacia Road 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. Early site works pursuant to the development consent are currently underway on the eastern third of the site which was previously devoid of development.

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.

ASSESSMENT OFFICER'S RECOMMENDATION

THAT:

- A. That pursuant to the provisions of Section 4.55(2) of the Environmental Planning and Assessment Act 1979, the requested modification to Development Consent No. 16/1620 dated 13 December 2017 for seniors housing development comprising independent living units, a health services facility and associated uses, and subdivision of 2 existing lots to create 3 lots (Modified – 25 July 2018) at Lot 11 DP 1103619 (No. 99R) Acacia Road and Lot 200 DP 1110295 (No. 42) Auburn Street, Sutherland be supported *in part*. The extension to the pool concourse and the enlargement of the western deck in communal open space *is not supported*.
- B. That Development Application No. 16/1620 for seniors housing development comprising independent living units, a health services facility and associated uses, and subdivision of 2 existing lots to create 3 lots (Modified – 25 July 2018) at Lot 11 DP 1103619 (No. 99R) Acacia Road and Lot 200 DP 1110295 (No. 42) Auburn Street, Sutherland be modified as **attached in APPENDIX A** (deleted text in ~~strike through~~ and new text in **bold italics**).

ASSESSMENT OFFICER'S COMMENTARY

1.0 DESCRIPTION OF PROPOSED MODIFICATION

An application has been made under the provisions of Section 4.55(2) of the Environmental Planning and Assessment Act, 1979 (EP&A Act) to modify the terms of Development Consent No.16/1620.

Sydney South Planning Panel by Development Consent No. 16/1620 issued on 13 December 2017 granted approval for Seniors Housing Development comprising independent living units, a health services facility and associated uses, and subdivision of 2 existing lots to create 3 lots (Modified – 25 July 2018) on the subject property.

The specific modification sought to the approved development involves:

- Deletion of the ground level Health and wellbeing Centre in Building B and replacement with 4 additional residential units;
- Relocation of ground level hairdressing salon from Building A to Building B;
- Reduction in cafe area;
- Extension to pool concourse;

- Additional plant area; adjustment to footprint of building A;
- Design changes to units in response to design change condition for DA16/1620;
- Removal of 2 units from building B and change to roof form in response to design change condition for DA16/1620;
- Deletion of roof top communal open space from Building A;
- Amendment/deletion of a number of conditions.

2.0 APPROVED DEVELOPMENT

The development comprises 78 independent /self - contained living units located within two residential buildings (Building A to the South of the site and Building B to the north of the site); resulting in a mix of 1, 2 and 3 bedroom dwellings; two basement levels of parking.

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

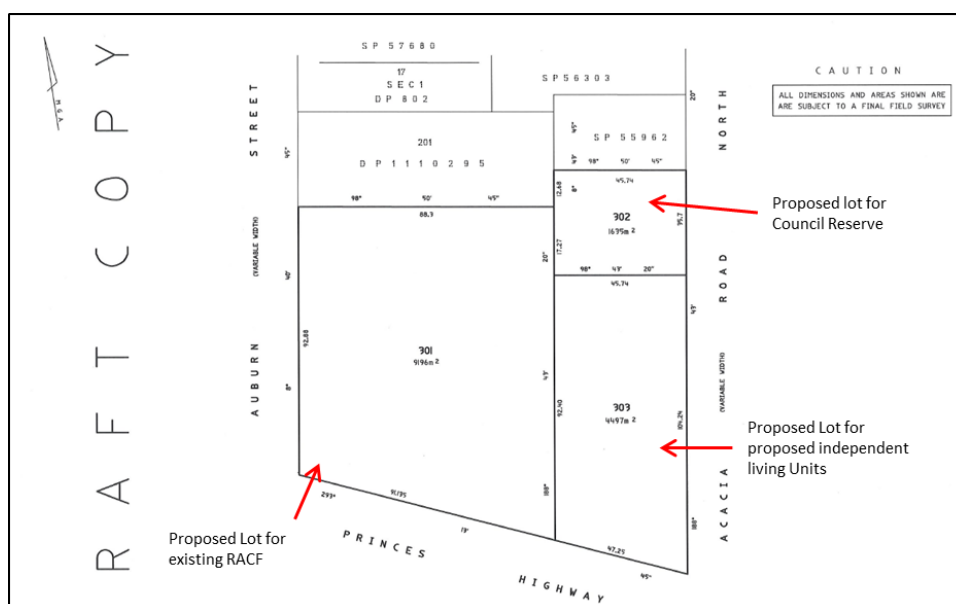


Figure 1: Proposed plan of subdivision

The development will be undertaken in the following stages:

Phase 1 Land Transfer

- Land transfer of Part Lot 11 DP1103619 and Part Lot 200 DP1110295 in accordance with the terms of the Voluntary Planning Agreement.
- Amendment to the Vegetation Management Plan including endorsement by the Sutherland Shire Council, Manager Environmental Science.
- Subdivision of residual Lot 200 DP1110295
- Point (ii) above must be complete prior to the issue of any Subdivision Certificate for Phase 1, and in accordance with the Voluntary Planning Agreement.

Phase 2 First Construction Phase

- i. Construction of all basement levels, including link to existing BUPA Aged Care facility at 42 Auburn St, Sutherland (Lot 200 DP 1110295);
- ii. Embellishment of the adjacent Council Park works subject to terms of the Voluntary Planning Agreement and the Vegetation Management Plan.
- iii. Construction of all common ground floor facilities, including links to existing BUPA Aged Care facility at 42 Auburn St, Sutherland (Lot 200 DP 1110295);
- iv. Construction of Southern Residential Tower (Building A);
- v. Construction of a Porte Cochere, and vehicular access to the site and basement and Landscape surrounding tower A and adjacent to the porte cochere
- vi. Works in the public domain (including, but not limited to footpath and landscaping) as per the *Roads Act application and approval made to Sutherland Shire Council*.
- vii. Drainage infrastructure.

These works are to be completed prior to the issue of any occupation certificate for Phase 2.

Phase 3 Second Construction Phase

- i. Construction of Northern Residential Tower (Building B)
- ii. Drainage infrastructure
- iii. Works in the public domain (including, but not limited to footpath and landscaping) as per the *Roads Act application and approval made to Sutherland Shire Council*.
- iv. Landscaping works

These works are to be completed prior to the issue of any occupation certificate for Phase 3.

A site plan of the approved development is show below.

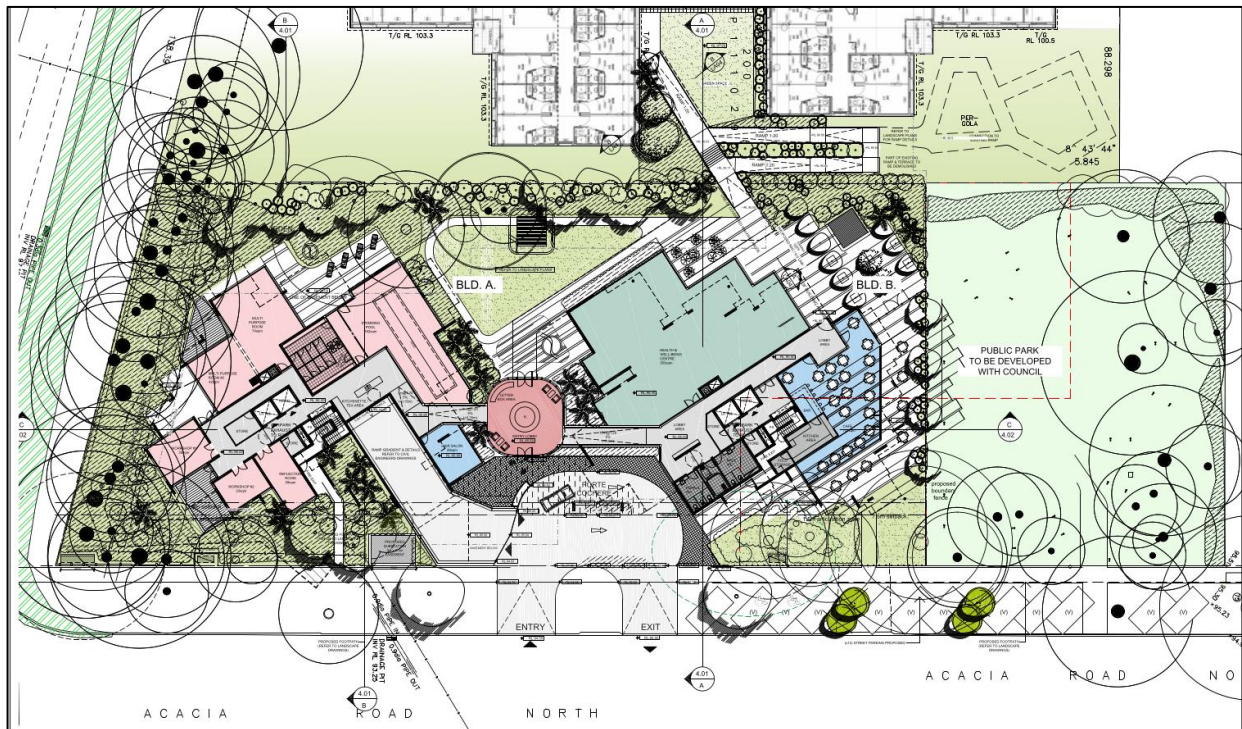


Figure 2: Site Plan of Approved Development

At present the development is in early works phase.

3.0 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. Early site works pursuant to the development consent are currently underway on the eastern third of the site which was previously devoid of development.

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

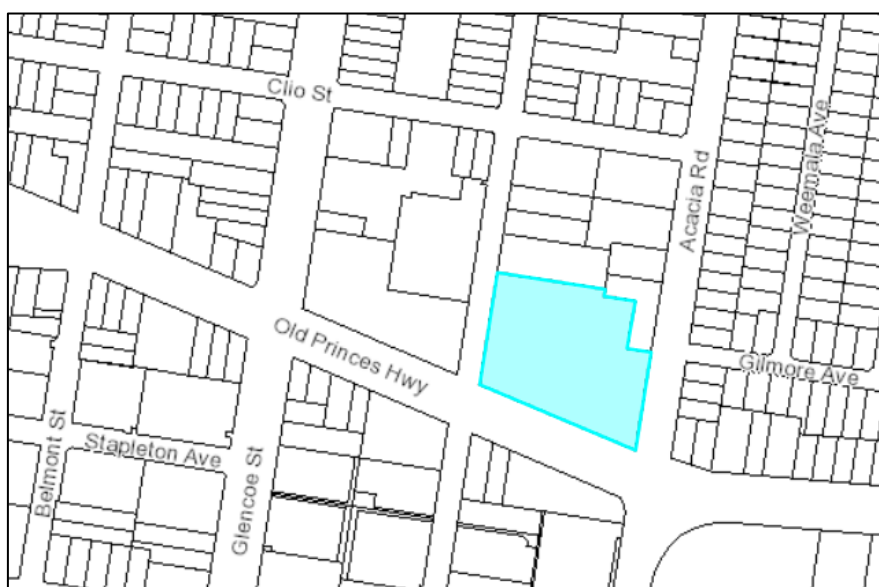


Figure 4: Locality Plan

4.0 BACKGROUND

A history of the development proposal is as follows:

- DA 16/1620 was approved by the Sydney South Planning Panel on 13 December 2017.
- MA18/0056 (Section 96(1A)) was submitted on 23 February 2018 and determined under delegation. This application was to amend a consent condition regarding phasing of the development changing the requirement to subdivide the lots from Phase 3 to Phase 1
- MA18/0090 (Section 4.55 (1)) was submitted on 21 March 2018. The application was to change a consent condition to remove tree 203 and to amend the description of the original consent. The application was approved under delegation on 25 July 2018.
- MA18/0097 (Section 4.55 (1)) was submitted on 26 March 2018 to correct an error in a number of conditions regarding car parking, as they were inconsistent with the final determination issued by the Sydney South Planning Panel. The application was approved under delegation on 31 July 2018.
- MA18/0104 was submitted on 28 March 2018, seeking to modify or delete a number of conditions of consent. The application was approved under delegation on 20 November 2018.
- This MA18/0241 (Section 4.55(2)) was submitted on 17 July 2018.

5.0 NATURE OF MODIFICATION SOUGHT

This application proposes the modification of Development Consent No. DA16/1620 pursuant to Section 4.55(2) of the EP&A Act.

An assessment of the type of modification proposed has been carried out in accordance with the provisions of the Environmental Planning and Assessment Regulation 2000 (EP&AR 2000) and a Section 4.55(2) is the appropriate type of modification application.

6.0 PUBLIC PARTICIPATION

As the application involves modification under Section 4.55(2) of the EP&A Act, the application has been notified in accordance with the Sutherland Shire Development Control Plan 2015 (SSDCP 2015).

365 adjoining or affected owners were notified of the proposal and nil submissions were received.

7.0 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 the original development 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 proposed modifications are minor, and the proposal does not derogate from the previous considerations and the assessment of the original application and subsequent applications. The 4 additional units have been design in accordance with the Apartment Design Guide criteria and will offer reasonable amenity for future occupants.

8.0 COMPLIANCE TABLE

The compliance table below contains a summary of relevant development standards and controls relating to the proposed modification and a compliance checklist relative to these:

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= 20.35m	No change from approved DA - (Building A= +6.02m – no change from approved Decrease in height from 22.65m as approved Building B= +0.35m (1.75% variation) Discussion in report.
4.4	Floor Space Ratio Max – 1.5:1 1.8:1 - <i>Bonus 0.3:1 for Area 12</i>	Pre-subdivision -1.25:1 (including existing RACF) Post subdivision=FSR 2.2:1	No change from approved DA Yes No

6.14	Landscaped Area (deep soil) 30% (min 1349.1m ²)	Pre-subdivision=34% Post subdivision=32%	Yes - no change from approved DA
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Sutherland Shire Development Control Plan 2015			
Clause	Standard	Proposed	Complies
Chapter 5 – R4 Residential Flat Buildings			
10.2.1	Parking 1 space per 1 bed (6 spaces) 1.5 spaces per 2 bed (105 spaces) 2 spaces per 3 bed (12 spaces) TOTAL= 123 spaces	88 residential spaces (93 spaces in total)	Parking provision consistent with approved DA, where 122 Spaces were required – see discussion below.
Chapter 36 – Roads, Access, Traffic, Parking and Bicycles			
1.2.1	Retail (café) in a business zone. 1 space per 30m ² GFA GFA FOR MA =88m ² =3 spaces	4 parking spaces imposed by the SSPP via a condition of consent for DA16/1620 (based on 131m ² of GFA. Reduced GFA of Cafe results in 3 spaces being required.	Condition to be amended to reduce parking for café staff to 3. See discussion below

State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004			
Objective	Design Criteria	Proposal	Complies
“Cannot refuse standards” Clause 50			
Cl.50(a) Building Height	8m	>8m (Building A= 23.02m Buildings B= 20.35 Height to lift overrun)	NOTE: Does not comply with the SSLEP2015. Building A no change to building height as approved under DA16/1620.

			Building B – building height reduced from 22.65m proposed in DA16/1620. See discussion below
CL 50(h)	0.5 car spaces for each bedroom (164 bedrooms total) min 82 residential spaces – <i>no change in parking demand from approved DA</i>	88 Residential spaces and 5 Wellbeing centre spaces	Yes

9.0 SPECIALIST COMMENTS AND EXTERNAL REFERRALS

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

Landscape Architect

The landscape architect has provided a number of relevant comments regarding tree protection and retention in light of the changes proposed.

The extension of the pool concourse will impact upon the Structural Root Zone and Tree Protection Zone (TPZ) of trees 199 and 204, and cannot be supported. The pool concourse is recommended to be relocated back to the approved location as per DA16/1620.

The deck surrounding trees 195 and 196 is too extensive and will impact trees access to air, water, light, nutrients etc. The deck is best located outside the TPZ of both trees, this is to also improve the landscape setting due to the location of the proposed units in Building B.

The private open space of the proposed ground floor apartments conflict with:

- Communal open space in the north western corner of the site.
- A side walk way/gate to the cafe in the vicinity of dwelling G04.
- The outdoor café seating and dwelling G04, with regards to acoustic impact upon G04.

The Landscape Architect has also requested that Condition 28 Landscape Design be amended in order for it to be clearer for the applicant to apply.

A detailed discussion regarding landscape setting is included below in the assessment section.

Engineer

The application was referred to Council's Development Engineer who provided the following advice:

- 1) The parking for the Café Staff and the wellbeing centre be amended in Conditions 2A(iii) and 64.
- 2) Adjustment of wording associated with car parking design (Condition 21)
- 3) Amended condition regarding street numbering for tenancies and dwellings (Condition 59)

10.0 ASSESSMENT

A detailed assessment of the application has been carried out having regard to the Heads of Consideration under Section 4.55(1) of the EP&A Act.

The following matters are considered important to this application.

10.1 Parking

As approved under DA16/1620, parking is proposed across two basement levels, including a total of 93 spaces were proposed (88 spaces for residents and 5 spaces for users of the Health and Wellbeing Centre).

As per DA16/1620 the applicant was granted approval for a health and wellbeing centre, this facility was proposed to 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, it was calculated that the wellbeing centre would generate the need for 12 spaces, however only 5 spaces were proposed in the basement. In order to address this shortfall a condition of consent was imposed that an additional 7 parking spaces be provided in the basement to accommodate parking for the wellness centre (Condition 2A (iii)).

As part of the determination of DA16/1620, the SSPP also imposed an additional four parking spaces for café staff to be provided in the basement via a condition of consent 2A(iii) based on the car parking rates specified in Councils DCP 2015.

Condition 64 as originally approved also specifies car parking allocation for the overall development.

As part of this modification application the proposed health and wellbeing centre is no longer being proposed, and is proposed to be replaced with four dwellings at ground floor. These dwellings generate a demand for 4 residential parking spaces, these spaces can be accommodated within the current approved 93 basement parking spaces.

Further there is a proposed reduction in gross floor area of the Café, reducing the demand for parking from four to three.

As a result of changes to the wellbeing centre and the cafe Conditions 2A (iii) and 64, it is recommended that these conditions amended to read:

2 Design Changes Required

A. Before Construction

The following design changes must be implemented:

- iii. A total of ~~12 parking spaces for the visitors to the Wellbeing Centre and an additional four~~ **three parking** spaces allocated for cafe staff must be provided within the basement

64 Car Parking Allocation

A. Before Commencement of Use of Any Part of the RACF

Basement car Pparking must be allocated on the following basis:

- i) Residential dwellings: total of 82 spaces.
- ii) Waste loading area: 1 space.
- iii) Ambulance area: 1 space.
- iv) ~~Wellbeing Centre: total of 12 spaces.~~
- v) **Cafe Staff: total of 3 spaces**

B. Ongoing

The parking provided must only be used in conjunction with the development and not for any other purpose.

10.2 Additional Dwellings at ground floor building B

As part of the original development application there was a variation approved to the Building Height standard contained within the Sutherland Shire Council LEP 2015 (SSLEP 2015) 2015 for both buildings A and B. Part of the original assessment of DA16/1620 reads:

“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.”

“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.”

“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 design change associated with the height of building B for DA16/1620 required the removal of the top floor of Building B adjacent to the Council reserve as per Condition 2A(i):

2 Design Changes Required

A. Before Construction

The following design changes must be implemented:

- i. The northern residential tower (Building B) must be no greater than 6 storeys in height. Dwellings X.01 and X.02 and all communal and private open space must be deleted from proposed level 6 of Building B. The total number of dwellings must not increase above 78, and the additional gross floor area lost as a result of deleting Dwellings X.01 and X.02 from level 6 must not be added to Building A.

Based on an assessment of the location of the proposed dwellings at ground floor level of Building B, the impacts of the additional dwellings are minimal, and further there is no change in Gross Floor Area as a result of the additional dwellings. The new dwellings will have minimal impact upon the streetscape setting as they are located at the rear of the site, and will not impact upon the bulk and scale of the building or overall development. The 4 additional units have been design in accordance with the Apartment Design Guide criteria and will offer reasonable amenity for future occupants.

The intent of the original condition of consent to minimise the visual impact of the bulk and scale of Building B has been met. The bulk and scale has been addressed through the proposed amended of this application and can therefore be supported, condition 2A(i) is recommended to be deleted.

10.3 Landscape setting

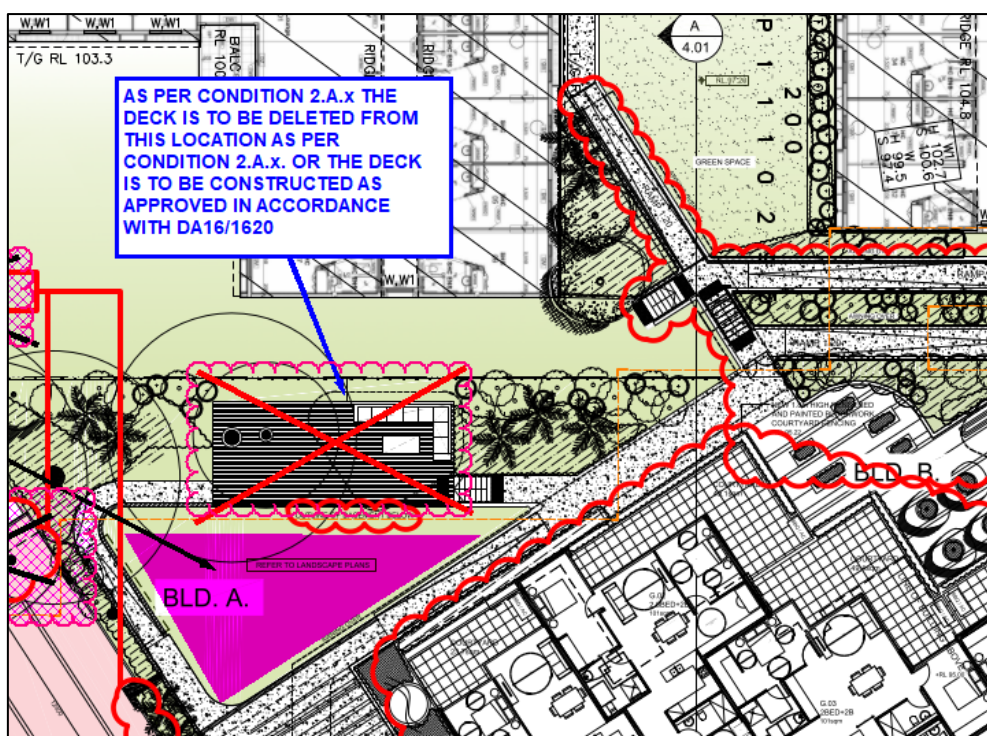
As a result of the proposed dwellings at ground level in Building B, landscaping needs to be reinforced through additional landscape planting in particular along the western boundary. As the roof top communal open space is proposed to be removed from Building A, it is important that the communal open space is well planned and sits within in an appropriate landscape setting at ground floor level.

Further there is a conflict with the location of the café seating, between the communal open space and the private open space of the proposed ground floor dwellings.

Deep soil areas within the rear communal open space and along the southern, western and western boundaries will contribute to preserving the existing landscaped character. However there is a reduction in deep soil area available for planting as a result of an increased deck area in the vicinity of the proposed dwellings further planting and appropriate species selection will reinforce the existing and desired future character of the locality. This deck will also impact upon trees to be retained.

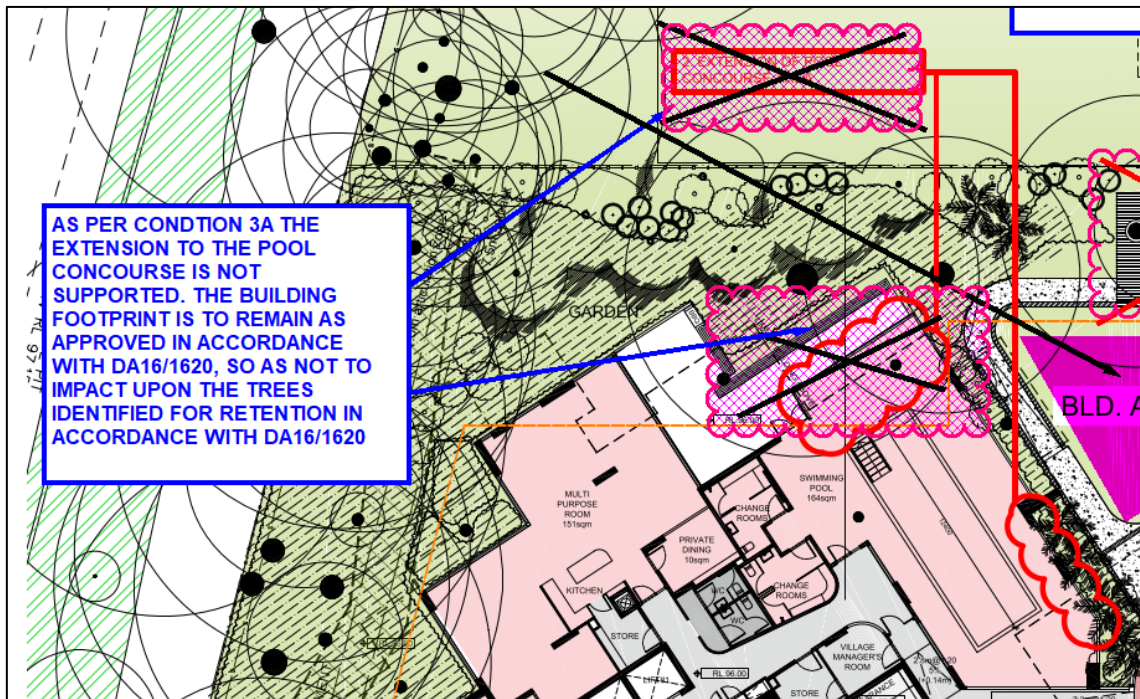
As per Councils Landscape Officer comments above and assessment of the proposed modifications the following amendments to landscaping are recommended to be imposed via conditions of consent.

- The deck surrounding trees 195 and 196 is too extensive and will impact trees access to air, water, light, and nutrients. The deck is best located outside the TPZ of both trees. A condition of consent will require this deck area to be located over the basement slab, east towards the central lobby area. This will also increase planting opportunities along the western boundary to the benefit of the new dwellings proposed in Building B at ground level. A notation will be made on plan reflecting this, as per the image below:



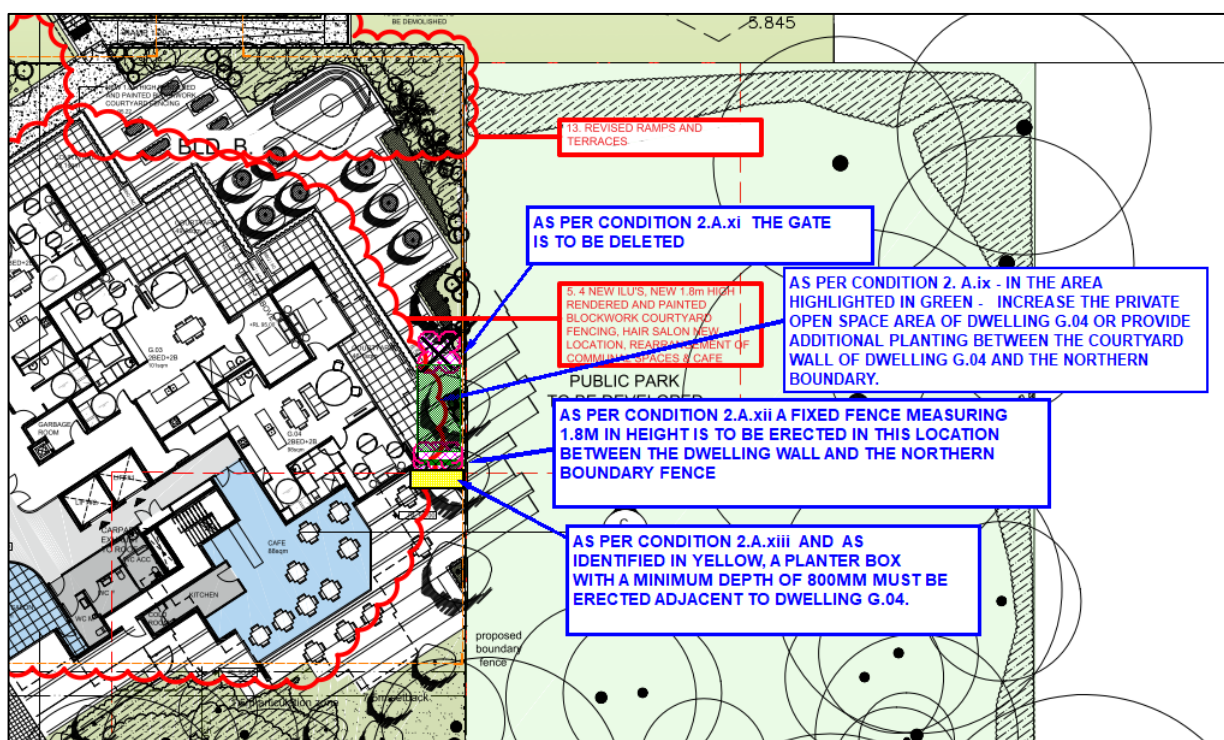
- The extension of the pool concourse will impact upon the Structural Root Zone and Tree Protection Zone (TPZ) of trees 199 and 204, and cannot be supported. The pool concourse is recommended to be relocated back to the approved location as per DA16/1620.

A notation will be made on the plans that the pool concourse cannot be extended, this modification is not supported due to impact upon the trees to be retained as per DA16/1620, as identified on the image below.



- The private open space of the proposed ground floor apartments conflict with:
 - Communal open space in the north western corner of the site.
 - A side walk way/gate to the cafe in the vicinity of dwelling G04
 - The outdoor café seating and dwelling G04, with regards to acoustic impact upon G04.

Conditions of consent are recommended to amend this part of the site including restricting the outdoor seating area of the café through the introduction of a planter box adjacent to dwelling G.04 deletion of a gate and replacement with a fence. An annotation will be made on plan, as per the image below:



Additional recommended conditions of consent associated with landscape setting are further recommended 2A(ix), (x), (xi), (xii) and (xiii) and a new Condition 3A are as follows:

2 Design Changes Required

A. Before Construction

The following design changes must be implemented:

- ix As per plan S4.55 – 2.01 Revision C, Ground Floor Plan, Marchese and Partners, as Amended by Council 18 December 2018, increase the private open space area of dwelling G.04 or provide additional planting between the courtyard wall of dwelling G.04 and the northern boundary.*
- x. The western deck in the communal open space shall be relocated to the area above the basement adjacent to the pool concourse as per plan S4.55 – 2.01 Revision C, Ground Floor Plan, Marchese and Partners, as amended by Council 18 December 2018, in order to increase landscaping along the western boundary and protect the trees in the vicinity of the deck. This deck is to be setback a minimum of 3m from the courtyard of dwelling G.01, and must not extend beyond the basement wall. This deck is not to encroach on any tree protection zone or structural root zone of any tree identified for retention as per conditions 28 and 31 of DA16/1620, OR the deck is to be constructed in accordance with DA2.01 Revision P9, Ground Floor Plan, prepared by Marchese Partners dated 6/9/17, that forms part of the approval of DA16/1620.*

- xi. As per plan S4.55 – 2.01 Revision C, Ground Floor Plan, Marchese and Partners, as Amended by Council 18 December 2018, the side gate adjacent to the courtyard of dwelling G.04 is to be removed.*
- xii. As per plan S4.55 – 2.01 Revision C, Ground Floor Plan, Marchese and Partners, as Amended by Council 18 December 2018 a fixed fence must be erected adjacent to the northern most bedroom wall of G.04 and the northern boundary.*
- xiii. As per plan S4.55 – 2.01 Revision C, Ground Floor Plan, Marchese and Partners, as Amended by Council 18 December 2018, as identified in yellow, a planter box with a minimum depth of 800mm must be erected adjacent to dwelling G.04.*

Details of these design changes must be included in documentation submitted with the application for a Construction Certificate.

3A Pool Concourse

Consent is not granted for the pool extension as per plan S4.55 – 2.01 Revision C, Ground Floor Plan, Marchese and Partners, as Amended by Council 18 December 2018.

The part of the development must be carried out in accordance with DA2.01 Revision P9, Ground Floor Plan, prepared by Marchese Partners dated 6/9/17, that forms part of the approval of DA16/1620.

To ensure that appropriate species are planted within the site the original consent DA16/1620 included the Condition 28. This condition is intended to ensure protection of trees, to ensure appropriate landscape design and appropriate species plantings for the development.

It is proposed to amend condition 28 (A)(vii), to ensure that the correct placement trees are planted, as recommended in the beginning of the report, and as follows

28. Landscaping Works

A. Design

The landscaping works must be designed in accordance with the approved Landscape Plan except where modified by the following:

- vii) As the subject site contains remnant STIF vegetation, all new plant species used in both front setbacks, along the western boundary and adjoining the public park must be selected from Council's 'Native Plant Selector' available on Council's website (www.sutherlandshire.nsw.gov.au and search for Native Plant Selector).*

Substitute **the proposed species for** the following **tree replacement** species **as per the table** :

Proposed species	Replacement species
4x <i>Pittosporum undulatum</i> (Sweet Pittosporum)	4x <i>Glochidion ferdinandi</i> (Cheese Tree)
4x <i>Acacia parramattensis</i> (Sydney Green Wattle)	4x <i>Acacia implexa</i> (Hickory)
2x <i>Eucalyptus acmenoides</i> (White Mahogany)	2x <i>Eucalyptus globoides</i> (White Stringybark)
6x <i>Melaleuca decora</i> (White Feather Honey Myrtle).	6 <i>Backhousia myrtifolia</i> (Grey Myrtle)
25x <i>Cupaniopsis anacardioides</i> (Tuckeroo).	25x a mixture of tree species chosen from 'Native Plant Selector'

- ~~4x *Glochidion ferdinandi* (Cheese Tree) for 4x *Pittosporum undulatum* (Sweet Pittosporum);~~
- ~~4x *Acacia implexa* (Hickory) for 4x *Acacia parramattensis* (Sydney Green Wattle);~~
- ~~2x *Eucalyptus globoides* (White Stringybark) for 2x *Eucalyptus acmenoides* (White Mahogany);~~
- ~~6 *Backhousia myrtifolia* (Grey Myrtle) for 6x *Melaleuca decora* (White Feather Honey Myrtle).~~
- ~~a mixture of tree species chosen from 'Native Plant Selector' for the 25x *Cupaniopsis anacardioides* (Tuckeroo).~~

Use 200mm-300mm pot size for all indigenous trees.

Provide much greater biodiversity in the understorey layer (refer 'Native Plant Selector' for suitable species) and ensure that plant numbers achieve a density of 4 plants per square metre. All plant species must be mixed and planted at irregular spacings to achieve an informal, bushland appearance.

10.4 Privacy Screens

An original condition of consent required a number of units to have privacy screens and/ or glazing installed, plans submitted with this application identifies the appropriate privacy measures have been applied, as per the original consent condition 2A(vii) and 2A(viii), which reads:

Based on an assessment of the amended plans submitted with this application Conditions 2A(vii) and 2A(viii) are recommended to be deleted.

10.5 Other conditions for modification

There are a number of other conditions, in addition to the above, that require modification as a result of this application, these include:

- Condition 10 - to correct an error in relation to the design of the basement entry doors.
- Conditions 11, 12 and 13 – the developer contributions have been recalculated based on increase in dwellings to 82.
- Condition 21 – garaging conditions were applied in error, through the use of a standard condition of consent. The condition is recommended to be modified to address this.
- Conditions 35, 37, 39 and 66 are recommended to be deleted now that the wellbeing centre is being removed.
- Condition 59 – to reflect the changes to dwellings and tenancies with respect to street numbering and letterbox facilities.
- Condition 62 - to reflect the reduction in café size and seating capacity from 80 to 32 internal and 28 to 20 external seats.

The amendments to the above conditions are recommended, and will have minimal impacts upon the amenity of the neighbourhood and the environment.

11.0 DEVELOPER CONTRIBUTIONS

Section 7.11 contributions were levied on the original DA16/1620. The proposed modification will increase the demand for public facilities and therefore the Section 7.11 contributions have been recalculated as follows:

- Shire Wide Open Space and Recreation Facilities 2005 - **\$734,079.35**
- Community facilities - **\$121,801.96**
- Sutherland Centre 2006 - **\$291,713.49**

Conditions 11, 12 and 13 are recommended to be modified accordingly.

12.0 DECLARATIONS OF AFFILIATION, GIFTS AND POLITICAL DONATIONS

Section 10.4 of the EP&A Act 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 a declaration has been made that there is no affiliation.

13.0 CONCLUSION

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.

In response to public exhibition, Nil submissions were received.

This application satisfies the requirement that the development to which the consent as modified relates will remain substantially the same development as that originally granted consent.

The application has been assessed having regard to the Heads of Consideration under Section 4.15(1) of the EP&A Act, together with the provisions of SSLEP2015 and all relevant Council DCPs, Codes and Policies. Following detailed assessment it is considered that the modification application No MA18/0241 can be supported.

RESPONSIBLE OFFICER

The officer responsible for the preparation of this Report is the Manager, Major Development Assessment (LP) who can be contacted on 9710.0333.