

## SUTHERLAND SHIRE COUNCIL ASSESSMENT REPORT

<b>Panel Reference</b>	2018SSH042
<b>DA Number</b>	MA18/0308
<b>LGA</b>	Sutherland Shire
<b>Proposed Development:</b>	Section 4.55(2) Modification of DA16/0994 - Internal layout changes, extension to lower ground floor plan, adjustments to building heights and lower ground floor level, adjustment to driveway and ramp, addition of a new roof exhaust, plus the removal of condition 14A iv, v and amend condition 29
<b>Street Address:</b>	Lot B DP 404838, Lot C DP 404838, Lot A DP 406146, Lot 1 DP 408232, Lot 2 DP 408232, Lot 1 DP 1223476 - 2 Locksley Street, Cronulla, 37 Sturt Road, Cronulla, 2A Locksley Street, Cronulla, 4 Locksley Street, Cronulla, 39 Sturt Road, Cronulla, 31 Sturt Road, Cronulla
<b>Applicant/Owner:</b>	Pathways Property Group Pty Limited
<b>Date of DA lodgement</b>	28 August 2018
<b>Number of Submissions:</b>	6
<b>Recommendation:</b>	Approval
<b>Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011</b>	The Panel remains as the consent authority for a modification application made pursuant to Section 4.55(2) of Environmental Planning and Assessment Act 1979 for a regionally significant development originally determined by the JRPP as it is not specifically included as a function exercisable by council on behalf of a regional planning panel by the operation of s.123BA of the Environmental Planning and Assessment Regulation 2000
<b>List of all relevant s4.15(1)(a) matters</b>	<ul style="list-style-type: none"> <li>• State Environmental Planning Policy (Housing for Seniors of People with a Disability) 2004 (Seniors Housing SEPP)</li> <li>• Sutherland Shire Local Environmental Plan 2015 (SSLEP 2015)</li> <li>• Sutherland Shire Development Control Plan 2015 (DSSDCP 2015)</li> </ul>
<b>List all documents submitted with this report for the Panel's consideration</b>	<ul style="list-style-type: none"> <li>• Draft Conditions of Consent</li> <li>• Revised 1 Response to RFI 2018 12 10</li> <li>• Revised 1 Acoustic Report 2018 12 10</li> <li>• Plans</li> </ul>
<b>Report prepared by:</b>	Slavco Bujaroski – Environmental Assessment Officer Sutherland Shire Council
<b>Report date</b>	25 January 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?	<b>Yes</b>
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### 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? <i>e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP</i>	<b>Not Applicable</b>
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### 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?	<b>Not Applicable</b>
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### Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)? <i>Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions</i>	<b>No</b>
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### Conditions

Have draft conditions been provided to the applicant for comment? <i>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</i>	<b>Yes</b>
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## REPORT SUMMARY

### REASON FOR THE REPORT

The Panel remains as the consent authority for a modification application made pursuant to Section 4.55(2) of Environmental Planning and Assessment Act 1979 for a regionally significant development originally determined by the JRPP as it is not specifically included as a function exercisable by council on behalf of a regional planning panel by the operation of s.123BA of the Environmental Planning and Assessment Regulation 2000.

### PROPOSAL

The modification application relates to a seniors housing facility at the above property and proposes internal layout changes, extension of the lower ground floor plan, adjustments to building heights, the lower ground level and driveway and ramp, addition of a new roof exhaust and removal of conditions.

### THE SITE

The subject site is located on the northern side of Sturt Road approximately 380m east of the intersection of Sturt Road and Woollooware Road.

### ASSESSMENT OFFICER'S RECOMMENDATION

THAT:

That Modification Application No. 18/0308 for modifications to DA16/0994 at Lots B and C DP 404838, Lot A DP 406146, Lots 1 and 2 DP 408232, Lot 1 DP 1223476 Nos. 2, 2A & 4) Locksley Street and Nos. 31, 37-39 Sturt Road, Cronulla be approved, subject to the draft conditions of consent detailed in Appendix "A" of the Report (Condition 1 modified, Condition 2v) and 33 deleted and Condition 13B. added).

## ASSESSMENT OFFICER'S COMMENTARY

### 1.0 DESCRIPTION OF PROPOSAL

This modification application relates to an approved development for alterations and additions to an existing seniors housing facility. The approved development is located over 5 lots in addition to the 3 lots that comprised the existing facility. In terms of capacity, the existing facility comprised 87 beds, 29 of which are part of a dementia wing. The approved development increased the overall capacity of the facility by 75 beds to a total of 162 beds.

The approved additions generally extended the existing 2 / 3 storey building forms across the newly acquired lots to the west. The approved building additions occurred over all of the existing floor levels.

A summary of the modifications proposed under this modification application is as follows:

- a) Internal layout changes and provision of additional storage spaces and amenities on the ground floor level of the Norfolk Building. Additional excavation proposed to provide for these spaces.

- b) Extension of the lower ground floor plan of the Norfolk building to include additional storage rooms under the approved building and below the approved central courtyard (below ground level).
- c) Internal layout changes include minor reconfiguration of dining areas and service rooms (eg. servery and storage areas) on the first and second floor of the building, as well as relocation of fire stairs and inclusion of a new lift in the Norfolk Building.
- d) Minor adjustment to the approved building height by 200mm as a result of the lift over-run;
- e) Increased balcony area on the second floor plan;
- f) Adjustment of the lower ground floor level by 450mm in the Links Buildings to provide additional roof height clearance within the parking level for services and parking;
- g) Adjustment / extension of the driveway and ramp into the Norfolk Building;
- h) Increase the height of the roof of the Norfolk building to RL 16.61 (0.91m higher), to provide a roof height that matches the existing Pines Building. This modification is a result of complying with Condition No.2A which required the removal of the Third floor level and constructing a roof to match the existing form and height;
- i) Provision of a new roof exhaust to improve ventilation;
- j) Remove Condition 14A iv. and v. Approved Landscape Plan- Design Changes in order provide moveable furniture rather than permanent;
- k) Modification of Condition 29 - Collection and Delivery Services to allow bakery delivery between 4.30am and 5.30am, Monday to Friday.

## **2.0 SITE DESCRIPTION AND LOCALITY**

The subject site is located off the northern side of Sturt Road approximately 380m east of the intersection of Sturt Road and Woollooware Road. The site is an amalgamation of 8 lots and has frontage to Sturt Road and Locksley Street to the west. The site, while having 2 street frontages, is not a corner lot by virtue of not encompassing No.41 Sturt Road which sits at the corner of Sturt Road and Locksley Street (refer to aerial view below).

The overall site has an area of 7,543.5m<sup>2</sup> and has a fall of approximately 11m from Sturt Road to the northern boundary of the site which adjoins the Cronulla Golf Course. There is also a 6.1m wide Sydney Water sewer easement traversing the site, extending from the eastern-most boundary and meeting the western boundary of the site at Locksley Street.

The existing residential aged care facility comprises 2 and 3 storey buildings is completed and is currently in operation. The existing facility is a high care facility and comprises 87 beds (29 of which are part of a dementia wing) and 20 car parking spaces with access via a vehicular ramp at the south east corner of the site off Sturt Road. The facility is operated by the Pathways Group and is known as 'Cronulla Pines'.

Immediately to the north of the site is the Cronulla Golf Course. Across Locksley Street to the west and across Sturt Road to the south are detached 1 and 2 storey dwellings. The site also adjoins 2 storey dwellings to the east. The site is 1.5km walking distance to the Cronulla Centre.





Figure 1: Aerial view (site indicated in red)

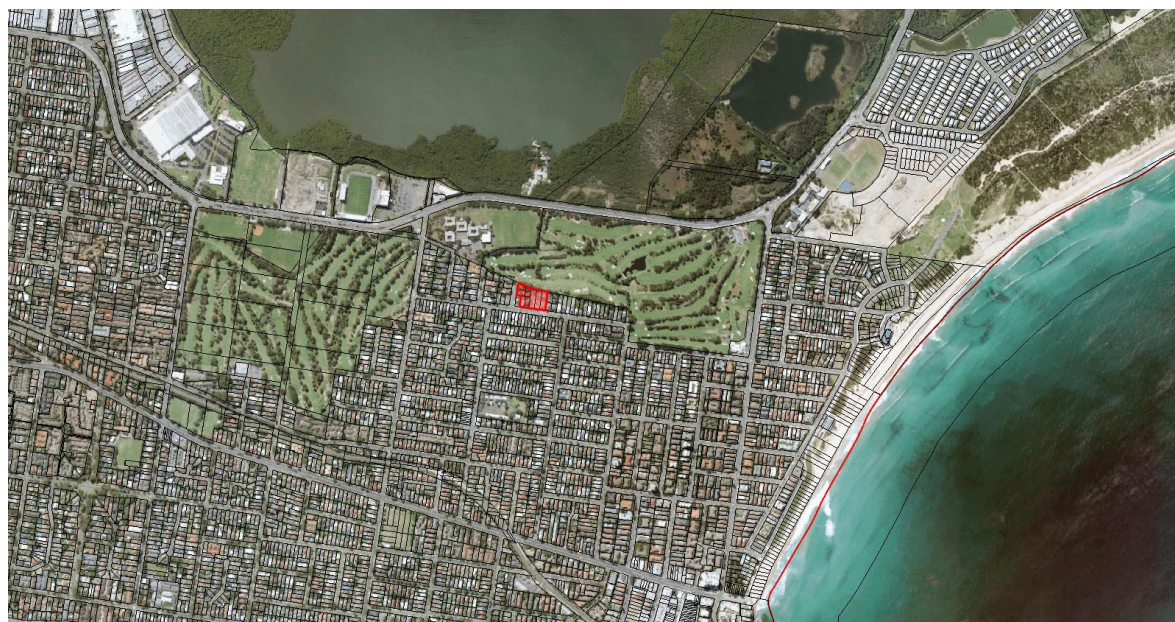


Figure 2: Aerial view of locality

### 3.0 BACKGROUND

A history of the development proposal is as follows:

#### *Development Application No.16/0994*

Development consent was granted for Development Application No.16/0994 by the then Joint Regional Planning Panel on 22 November 2016 for the demolition of existing structures and extension to the existing residential aged care facility. This consent increased the capacity of the facility by 75 beds to a total of 162 beds.

The development is currently under construction with the additional excavation proposed under this modification application already undertaken. In addition, the lower ground floor level of the Links Building has been constructed at the lower floor level proposed in this application.

- The current application was submitted on 2 November 2016.
- The application was placed on exhibition with the last date for public submissions being 4 October 2018. Six submissions were received.
- An Information Session was held on 26 September 2018 and 10 people attended.
- The application was considered by Council's Submissions Review Panel on 5 November 2018.
- Following a preliminary assessment of the application, Council officers sent an email to the applicant on 14 November and 30 November 2018 requesting that the following additional information be provided:

i. Traffic and Parking:

- issues relating to the southern basement including swept path diagrams required to ensure no conflict in manoeuvring, location of the relocated loading bay is required to be shown, explore whether the gradient of the ramp within the car park can be increased to reduce the length of the ramp and, therefore, increase the area for manoeuvring and loading and clarity of location of car parking spaces.

ii. Stormwater:

- OSD calculations need to be provided for review.

iii. Bread deliveries:

- Potential impact on the amenity of the surrounding area as a result of the proposed early morning bread deliveries. It is noted from the scheduled delivery days that fresh bread is not required every day, i.e. delivery is proposed 3 times a week. For this reason, it is not clear why bread deliveries cannot occur after 8am.
- The acoustic report does not indicate the location of where noise levels were measured on the site. Notwithstanding this detail, it is considered that bread deliveries should occur after 8am to avoid unnecessary noise impacts on Locksley Street.

iv. Plant room (Locksley St):

- The proposed modified plans include a narrow plant room that extends into the front setback to Locksley Street whose top surface would be visible from the public domain resulting in a poor streetscape. While the relocation of this mechanical plant area is noted as providing space for a staff lunch room further inside the building, it is located in a highly visible area within the front setback rather than being integrated into the building form. It is recommended that this plant area be relocated away from the front setback and integrated into the building to ensure it does not become a primary element in the building façade.

- Further, clarification is required in relation to whether it is an exhaust or intake. If exhaust, its location relative to the southern boundary is a concern and its location relative to windows to 3 bedrooms and a sitting room above means that they would not likely be able to be opened. Elevation N2B indicates openable windows to the bedrooms.
- v. Flooding:
  - A wall is required along the northern edge of the lower driveway perpetuity. One way to ensure its retention is by way of a positive covenant on the title to the effect that the wall forms part of flood mitigation and must not be removed or modified without planning approval from Council.
- vi. Proposed removal of Condition No.14A(iv) and (v):
  - The condition relates to the provision of tables and seating for communal / group use in the two primary communal open spaces and the provision of communal vegetable / garden beds also in these two spaces. The planning report states that the removal of these 2 parts of the condition is required *'in order provide moveable furniture rather than permanent and ensure the development aligns with Pathways Aged Care model'*. The condition requires tables and seats, which is not necessarily required to be fixed, and 14A(v) relates to vegetable / garden beds. This requires clarification.
- Amended plans and additional information was lodged on 10 December 2018.

#### 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 provisions of Chapter 12 of Sutherland Shire Development Control Plan 2006 (SSDCP 2006).

54 adjoining or affected owners were notified of the proposal and 6 submissions were received as a result. Submissions were received from the following properties:

Address	Date of Letter/s	Issue No.
30 Sturt Road Cronulla	11/09/2018	1, 2, 3, 4, 8
12 Pozieres Street Cronulla	30/09/2018	1, 6,
5 Locksley Street Cronulla	1/10/2018	1, 6, 7
41 Sturt Road Cronulla	1/10/2018	1, 6, 7

14 Sturt Road Cronulla	1/10/2018	1
18 Sturt Road Cronulla	3/10/2018	1, 2, 3, 4, 7, 8

## 6.0 MAJOR ISSUES ARISING FROM SUBMISSIONS

The main issues identified from the submissions are as follows:

*Issue 1: Noise from early morning bread deliveries:* Concerns raised regarding the early morning bread deliveries proposed between 4.30am and 5.30am. The acoustic report model also incorrectly uses noise data from Sturt Road and not from Locksley Street.

*Comment:* This issue has been discussed in detail in the assessment section of this report.

*Issue 2: Construction Noise:*

*Comment:* This issue is dealt with by existing conditions relating to the ongoing management of the construction of the facility. The proposed modifications do not alter the requirements in this regard.

*Issue 3: Parking issues related to staff, visitors, service providers (medical) and construction workers:* This concern relates to all of the above users taking up all available on-street parking in the vicinity of the site both on Sturt Road and Locksley Street.

*Comment:* This issue is exacerbated by the unusually long construction period for works on site. It is anticipated that the availability of on-street parking will increase dramatically when the construction phase has ended and when the facility is operational. The basement level staff car parking accessed off Locksley Street will also provide relief to the current congestion experienced. Visitors to the facility should be utilising the carpark accessed off the eastern end of the site off Sturt Road which is designated for visitors to the facility.

*Issue 4: Loading and unloading:* This issue relates to ensuring trucks servicing the facility enter and exit in a forward direction.

*Comment:* This is an ongoing requirement of Condition No.41 of the original consent.

*Issue 5: Excessive dust from excavation*

*Comment:* This issue relates to construction management and is the responsibility of the Principle Certifying Authority.

*Issue 6: Nature of the new roof exhaust:* Concerns regarding noise and smells from the new roof exhaust in the Locksley Street frontage.

*Comment:* Additional information has been received in this regard and this concern is discussed in greater detail in the assessment section of this report.

*Issue 7: Height, bulk and scale / objection to increase in roof height:* This objection requests that the bulk and scale of the original DA is to be maintained.



*Comment:* While there is a minor increase in height, the proposed modifications do not increase the bulk and scale of the development significantly and are acceptable.

*Issue 8: Clarification required for the removal of Condition 14A(iv) and (v):* This condition relates to the provision of tables and seating for communal / group use in the two primary communal open spaces and the provision of communal vegetable / garden beds.

*Comment:* The applicant is requesting that these conditions be removed as they are not considered to have a planning purpose, however, Council's view is that they provide additional amenity to residents of the facility. This is discussed in greater detail in the assessment section of the report.

## 7.0 STATUTORY CONSIDERATIONS

The subject land is located within *Zone R2 Low Density Residential* pursuant to the provisions of Sutherland Shire Local Environmental Plan 2006. The proposed development, being a “*seniors housing*” development, is a permissible land use within the zone with development consent from Council.

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

- Sutherland Shire Local Environmental Plan 2015 (SSLEP2015)
- State Environmental Planning Policy (Housing for Seniors or People With a Disability) 2004 (Seniors SEPP)
- Sutherland Shire Development Control Plan 2006 (SSDCP 2006)

## 8.0 COMPLIANCE

The table below contains a summary and compliance checklist of the development standards under the Seniors Housing SEPP that are altered by the proposed modifications.

Standard/Control	Required	Proposed	Complies
<b>State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004</b> <b>cl.48 - Cannot refuse standards</b>			
cl.48 - Standards that cannot be used to refuse development consent for residential care facilities (RACF)	(a) Density & scale – 1:1 or less  (b) Landscaped area – minimum 25m <sup>2</sup> per bed (162 beds x 25 = 4,050m <sup>2</sup> )	1.14:1  3,100m <sup>2</sup> (19.1m <sup>2</sup> per bed)	No  No, however, this is consistent with the existing approval

## **9.0 SPECIALIST COMMENTS AND EXTERNAL REFERRALS**

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

### **9.1. Engineering**

Council's development engineer has undertaken an assessment of the amended plans and have advised that they have an objection to the area available for truck turning within the basement level. Specifically, the space proposed does not comply with AS2890 in terms of number of movements that a truck would need to undertake to exit the facility.

*Comment:* The amended plans indicate a manoeuvring and loading area within the basement that has been marginally increased in size to that originally approved. The walls and car parking location adjoining the loading area have been re-designed to provide additional space for truck manoeuvring. The amended proposal is considered acceptable.

### **9.2. Building Surveyor**

Council's building surveyor has undertaken an assessment of the application and have advised that they have no objection to the proposal. It was recommended, however, that Condition No.33 of the original consent be removed as the condition ties the compliance of the building to particular recommendations and assumptions that may not end up being valid. The prescribed condition located at the end of the suite of conditions is all that is required because compliance with the BCA is mandatory for all new work, however, how it is achieved, should not be mandated. Council has received evidence from the Certifier that BCA compliance of the proposal can be achieved. Condition No.33 is recommended to be removed.

### **9.3. Health Officer**

Council's Environmental Health Officer has undertaken an assessment of the application and advised that they have no objection is raised to the proposal. It was recommended that the recommendations in the acoustic report be incorporated into the conditions. However, it is considered that the early morning bread delivery is unreasonable for the reasons outlined in the assessment section of this report.

### **9.4. Engineering - Flood**

Council's Stormwater and waterways engineer has undertaken an assessment of the application with regard to flooding and advised that they have no objection is raised to the proposal. It was noted that the height of the low wall adjoining the northern edge of the northernmost driveway on Locksley Street, is at the PMF (probable maximum flood) level which is acceptable. However, to ensure the permanency of this wall, it was recommended that a positive covenant be created on title to the effect that the wall forms part of flood mitigation and must not be removed or modified without planning approval from Council. This requirement has been incorporated as part of Condition No.13B.

## 10.0 ASSESSMENT

Following a detailed assessment of the application having regard to the Heads of Consideration under Section 79C(1) of the Environmental Planning and Assessment Act 1979 and the provisions of relevant environmental planning instruments, development control plans, codes and policies, the following matters are considered important to this application.

### 10.1 Proposed modifications

The following is a summary of each of the modifications proposed together with an assessment relative to each:

*Item 1: Modification of Condition 29 - Collection and Delivery Services to allow bakery delivery between 4.30am and 5.30am, Monday to Friday.*

The most contentious modification with regard to neighbour objections relates to bread delivery times and their potential impact on the amenity of the neighbourhood. Specifically, the applicant is proposing that bread deliveries will occur as early as 4:30am for a maximum of 3 times per week. The applicant argues that bread delivery at these times is required for the residents of the facility to be provided with fresh bread. In addition, it is argued that this is a common delivery time for bread deliveries across the industry. It is not clear how 'fresh' bread is provided to the residents each day when it is delivered 3 times per week.

The acoustic report submitted with the application provides data from noise measurement equipment located along Sturt Road and assumes that the ambient background noise level at night time (2200 – 0700) measured on Sturt Road would be similar to that expected on Locksley Street. No data has been provided to support this assumption. As a counter, it can be argued that Locksley Street has considerably less traffic than Sturt Road (at all times of the day) as it is a no through road having only 5 dwellings located off it. For these reasons, it can be contended that Locksley Street would have a lower ambient background noise level than Sturt Road, and, therefore, the threshold whereby noise would have an intrusive effect would be lower.

The acoustic report recommends the following noise management procedures:

- *Loading vehicle to be turned off during loading / unloading operations.*
- *Driver to avoid using exhaust brakes and engine compression braking unless they are necessary for safety reasons.*
- *Vehicle to be compliant with current ADR standards.*
- *Loading dock access to be solid roller door which is to be closed during loading operations outside daytime hours.*

One of the key issues raised by nearby residents is that Locksley Street is relatively steep where the crossover to the loading area is located. In practical terms, it is considered that engine compression braking will likely be utilised to reduce the speed of the vehicle to a level sufficient to negotiate the right turn into the driveway. In this circumstance, it is more likely, however, that delivery trucks would reverse into the driveway from a lower point in the street and utilise reversing 'beeps'. This would result in ongoing management issues.

It is considered that the data presented does not provide sufficient justification to allow a single delivery service to potentially disrupt the quiet and good order of this part of the neighbourhood. It is recommended that Condition No.33 be retained in its entirety and the operator of the facility investigate alternative arrangements for bread delivery to the facility.

*Item 2: Internal layout changes and provision of additional storage spaces and amenities on the ground floor level of the Norfolk Building. Additional excavation proposed.*

The applicant proposes the re-organisation of the ground floor plan under the Norfolk Building including; a larger gymnasium, kitchen and laundry extension, relocated / new storage rooms, relocated staff room, relocated mechanical plant room, new staff training room and new lift core.

The footprint of the approved buildings have generally not been increased in size except within the ground floor of the Norfolk Building where additional excavation (approximately 300m<sup>2</sup> in area) has been undertaken for additional store rooms. The additional excavation, while significant when considered in isolation, is minor when compared to the approved extent of the excavation under the original development application. Existing conditions of consent relating to site management, minimising vibration damage and the requirement for dilapidation report for the adjoining buildings on 41 Sturt Road remain relevant to the proposed modifications.

In addition to the above, there is a discrepancy in the calculations of floor space and landscape area. The applicant's calculations indicate that the total floor space is 7,714m<sup>2</sup> (1.01:1) while Council's calculations result in a total of 8,604m<sup>2</sup> (1.14:1). The following table compares the applicant's calculations of the modified plans with Council's calculations of the same plans and then compares them both to the approved plans under DA16/0994.

Floor level	Applicant's calculations of proposed modifications	Council's calculations of proposed modifications	Approved floor space under DA16/0994
Ground floor	1,662m <sup>2</sup>	2,418m <sup>2</sup>	2,347m <sup>2</sup>
First floor	3,892m <sup>2</sup>	3,985m <sup>2</sup>	3,930m <sup>2</sup>
Second floor	2,160m <sup>2</sup>	2,201m <sup>2</sup>	2,184m <sup>2</sup>
Total	7,714m <sup>2</sup> (1.01:1)	8,604m <sup>2</sup> (1.14:1)	8,461m <sup>2</sup> (1.12:1)

While there are minor differences in the calculations for both the first and second floor, the greatest difference occurs within the ground floor of the Norfolk Building. The discrepancy can be attributed to differences in the method of calculation of floor space that is defined under Seniors SEPP.

The Seniors SEPP excludes ‘any floor space below ground level that is used for service activities provided by the facility’ from the gross floor area calculations. Council does not consider spaces nominated as staff training room, staff lunch room, gymnasium, and staff lockers and amenities as satisfying the above criteria for exclusion from floor space whereas the applicant has excluded the majority of this floor level from floor space calculations.

The additional floor space is located deep underground and will, ultimately, not be visible from adjoining land. The modifications to the ground floor level are considered acceptable.

*Item 2: The internal layout changes include minor reconfiguration of dining areas and service rooms (eg. servery and storage areas) on the first and second floor of the building, as well as relocation of fire stairs and inclusion of a new lift in the Norfolk Building.*

The applicant has proposed internal changes to the facility which encompass all of the approved levels. Significantly, one bedroom is proposed to be removed from the Links Building and converted to a dining area with an additional bedroom included on the second floor level of the Norfolk Building. This results in a ‘status quo’ with regard to number of overall bedrooms. These internal modifications are considered acceptable.

*Item 4: Minor adjustment to the approved building height by 200mm as a result of the lift over-run;*

The additional lift necessitates part of the approved roof being increased in height by 200mm. This is considered acceptable as it does not introduce any additional impacts on views obtained from neighbouring properties nor is this element visible from the public domain.

*Item 5: Increased balcony area on the second floor plan;*

This modification relates to the northwest bedrooms on the second floor level. The increase in the balcony area is located to the north of Bedroom 30 and is located in a position where it will not have a significant impact on the privacy of adjoining land. The increased balcony area is acceptable.

*Item 6: Adjustment of the lower ground floor level by 450mm in the Links Buildings to provide additional roof height clearance within the parking level for services and parking;*

The lower ground level / basement car park of the Links Building is now located below the PMF (Probable Maximum Flood) level of 2.1 m AHD. In order to comply with the driveway requirements for basement car parking, the driveway crest is proposed to the PMF level, which is acceptable. Additionally, there is a proposed low wall between the crest and the face of the building also designed to the PMF level of 2.1m AHD. To ensure the permanency of the wall, it is recommended that a

positive covenant be created on title to the effect that the wall forms part of flood mitigation and must not be removed or modified without planning approval from Council. This is included as Condition No.13B.

*Item 7: Adjustment / extension of the driveway and ramp into the Norfolk Building;*

The modifications to the driveway length and gradient relates to road reserve levels provided by Council subsequent to the granting of consent for DA16/0994. The main implications of this change relate to the impact on the loading area within the building. Following a careful comparison between approved plans and proposed plans, it has been concluded that the area available is similar in size to that originally approved and, therefore, acceptable.

*Item 8: Increase the height of the roof of the Norfolk building to RL 16.61 (0.91m higher), to provide a roof height that matches the existing Pines Building. This modification is a result of complying with Condition No.2A which required the removal of the Third floor level and constructing a roof to match the existing form and height;*

This modification relates to Condition No.2A(v) of the original consent which required the removal of the 3<sup>rd</sup> floor level and the construction of a roof to match the existing form and height. This modification is not technically required to be included as part of a modification application, however, the applicant has included it in this circumstance. Removal of condition No.2A(v) is satisfied by the amended plans submitted.

*Item 9: Provision of a new roof exhaust to improve ventilation;*

The relocated mechanical plant room to the front setback of Locksley Street raised concerns with regard to its visibility from the street and potential impacts on amenity. Amended plans have been received which provide sufficient detail to ensure that visual impacts are minimised. The top of the plant room extends above ground level for a small portion of its length with the majority being located below ground level. In addition, landscape treatment of the front setback will further soften the appearance of the building and plant area. Additional documentation confirms that the plant room is for exhaust only, and, given its location and proposed treatment of bedroom windows above it, is unlikely to have a significant impact on the amenity of adjoining residents. The proposed amendments are considered acceptable.

*Item 10: Remove Condition 14A iv. and v. Approved Landscape Plan- Design Changes in order provide moveable furniture rather than permanent;*

The applicant has argued in their additional information that these conditions have no planning purpose and that there is no part of s4.15 of the Environmental Planning and Assessment Act that requires tables and chairs or vegetable garden beds in communal areas. It is also argued by the applicant that vegetable / garden beds do not fit within the model of care provided by the facility, nor is it required for an aged care facility.



These conditions were imposed to provide greater amenity to residents. While seating was provided in the proposed communal areas, there were no tables provided to allow group gatherings, for example, when friends / family visit residents for birthdays, other family functions, lunches or for residents to play cards in an outdoor environment. Similarly, the provision of vegetable garden beds also provides additional amenity for residents. The proposed communal spaces are generally decorative spaces and were not considered to provide facilities / affordances to be usable and sociable places that are fit for purpose for both elderly and dementia patients. It is recommended that these conditions remain in order to provide additional amenity to residents that is lacking in the current design.

### **11.0 SECTION 94 CONTRIBUTIONS**

Due to its nature, the proposed development will not require or increase the demand for local and district facilities within the area. Accordingly, it does not generate any Section 94 contributions.

### **12.0 DECLARATION OF AFFILIATION**

Section 147 of the Environmental Planning and Assessment Act, 1979 requires the declaration of donations/gifts in excess of \$1000. In addition Council's development application form requires a general declaration of affiliation. In relation to this development application a declaration has been made that there is no affiliation.

### **13.0 CONCLUSION**

The proposed modification application relates to a seniors housing facility at 2, 2A and 4 Locksley Street, Cronulla and 31, 37 and 39 Sturt Road, Cronulla.

The subject land is located within *Zone R2 Low Density Residential* pursuant to the provisions of Sutherland Shire Local Environmental Plan 2015. The proposed development, being a seniors housing facility, is a permissible land use within the zone with development consent.

In response to public exhibition, 6 submissions were received. The matters raised in these submissions have been dealt with by design changes or conditions of consent where appropriate.

The proposal includes variations to height and floor space. These variations have been discussed and are considered acceptable in the circumstances.

The application has been assessed having regard to the Heads of Consideration under Section 4.15(1) of the Environmental Planning and Assessment Act 1979. Following detailed assessment it is considered that Modification Application No. 18/0308 may be supported for the reasons outlined in this report.

### **RESPONSIBLE OFFICER**

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