

SUTHERLAND SHIRE COUNCIL ASSESSMENT REPORT

Panel Reference	(PPSSSH-62)
MA Number	21/0051
LGA	Sutherland Shire Council
Approved Development	Refurbishment and restoration of Heathcote Hall, construction of 35 townhouses and 20 apartments, associated landscape works and 56 lot strata subdivision
Proposed Modification	S4.55(2) Modification to DA17/0467 – Deletion of basement level commercial car parking, architectural design changes, design changes as required by conditions of consent, amend condition 10 and delete condition 30(xvi)
Street Address	Lot 1 DP 725184, Lot 2 DP 725184, 1-21 Dillwynnia Grove, Heathcote
Applicant/Owner	Pariter Pty Ltd Heathcote Grounds Pty Ltd
Date of DA lodgement	18 February 2021
Number of Submissions	15
Recommendation	Approval
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	The original application was referred to the SSPP has a capital investment value (CIV) of more than \$20 million and is nominated under Schedule 4A (3) of the Environmental Planning and Assessment Act 1979 (i.e. CIV of \$29,500,474.00). The s.4.55(2) modification application is referred to the SSPP as more than 10 unique submissions were received from the notification process.
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> • <i>Heritage Act 1977</i> • <i>Rural Fires Act 1997</i> • <i>State Environmental Planning Policy (State and Regional Development) 2011</i> • <i>Sutherland Shire Local Environmental Plan 2015</i> • <i>State Environmental Planning Policy 55 – Remediation of Land</i> • <i>State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</i> • <i>State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development</i> • <i>Sutherland Shire Development Control Plan 2015 (DCP)</i> • <i>NSW Planning & Environment – Apartment Design Guide</i>

List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> • Conditions of Consent • Heritage Council of NSW response • NSW Rural Fire Service response • Public Submission summary
Report prepared by	Evan Phillips
Report date	7 September 2021

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**

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)? **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 **Conditions to be made available prior to meeting**

REPORT SUMMARY

REASON FOR REFERRAL TO SSPP

The original application was referred to the SSPP as it has a capital investment value (CIV) of more than \$20 million and is nominated under Schedule 4A (3) of the Environmental Planning and Assessment Act 1979 (i.e. a CIV of \$29,500,474.00). The s.4.55 (2) modification application is referred to the SSPP as the proposal is identified as 'contentious development' having more than 10 unique public submissions.

APPROVED PROPOSAL

The refurbishment and restoration of Heathcote Hall, the construction of 35 Town houses, 20 Apartments, 2 levels of basement parking, associated landscape works and Strata Subdivision (File references: DA17/0467 / 2017SSH019).

PROPOSED MODIFICATION

The proposed modification is for the deletion of the basement level commercial car parking associated with Heathcote Hall, architectural design changes, including design changes in response to the requirements of conditions of consent. The application also seeks to amend condition 10 and delete condition 30(xvi).

THE SITE

The subject land is known as 1 – 21 Dillwynnia Grove, Heathcote. The site has 3 street frontages, Dillwynnia Grove to the south, Tecoma Street to the east and Boronia Grove to the north. The site is listed on the State Heritage Register and under the Sutherland Shire LEP 2015 as a heritage item, known as "Heathcote Hall".

ASSESSMENT OFFICER'S RECOMMENDATION

1.0 THAT:

- A. That pursuant to the provisions of Section 4.55(1A) of the Environmental Planning and Assessment Act 1979, the requested modification to Development Consent No. DA17/0467 dated 13 Dec 2019 for Refurbishment and restoration of Heathcote Hall, construction of 35 townhouses and 20 apartments, associated landscape works and 56 lot strata subdivision at Lot 1 DP 725184, Lot 2 DP 725184, 1-21 Dillwynnia Grove, Heathcote be supported.

- B. That Development Application No. DA17/0467 for Refurbishment and restoration of Heathcote Hall, construction of 35 townhouses and 20 apartments, associated landscape works and 56 lot strata subdivision at Lot 1 DP 725184, Lot 2 DP 725184, 1-21 Dillwynnia Grove, Heathcote be modified in accordance with the Conditions listed in Appendix A:

ASSESSMENT OFFICER'S COMMENTARY

2.0 APPROVED DEVELOPMENT

Approval was granted on 13 December 2019 by the Sydney South Planning Panel (SSPP) for the refurbishment and restoration of Heathcote Hall, the construction of 35 Town houses, 20 Apartments, 2 levels of basement parking, associated landscape works and Strata Subdivision. Specifically the approval consists of three elements as follows

a) *Heritage Precinct:*

- Restoration of Heathcote Hall.
- Reinstate the Heritage landscape including gardens, pathways and vegetation.
- Heritage interpretation of the former tennis court.
- Provision of public pedestrian access from Tecoma Street, Boronia Grove and Dillwynnia Grove.
- Heritage interpretation of a former vehicular access from the western boundary towards Heathcote Hall (to the south of townhouses 29-31 and Building B).

b) *Residential precinct:*

- Thirty-five x 3 bedroom townhouses each with private open space.
- Residential Flat Building A (Building A) – 3 storeys with 10 dwellings (9x2 bedroom and 1x3 bedroom).
- Residential Flat Building B (Building B) – 3 storeys with 10 dwellings (2x 1 bedroom, 7 x 2 bedroom, and 1 x 3 bedroom).
- Two separate levels of basement parking, one level accessed from Boronia Grove and the other from Dillwynnia Grove.
- Public and private pedestrian access through the site, including to Heritage Gardens and Heathcote Hall.

c) *Strata Subdivision* - including one strata lot to contain the Heritage Precinct.

The detailed development assessment report in relation to this development under Section 4.15 of the EP&A Act is attached to Development Application file No DA17/0467 / 2017SSH019.

At present the development pursuant to the development consent is yet to be commenced. Restoration works to the Heathcote Hall have however commenced separate to the development assessment process under/ approval from Heritage NSW.

3.0 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.DA17/0467. The specific modification sought to the approved development involves:

The proposal is for the following:

- *Removal of commercial car parking within basement level 2*
 - All commercial spaces 8 are proposed to be removed from basement 2. Additional parking was approved at grade next to Heathcote Hall and this remains.
 - Traffic report outlines that the site has a total of 116 residential/ visitor spots however 120 spots have been identified from the assessment.
 - The traffic report outlines that there are now no commercial parking spots, down from 12 spots.

The plans submitted with the proposal indicate future use for the Hall is as a single dwelling and that a separate development application will be lodged for this use in accordance with the General Terms issued by the Heritage Council on 10 October 2019. This application has been received.

- *Compliance with all of the design change conditions in 3a(i-x) in relation to the following headings:*
 - Parking Basement Level 1
 - Parking Basement Level 2
 - Commercial parking basement level 2
 - Adaptable Townhouses
 - Liveable Townhouses
 - Reconfiguration of Townhouses 11 and 12
 - Landscaping General
 - Fire Hydrant Booster Assembly
 - Stair on the east-west carriageway

- Dwelling 28

Proposed that all the design change conditions are deleted as they have been addressed by the proposal.

- *Further Proposed design changes as described by the statement of environmental effects including :*
 - Dropping of FFL of Townhouse 1.
 - Dropping the FFL of Townhouses 14-17 by 1m.
 - Apartment A building planning layout changed and increased in footprint by reducing corridor width, stair design amended to comply with AS1428.1, and general apartment layout changes to improve ADG design guidelines recommendations.
 - Apartment B building planning layout changed and increased in footprint by reducing corridor width, stair design amended to comply with AS1428.1, and general apartment layout changes to improve ADG design guidelines recommendations. Lower floors are dropped further with no change to building height.
 - Townhouse 32-35 undercroft areas on the ground floor have been rearranged to create combined a complaint to ADG guidelines kitchen & kitchen & living room space width, length and area.
 - Awnings on entrances, semi-public lift and letter boxes have been reduced in size. A number of other awnings have been removed.
 - Townhouses generally have had a floor plan rearrangement which remains within the approved design.
 - Gates to the “centre pathway” have been removed to allow for the public to transverse through these spaces to access the grounds.
 - Landscape recreation features included in the private space on the western open spine.
- Amend condition 10 related to lift to only apply to lifts servicing Apartment Buildings A and B.
- Delete condition 30 xvi) of the Landscaping Works condition in relation to clothes drying facilities for the apartments.



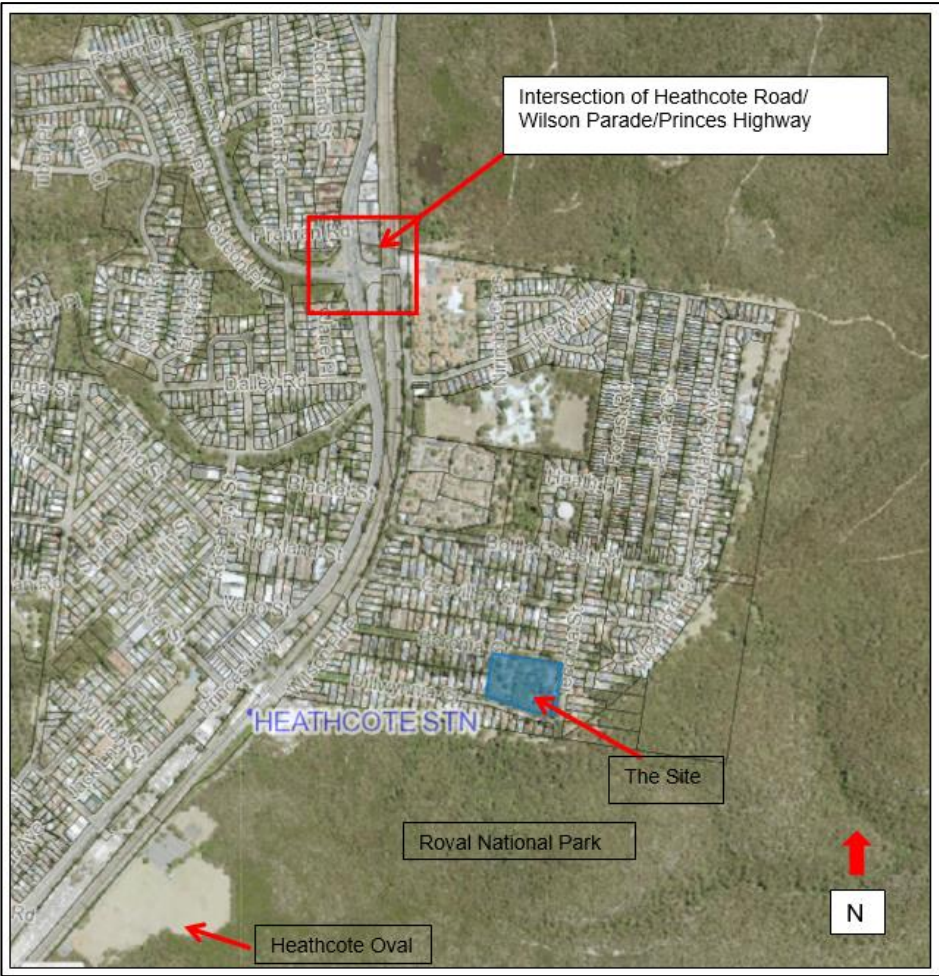
Site Plan

4.0 SITE AND LOCALITY

The subject land is known as 1 – 21 Dillwynnia Grove, Heathcote. The site is listed on the State Heritage Register and under the Sutherland Shire LEP 2015 as a local heritage item, known as “Heathcote Hall”. Existing structures on site include Heathcote Hall (the Hall) itself, remnant heritage artefacts, and various outbuildings. The Hall is located towards the south eastern corner of the site, it is currently unoccupied. The subject site and part of the verge surrounding the site contain remnants of the Endangered Ecological Community of Sydney Turpentine Ironbark Forest (STIF), as well as other significant vegetation on the site and in the street verge, which contribute to the streetscape and landscape setting of the site. The STIF is also present within the Council verge on each of these frontages

The site is an irregular shape and has 3 street frontages of 149.43m to Boronia Grove to the north, 116.72m to Tecoma Street to the east and a total of 160m to Dillwynnia Grove to the south. The site has a total area of approximately 17,500m². The land falls from the south east to the north east, by approximately 7m. There is also a fall of approximately 10m from the south east corner to the south west corner of the site. This includes a sharp 3m drop at the south western corner of the site, to Dillwynnia Grove.

The streetscape and urban environment in the immediate vicinity of the subject land is characterised by low density residential development. The site is in close proximity to the Royal National Park, and is approximately 500m east of Heathcote Train Station. The south eastern portion of the site is classified as Bushfire Prone Land.



Site and Locality images

5.0 BACKGROUND

A history of the development site and proposal is as follows

- 10 November 2015 - A Pre-Application Discussion (PAD) was held with Council for the restoration of Heathcote Hall, basement level parking, four ancillary neighbourhood shops, 50 townhouses/villas, 3 residential flat buildings with a total of 61 apartments (up to 6 storeys in height).
- 28 April 2017 - DA17/0467 The parent development application DA was lodged.
- 28 June 2018 - the application was referred to the SSPP for determination, the SSPP deferred their decision at this meeting.
- 21 August 2019 - the application was referred to the SSPP for determination, the SSPP deferred their decision at this meeting.
- 13 December 2019 – DA17/0467 was approved by the SSPP with detailed conditions of consent.
- 11 March 2021 - Modification Application MA20/0377 was approved by Council under Delegated Authority. The approval amended conditions to facilitate staged construction certificates.
- 24 March 2021 - Development Application DA20/0731 was approved by Council under Delegated Authority for temporary signage (limited to 2 years). Specifically, 3 x breeze (10m wide x 1.6m in height), to be attached to the construction fencing/hoarding, along Tecoma Street, Boronia Grove and Dillwynnia Grove frontages and 1 x signage board attached to poles on the north eastern corner of the site facing Tecoma Street/ Boronia Grove (5m wide x 4.22m in height,
- 18 February 2021 - The current modification application was submitted.
- The application was placed on exhibition, with the last date for public submissions being 2 April 2021. 15 unique submissions have been received as a result of the exhibition.
- 7 June 2021 – The NSW Rural Fire Service provided a response to Council.
- 25 August 2021 – The Heritage Council NSW provided a response to Council.

Separately, the following applications are currently under assessment.

- 28 May 2021 – S4.55 (1A) Modification Application MA21/0193 was submitted to Council seeking amendments to Condition 4A(i) in the General Terms of Approval (GTA) issued by the Heritage Council of NSW. This is to remove the Deferred Commencement Approval,

which requires a heritage agreement to be entered into prior to the operation of the approval (to prior to the issue of an Occupation Certificate). This application has been referred to Heritage NSW for assessment and Council is awaiting formal response and / or revised General Terms of Approval.

- 26 April 2021 – Development Application DA21/0393 was submitted to Council for the use of Heathcote Hall as a private residence. This application has been referred to Heritage Office of NSW for assessment and Council is awaiting formal response including General Terms of Approval

6.0 NATURE OF MODIFICATION SOUGHT

This application proposes the modification of Development Consent No. DA17/0467 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 on the basis of the following:

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. Further, consultation with the relevant Minister, public authority or approval bodies in respect to the modification sought by this application has been undertaken.

7.0 PUBLIC PARTICIPATION

The application was advertised and publicly exhibited until 2 April 2021 in accordance with the provisions of Chapter 42 of Sutherland Shire Development Control Plan 2015 (SSDCP 2015) and administrative requirements of the Sydney South Planning Panel.

A total of 324 owners of neighbouring properties were notified of the application. Council has received 16 written submissions. A summary of main issues is provided below and a full list of the locations of those who made submissions, the dates of their letters, and the issues raised, is contained within Appendix “B”

- Out of character/Over-development – the development is out of character with the existing streetscape and scale of surrounding development. The bulk, height and density of the development is also of concern. The development is out of character with Heathcote Hall itself.

- Parking – on street parking during construction and occupation. The local streets are already congested. Further concerns related to the potential effects of the parking that is being removed to spill out onto the street.
- Traffic – increased traffic on the local roads in Heathcote East. The roads are already congested, as is the intersection of the Wilson Road and the Princes Highway which is the sole access point to Heathcote East. Concerns regarding bridge capacity during an emergency, including bushfire evacuation. Issues raised also include the weight capacity of the bridge during condition, given the number of heavy vehicles to travel to and from the site.
- Impacts upon resident's amenity as a result of the development and during construction – increased noise and amenity impacts to neighbouring properties as a result of the development.
- Bushfire – evacuation, concerns that the bridge does not have the capacity to allow the access of emergency vehicles to enter whilst residents are leaving.
- Inconsistent with the SSLEP 2015 – zoning objectives and the Heritage Conservation Incentives. Concerns were raised as to why this was ignored by the panel and Council previously.
- Concerns regarding Heathcote Hall – including the eventual use of the Hall, impacts of events to be held in the Hall, visitor parking, quality of work when restoring the Hall, on-going long term maintenance of the Hall.
- Drainage – the Department of Planning Infrastructure and Environment from the Royal National Park have requested that Council assess the modification in light of Section 2.2 of the above OEH guidelines.
- Request to extend the notification period for more submissions
- Heritage carriage way in the south west corner – will not be able to be retained with the basement.
- Contamination – concern was raised about uncovered asbestos found on site has not been addressed by the applicant's modification application documentation.
- Increase in lift numbers – concerned raised about electricity supply.
- Support of the proposal as a private residence and the removal of the commercial parking – submissions were received expressing support for the proposal to remain as a residential use and remove the commercial parking given the need for it would no longer be present. Concerns were raised about ensuring that this was executed in a manner in which the applicant can't revert to a commercial use once the basement was constructed without the parking.

- Substantially the same development – concerns were raised about whether development is substantially the same and therefore requires a new development application.

Comment: A number of concerns raised are not directly relevant to the scope of works subject of the modification application (e.g. site suitability, impacts during construction, traffic and parking etc), Rather, these are matters previously assessed and applicable to the original determination of the parent Development Application (DA17/0467).

Whilst the development site does not directly adjoin the Royal National Park (RNP), it is in the vicinity of the park, the *Guidelines for developments adjoining land managed by the Office of Environment and Heritage* have been considered and the development is considered acceptable, with impacts appropriately managed through conditions (including relating to stormwater management).

Where relevant, issues raised have been discussed in the compliance, Authority referral and assessment components of this report. This is inclusive of the bushfire and heritage impact concerns, urban design merits with respect to impacts to the streetscape and adjoining properties, and the broader consistency with applicable Policies and Standards. The future use of Heathcote Hall and associated car parking / traffic implications with maintaining the historic residential use and removing the basement parking as originally approved is further discussed below.

8.0 STATUTORY CONSIDERATIONS

The subject site is located within *Zone E4 – Environmental Living*. The townhouses and residential flat buildings are a prohibited form of development in this zone, however, the applicant applied for the original development application (DA17/0467) under the Heritage Conservation incentives of Clause 5.10.10 of the SSLEP 2015. Development consent was granted for this development (DA17/0467) pursuant to/ reliant upon provisions of CL 5.10.10.

Notwithstanding the provisions of Clause 5.10.10, land in the E4 zone is subject to a Floor Space Ratio (FSR) of 0.55:1, a height limit of 8.5m and a landscape area requirement of 40%.

The following Environmental Planning Instruments (EPIs), Draft Development Control Plan (DCP), Development Control Plan, and policies are particularly relevant:

- *Heritage Act 1977*

- *Rural Fires Act 1997*
- *State Environmental Planning Policy (State and Regional Development) 2011*
- *State Environmental Planning Policy 55 – Remediation of Land*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*
- *State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development*
- *NSW Planning & Environment – Apartment Design Guide*
- *Sutherland Shire Development Control Plan 2015 (DCP)*
- *Sutherland Shire Local Environmental Plan 2015*

9.0 COMPLIANCE TABLE

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

State Environmental Planning Policy (State and Regional Development) 2011

The original application was referred to the SSPP has a capital investment value (CIV) of more than \$20 million and is nominated under Schedule 4A (3) of the Environmental Planning and Assessment Act 1979 (i.e. CIV of \$29,500,474.00).

Clause 123BA(2) of the Environmental Planning and Assessment Regulation 2000 states that a Council is not to determine, on behalf of a regional panel, an application to modify a development consent under section 4.55(2) of the Act if the application is of a kind specified in the Instruction on Functions Exercisable by Council on Behalf of Sydney District or Regional Planning Panels—Applications to Modify Development Consents which includes:

- proposes amendments to a condition of development consent recommended in the council assessment report but which was amended by the panel, or
- proposes amendments to a condition of development consent that was not included in the council assessment report but which was added by the panel, or
- meets the criteria relating to conflict of interest, contentious development or departure from development standards set out in Schedule 1 to this instruction.

Note: Clause 123BA of the Regulation requires councils to determine all other applications for the modification of development consents under section 4.55(2) of the Act, as well as applications for the modification of development consents under section 4.55(1) and section 4.55(1A) of the Act. This instruction takes effect on 1 August 2020 and applies to applications to modify development consents made but not determined before 1 August 2020.

The subject application has received more than 10 unique submissions and is identified as contentious development and as such the proposed Section 4.55(2) modification application is required to be determined by the Regional Panel.

State Environmental Planning Policy No. 55 (Remediation of Land) (SEPP 55) / Draft State Environmental Planning Policy (Remediation of Land)

SEPP 55 requires Council to consider whether the land subject to the development proposal is contaminated; and if the site is contaminated, Council must be satisfied that the site is suitable or can be made suitable (i.e. following remediation) for the proposed land use.

The draft Remediation of Land SEPP seeks to repeal and replace SEPP55 in relation to the management and approval pathways of contaminated land. The draft SEPP was exhibited between January and April 2018. New provisions will be added which will:

- require all remediation work carried out without the need for development consent to be reviewed and certified by a certified contaminated land consultant,
- categorise remediation work based on the scale, risk and complexity of the work, and
- require environmental management plans relating to post remediation, maintenance and management of on-site remediation measures to be provided to Council.

In the original consent it was determined that, subject to the imposition of conditions of development consent (including requirements for a Remedial Action Plan), there is certainty that the site can be made suitable for the proposed land use in accordance with requirements of SEPP 55.

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

State Environmental Planning Policy (Building Sustainability Index) 2004 (BASIX) aims to establish a scheme to encourage sustainable residential development across New South Wales. BASIX certificates accompanied the original development application addressing the requirements and achieving the minimum performance levels / targets associated with water, energy and thermal efficiency.

State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development and the Apartment Design Guide (ADG)

The Principles of SEPP 65 apply to the residential flat building component of this development. The development remains consistent with the relevant Design Quality

Principles. And an assessment of the development against the requirements of the ADG has remained unchanged from the approved development application in the table below for residential flat buildings A and B.

Apartment Design Guide			
Objective	Design Criteria	Proposal	Complies
2F - 3F-1(1) Building Separation & Visual Privacy	<u>Internal Separation</u> <u>Up to 4 storeys (approx 12m)</u> <i>6m habitable to solid wall</i>	- 6.8m min between Building A and B (solid wall to habitable) - 5m min between Building B and townhouses to the west (habitable to solid wall)	Yes No (as per approved DA17/0497)
	<i>12m between habitable rooms/balconies</i>	- 12.2m between Building A to western townhouses #33-35 (habitable to habitable) - 5m between Buildings A and townhouses to the north (habitable to habitable)	Yes No (as per approved DA17/0497))
	<u>Setbacks to Boundary</u> Up to 4 storeys(approx 12m)_ <i>6m habitable rooms/balconies</i> <i>3m non-habitable rooms</i>	<u>Building A:</u> 35.8m to western boundary <u>Building B:</u> 29m to western boundary	Yes Yes (as per approved DA17/0497)
3E-1(1) Deep Soil Zones	Sites > 1500m ² = Minimum dimension 6m 7% of site area (1225m² required)	Deep soil approx. 7000m ²	Yes (as per approved DA17/0497)

Table 1 Assessment against the Apartment Design Guide

Sutherland Shire Local Environmental Plan 2015

Notwithstanding the provisions of cl. 5.10.10, land in the E4 zone is subject to an FSR of 0.55:1, a height limit of 8.5m and a landscape area requirement of 40%.

A comparison of the development against the requirements of the SSLEP 2015 for land in the E4 zone has been undertaken in the table below.

Sutherland Shire Local Environmental Plan 2015			
Clause	Standard	Proposed	Complies
4.3	Height of Buildings – 8.5m	<ul style="list-style-type: none">Building A= 9.0mBuilding B= 8.5m (to the roof) Max RL 220.1 <ul style="list-style-type: none">Townhouses < 8.5m	No Yes Yes (as per approved DA17/0497)
4.4 Site AREA: 17502.3m ² “Developable Area” (as per CMP) = 10722.48m ²	Floor Space Ratio Max – 0.55:1 Based on whole site area=9525m ² Based on developable area= 5897.37m ²	Total GFA Residential and Heathcote Hall= 7239.1 + 438.57= 7677.67m ² FSR based on site area: <u>0.44:1</u> FSR based on developable area: 0.72:1	Yes (as per approved DA17/0497)
6.14	Landscaped Area (deep soil) 40% (7000m ² required)	7008.6m ² or 40%	Yes (as per approved DA17/0497)

The approved Residential Flat Building A does not comply with the height requirements of the SSLEP 2015, either to the roof or to the lift overrun. The applicants Clause 4.6 was supported at the SSPP determination meeting on 13 December 2019.

Sutherland Shire Development Control Plan 2015 (SSDCP2015)

There are no directly applicable development controls specified within SSDCP2015 due to multi dwelling housing being not permissible in the E4 Zone. Notwithstanding this, the assessment of the original development application considered the proposal on merit with particular attention to streetscape, bulk and scale and amenity impacts. The broader multi dwelling and apartment development controls contained within SSDCP2015 for the R2 low

density and R4 High Density residential zone have been applied in this instance to best inform the design of the development.

Sutherland Shire Development Control Plan – R2 Low Density Residential multi dwelling		
CONTROLS/REQUIREMENTS	Proposal	Compliance
2.2 Building Setbacks		
Street Setback 7.5m or established street setback.	- <i>Dillwynnia Grove</i> Minimum 31.6m	Yes
	- <i>Boronia Grove</i> 2.4m to 7.5m	No
3m secondary street frontage (Tecoma St)	3m	Yes (as per approved DA17/0497)
Side Setback (Front of the site taken from the Street address of Dillwynnia Grove for purposes of calculating 60/40))	<u>Setback to side (western) boundary</u>	Yes
<ul style="list-style-type: none"> Ground Floor <ul style="list-style-type: none"> 0.9m front 60% of site 4m rear 40% of site 	<ul style="list-style-type: none"> 4.5m to townhouse #31 (Dillwynnia Grove) 6m to townhouses #32-35. 6m to townhouse #1 (Boronia Grove) 	Yes Yes Yes
Second storey <ul style="list-style-type: none"> 1.5m front 60% 	<ul style="list-style-type: none"> 3.1m to townhouse #31 (Dillwynnia Grove) 9.05m to townhouses #32 -35 4.0m to townhouse #1 (Boronia Grove) 	Yes Yes Yes (as per approved DA17/0497)
Rear Setback (to western boundary) dwellings #32-#35 - 4m	7.9m	Yes (as per

		approved DA17/0497)
7.2 Parking		
Car wash bays are required at a rate of one (1) per 20 dwellings - 3 spaces needed	3 proposed	Complies
The minimum vehicular crossing and driveway for a combined vehicular crossing (entry/exit) is 5.5m.	6.0 m wide entry from Dillwynnia and Boronia Grove.	Yes
Chapter 35 Cl.5.2.1 - 1 bicycle parking space per 10 car parking spaces for the first 200 car spaces, then 1 space per 20 parking spaces thereafter - 10 spaces required	10 provided	Yes (as per approved DA17/0497)
10.2 Waste Management		
A waste storage area is to be provided for all developments to store bins for general waste and recyclables. The area must have sufficient space for the storage of garbage, recycling and green waste generated by the development	Given the changes the basement the waste storage facilitates have been altered. An assessment has been undertaken by Councils Engineer and Waste Manager – overall the waste collection is acceptable.	Yes
Chapter 36 – Roads, Access, Traffic, Parking and Bicycles		
For multi- dwelling in an R2 Zone and Residential Flat buildings in an R4 Zone) Car parking is to be provided at the following (minimum) rates: – 1 bedroom- 1 space (2x1 = 2 spaces) – 2 bedrooms – 1.5 (16x1.5= 24 spaces) – 3+ bedrooms – 2 (37 x 2= 74 spaces) – One (1) visitor car park is to be provided for every 4 dwellings (55/4 = 14 visitor spaces)	Basement: 102 Residential spaces + 14 Residential Visitor Total = 116	Yes

TOTAL REQUIRED= 114 for the residential component		
Commercial/retail in a business zone. 1 space per 30m ² GFA GFA of the Hall 354.8m ² TOTAL REQUIRED =12 spaces	Proposed to be deleted	N/A (the use of the hall proposed as a single dwelling)

10.0 SPECIALIST COMMENTS AND EXTERNAL REFERRALS

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

Heritage Council of NSW

The application is integrated development pursuant to Section 4.46 of the Environmental; Planning and Assessment Act 1979 and the application has been referred to the Heritage Council of NSW. Revised General Terms of Approval have been issued for the development under the Heritage Act 1977 and a copy of this response is contained in **Appendix “C”**

NSW Rural Fire Service

The application is integrated development pursuant to Section 4.46 of the Environmental; Planning and Assessment Act 1979 and the application has been referred to the NSW Rural Fire Service. A copy of the response is contained in **Appendix “D”** and the NSW Rural Fire Service have advised of no changes required to the General Terms of Approval issued under the Rural Fires Act 1997 from the original approval.

Council Building Design Assessment

Council’s Building Design Officer has undertaken an assessment of the application and no objection is raised to the proposed modifications from an architectural / urban design perspective.

Council Engineer

Council’s Engineer has undertaken an assessment of the application with respect to stormwater disposal car parking design / provision, access arrangement and site servicing, manoeuvrability,

and site management (including excavation). No objections have been raised in the revised development scheme subject to the imposition of conditions of development consent

Council Landscape Architect

Council's Landscape Architect has undertaken an assessment of the application (including revised design) with respect to landscaping, tree removal and retention, and general site planning and generally no objections to the proposal have been raised subject to suitable conditions of development consent.

Support for an additional tree removal (Tree 48 *Eucalyptus saligna*) to facilitate the inclusion of the hydrant booster assembly has been given subject to tree replacement at the rate of 4:1. The tree has been previously specified for retention and noted as in 'Good' health in the Arborist report. It is unlikely that the tree will be safe and viable for retention given the trenching required for these works to connect the hydrant booster. The proposed planting schedule is recommended to be reviewed removing the *Pittosporum undulatum* & *Pittosporum revolutum* species as these are non-desirable natives to be planted on site.

Council Waste Services

Council's Waste Officer has reviewed the proposal in relation to waste generation, on-site waste storage (including bulky waste) and method / strategy for collection. Council's wheel-in/wheel out collection is proposed for the development, however given the available street frontage on both Boronia Street and Dillwynia Grove, kerbside collection is recommended. Therefore, the temporary bin holding areas are not required and a condition of consent is to be imposed deleting these accordingly.

Council Building Surveyor

The application was referred to Council's Building Surveyor who has reviewed the submitted information and has advised that the development will likely be able to be constructed in the format proposed without significant modifications. With the exception of the fire hydrant booster design and possible requirement for a FRNSW hard appliance hard stand area (discussed in the assessment component of this report and subject to condition 3 in Appendix A) no objection to the proposed development has been raised.

11.0 ASSESSMENT

A detailed assessment of the application has been carried out having regard to the matters for consideration under Section 4.15 of the EP&A Act. The following matters are considered important to this application.

11.1 Heritage and Removal of the Commercial Car Parking

The subject site is identified as an item of environmental heritage pursuant to SSLEP 2015 and also an item of State Heritage Significance pursuant to the Heritage Act 1977. The Conservation incentives contained within Clause 5.10.10 of SSLEP2015 permits otherwise prohibited development within the E4 – Environmental Living zone. Approval was granted in the original Development Application on the basis that the following items were satisfied.

- (a) the conservation of the heritage item or Aboriginal place of heritage significance is facilitated by the granting of consent, and*
- (b) the proposed development is in accordance with a heritage management document that has been approved by the consent authority, and*
- (c) the consent to the proposed development would require that all necessary conservation work identified in the heritage management document is carried out, and*
- (d) the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, or the heritage significance of the Aboriginal place of heritage significance, and*
- (e) the proposed development would not have any significant adverse effect on the amenity of the surrounding area.*

The modification application has been referred to the Heritage Council of NSW for assessment and revised General Terms of Approval (GTA's). The revised GTA's maintain a Deferred Commencement requirement relating to a number of conditions required to be satisfied which pertain to the Conservation Management Plan and associated Section 60 application.

Support for the removal of the commercial parking area allocated to the future use of Heathcote Hall is provided by the Heritage Council of NSW on the basis that a restriction is placed on the title ensuring the historic use as a single residential dwelling is maintained. Flexibility for the future adaptive re-use of Heathcote Hall is now limited and the retention and conservation of the historic residential use of Heathcote Hall is considered appropriate. Possible external impacts arising from "other" possible uses to the surrounding neighbourhood including from a parking demand / traffic generation perspective is negated.

The removal of the basement area minimises excavation and disturbance to the landform within the grounds. There remains sufficient onsite car parking accessible from Tacoma Street for the residential Heathcote Hall use and private outdoor space consistent with the provisions of SSDCP2015. The specific details of required modification to the fabric of Heathcote Hall to

maintain the residential use are subject to a separate development application and further concurrence from the Heritage Council of NSW.

The proposed modifications to the approved development do not derogate from the original development assessment and consideration of relevant matters required to be satisfied under SSLEP2015 including the heritage conservation contained in Clause 5.10.10.

11.2 Proposed Design Changes

The proposal comprises design changes which are intended to improve the overall functionality of the development and associated residential amenity. The design amendments result in a reduction in the approved building height for Townhouses 1, 14, 15, 16, and 17 and the façade height of Apartment Building B. Townhouse 1 is reduced in height by approximately 200mm and Townhouses 14-17 are reduced by approximately 1m. The reduced bulk and scale of the proposal as presented to the Boronia Grove streetscape and surrounding properties is acceptable. The proposed layout changes to the individual townhouses and units improve their overall design, function and amenity for future residents.

Plans have been amended denoting hydrant infrastructure including the hydrant booster assembly generally consistent with the design conditions of consent. The application indicates that the conditioned fire rated wall is, however, not provided as a performance solution is being prepared by a fire engineer in consultation with Fire and Rescue NSW. Council is recommending a condition is imposed as specified in Appendix A requiring written satisfaction of Council to ensure the visual impact upon the streetscape of Boronia Grove remains acceptable in the event any deviation from the approved Architectural Plans is required (e.g. should changes to the size be required or if a wall / shield or FRNSW emergency vehicle hardstand is required).

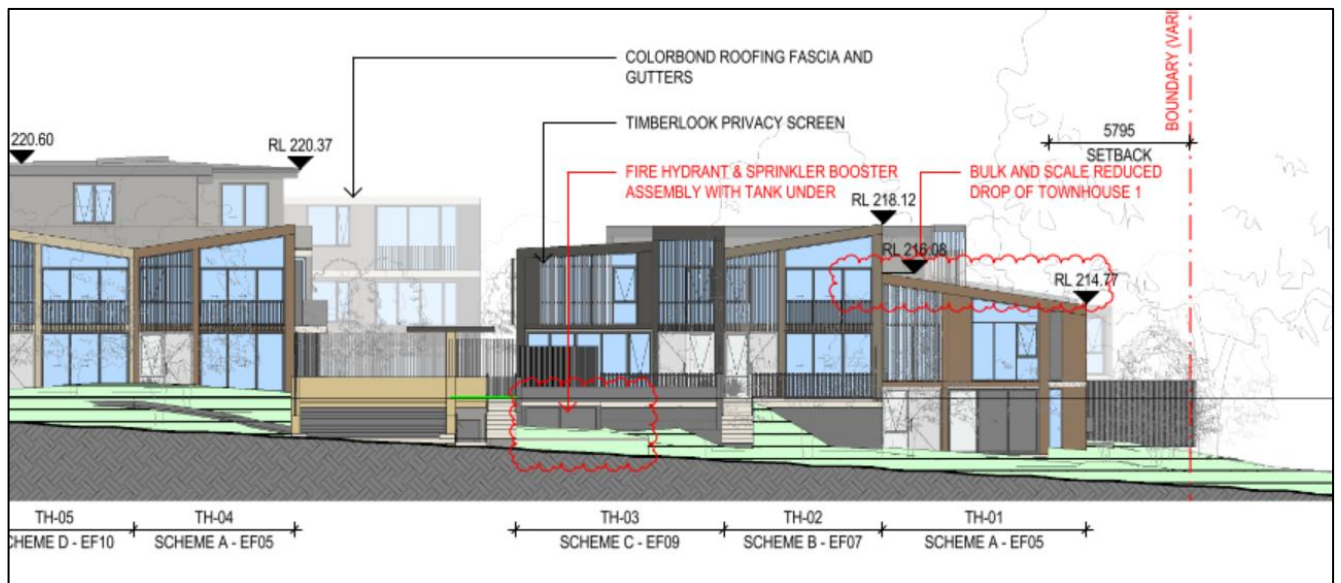


Figure: Townhouses 1 -3 fronting Boronia Grove (NW site corner)

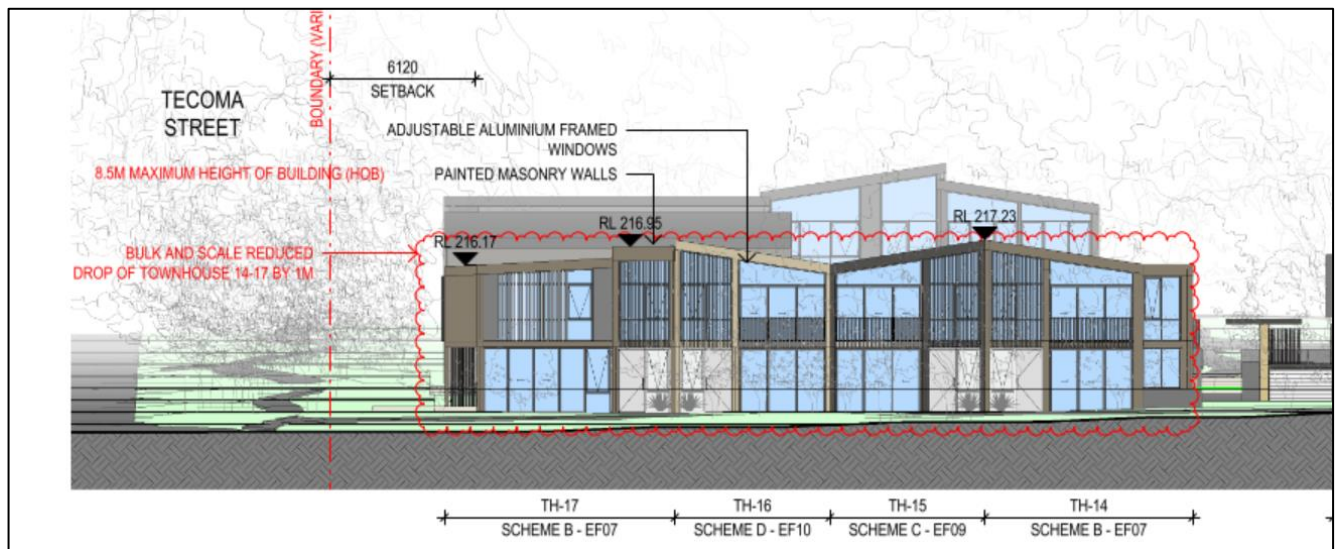


Figure: Townhouses 14 – 17 fronting Boronia Grove / Tacoma Street (NE site corner)

Design changes to Apartment Buildings A and B are anticipated to facilitate improved solar access with the provision of additional windows and facades amendments. No significant visual privacy / overlooking impact to adjoining properties or to dwellings within the development is anticipated to any unacceptable degree. The floor-to-floor level within Apartment Building B is increased by dropping the lower floors while maintaining the building height below the approved 9.5m height of building, improving internal amenity of these apartments.

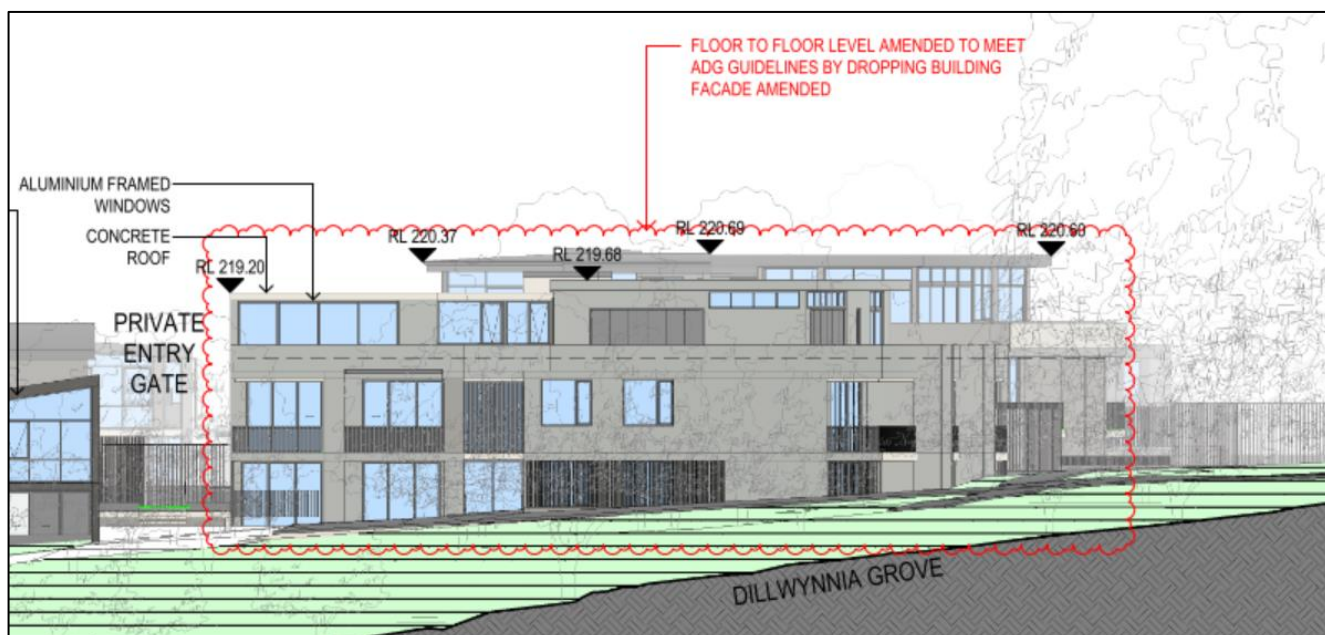


Figure: South Elevation apartment Building B

The proposed design changes are contained wholly within the approved building footprint. The bulk and scale of the development is reduced and proposed layout changes to the individual townhouses and units improve design, function, and amenity for future residents. The design changes will not result in any additional overshadowing or visual impacts than originally approved and the proposed amendments do not detract from the heritage significance of Heathcote Hall and the adjoining grounds.

The relevant urban design matters contained within SEPP65, the ADG, Clauses 6.16 and 6.17 of SSLEP 2015 and SSDCP2015 have been considered and the proposed modifications are considered to be acceptable.

11.3 Design Changes and Conditions of Consent

The submitted plans largely achieve compliance with all of the design change requirements specified in the development consent. Commentary is provided below relating to changes to the relevant Conditions of Consent which are proposed to be or which require modification pursuant to this determination.

A full copy of Council's recommended modified Conditions of Consent including updated Plan Table is contained within **Appendix "A"**

Condition 3 A– Design Changes Required	Comment

i. Parking basement level 1 <i>As per Plan DA06 Basement Floor Plan - B1 Issue I, as amended by Council 25 September 2019 the following amendments shall be made:</i>		
a)	The stair well associated with Garage 22 shall be 'reversed' so that access is from the south. The stairwell shall also be moved south to facilitate parking for two cars in accordance with AS2890.	The design changes have been addressed as part of the revised plans and as such, the deletion is supported;
b)	All double garages shall be provided with a minimum 5.2m wide door opening to be provided central to the location of the parking spaces.	
c)	All single and tandem garage spaces shall be provided with a minimum 2.8m wide door opening.	
d)	The garage door for garage 25 shall be splayed to facilitate improved entry and exit for 2 vehicles.	
ii. Parking basement level 2 <i>As per Plan DA05 Lower Basement Floor Plan - B2 Issue I, as amended by Council 25 September 2019, submit amended plans demonstrating:</i> A. Basement 2 shall be amended to achieve compliance with AS2890.1, as per the following:		
a)	As per AS2890.1, figure 5.2, the columns in Basement 2 adjacent to the central aisle must be moved 750mm into the parking spaces to facilitate manoeuvring.	The design changes have been addressed as part of the revised plans and as such, the deletion is supported;
b)	The shared space in basement 2 must be 2.4m wide and incorporate a bollard.	
iii. Commercial parking basement level 2		
a)	<i>As per Plan DA10 Issue I, East, North, West and South Elevations as amended by Council 30 October 2019; submit amended plans indicating the stair from commercial basement parking at Basement level 2, adjacent to the southern side of Building B shall be deleted.</i>	The design changes have been addressed as part of the revised plans and as such, the deletion is supported;
b)	<i>As per Plan DA05 Lower Basement Floor Plan - B2 Issue I, as amended by Council 25 September 2019; and Plan DA07 Ground Floor Plan Issue I, as amended by Council 25 September 2019 - submit amended plans indicating, a lift and</i>	

	stair exit shall be provided from basement 2 to ground level between Building A and Building B. This shall directly adjoin the pedestrian path to Heathcote Hall, and shall not encroach in the Heritage Curtilage or Heritage Buffer as per the endorsed CMP.	
iv. Adaptable townhouses <i>As per Plan DA06 Basement Floor Plan - B1 Issue I, as amended by Council 25 September 2019; and Plan DA07 Ground Floor Plan Issue I, as amended by Council 25 September 2019; submit amended plans indicating:</i>		
a)	Townhouses 7, 8, 11, 12, 13, 14 and 22 shall be dedicated as adaptable townhouses.	The design changes have been addressed as part of the revised plans and as such, the deletion is supported;
b)	Stair 04 shall be reconfigured so as to provide lift access in addition to stair access from the basement level 1, to provide access to Adaptable Townhouses 7 and 8 from the pedestrian path at ground level.	
c)	A gate providing rear access directly to the rear private open space of Adaptable Townhouses 7 and 8 shall be provided from the pedestrian path at ground level.	
d)	Direct and separate lift access from Basement Level 1 garages of Townhouses 11 and 12 shall be provided to each of these dwellings.	
e)	Townhouses 13, 14 and 22 are to be provided direct access from basement 1 via the lift adjacent to Stair 06, to the rear Private Open Space of these dwellings, or each dwelling shall be allocated an individual lift from each respective basement level 1 garage.	
v. Livable Townhouses <i>As per Plan DA07 Ground Floor Plan Issue I, as amended by Council 25 September 2019 and Plan DA06 Basement Floor Plan - B1 Issue I, as amended by Council 25 September 2019:</i>		
a)	Townhouse 27 shall be a livable dwelling, with a lift provided from the basement level 1 garage of this dwelling, the garage shall be a tandem garage.	The design changes have been addressed as part of the revised plans and as such, the deletion is supported;
b)	Townhouse 20 is not allocated as a livable dwelling as appropriate access cannot be provided.	

<p>vi. Reconfiguration of Townhouses 11 and 12</p> <p>As per <i>Plan DA07 Ground Floor Plan Issue I, as amended by Council 25 September 2019</i>, the areas highlighted in Yellow (Townhouse 11) and highlighted Blue (Townhouse 12) shall be allocated as gross floor area for each dwelling with a common party wall dividing each dwelling.</p>	<p>The design changes have been addressed as part of the revised plans and as such, the deletion is supported;</p>
<p>vii. Landscaping General</p> <p>All landscape plans shall be updated to reflect all approved built form as per the architectural plans prepared by Ink Architects, as per Condition 1 Approved Plans and Documents, and as amended by all other relevant conditions in this determination.</p>	<p>The design changes have been addressed as part of the revised plans and as such, the deletion is supported;</p>
<p>viii. Fire Hydrant Booster Assembly</p> <p>As per <i>Plan DA05 Lower Basement Floor Plan - B2 Issue I, as amended by Council 25 September 2019; Plan DA07 Ground Floor Plan Issue I, as amended by Council 25 September 2019; and Plan DA06 Basement Floor Plan - B1 Issue I, as amended by Council 25 September 2019</i>, the fire hydrant booster assembly as indicated adjacent to townhouse 2 shall be relocated to minimise the visual impact upon the streetscape of Boronia Grove. Amended <u>Plans shall be submitted for approval by the Director, Shire Planning prior to the issue of the relevant Construction Certificate</u>, and as per the following:</p>	
<p>a) The fire hydrant booster assembly shall be relocated, and designed in consultation with a fire engineer and hydraulic engineer; and to the satisfaction of Fire and Rescue NSW and the Heritage Council of NSW, in order to erect a hydrant booster without the need for a detached radiant heat shield as required by E1.3 of the BCA or AS2419.1-2005 or AS2419.1-2017.</p>	<p>The condition has only been partially complied with in that the satisfaction of Fire and Rescue NSW and Heritage Council of NSW has not been received and it is recommended that the intent for the condition be retained in a revised Condition</p>

b)	The fire hydrant booster assembly shall be located parallel to Boronia Grove, fully contained within the site, and at the property boundary.	The design changes have been addressed as part of the revised plans and as such, the deletion is supported;
c)	The location of the fire hydrant booster assembly shall be erected in a location adjacent to the Communal Pedestrian entry stair adjacent to Townhouse 3 and <i>Stair 01</i> of Basement Level 1 and Basement level 2. And shall be fully recessed into and under any stair/landing/structure. The fire hydrant booster assembly alcove shall be screened by non-lockable gates.	
d)	The fire hydrant booster assembly will require an adjacent fire rated free standing wall with an FRL not less than 90/90/90 and extend not less than 1m each side of the outermost hydrant booster riser (a minimum of 3m wide) and extend to a height not less than 2m above the finished ground level.	The condition has not been complied with and is reliant on a performance solution being prepared by the applicant's fire engineer. Condition of consent is recommended to ensure visual impacts can be further considered if the alternate solution cannot be achieved.
e)	The communal pedestrian entry stair is to be relocated or reoriented to accommodate the relocated fire hydrant booster assembly and contained wholly within the site, without reducing the deep soil area, or impacting upon trees in the vicinity of the stairs.	The design changes have been addressed as part of the revised plans and as such, the deletion is supported;
f)	The relocation of the fire hydrant booster assembly may require the reorientation of Stair 01 of Basement Level 1 and Basement Level 2.	The design changes have been addressed as part of the revised plans and as such, the deletion is supported;
g)	As a result of the relocation of the fire hydrant booster assembly, the north facing courtyard of townhouse 3 shall be reduced in depth to be setback a minimum of 3.5m from the fire hydrant booster assembly, resulting in a reduction in the depth of this courtyard by a minimum of 1.5m in depth as shown in black hatching on <i>Plan DA07 Ground Floor Plan Issue 1, as amended by Council 25 September 2019</i> .	The design changes have been addressed as part of the revised plans and as such, the deletion is supported;

	<p>The north facing elevated Courtyards of Townhouses 2 and 3 shall have a minimum setback of 4m from the Boronia Grove boundary.</p> <p>The existing ground levels in this front setback along shall remain as per the existing natural ground levels, no cut and fill shall occur in the areas outside the building foot print. No reshaping, battering, excavating or filling of the original ground surface is permitted within this area. Where building edges or feature walls are required adjoining/adjacent to the trees on Council verge or within the site; they must be constructed so as to minimise impact upon the adjoining landscape, and present a vertical face to the street, as per <i>Plan DA10 Issue I, East, North, West and South Elevations, as amended by Council 30 October 2019</i>.</p> <p>The resulting landscaped area to the north of the paved private open space of townhouse 3 shall be appropriately landscaped to screen the retaining wall of townhouse three (3). As the subject site is identified as being within a Greenweb Core area, all new plantings in this increased setback must be indigenous species selected from Council's 'Native Plant Selector' available on Council's website (www.sutherlandshire.nsw.gov.au and search for Native Plant Selector).</p>	
h)	All other fire hydrant boosters and meters must be fully enclosed and incorporated within the building fabric associated with the townhouses and residential flat buildings.	The design changes have been addressed as part of the revised plans and as such, the deletion is supported;
ix. Stair on the east-west carriage way		
a)	As per the <i>General Terms of Approval issued by the Heritage Council (10 October 2019)</i> , and as per <i>Plan DA07 Ground Floor Plan Issue I, as amended by Council 25 September</i>	The design changes have been addressed as part of the revised plans and as

	2019; the stair associated with the east-west carriage way in front of townhouses 29-31 inclusive, shall be deleted and the carriageway designed in accordance with the requirements of the Heritage Council.	such, the deletion is supported;
b)	Any additional stairs required to townhouses 29-31 (inclusive), as a result of the deletion of the stairs on the east-west carriageway required by condition (ix)(a) above, are to be incorporated into the individual paths leading from the carriageway to the front entries of the townhouses, and shall not encroach into the east-west carriageway.	Further, works associated with the carriageway are subject to the General Terms of Approval and a Section 60 Application with Heritage NSW.
c)	The finished levels of the east-west carriageway must be determined in consultation with the Heritage Council.	
x. Dwelling 28 A laundry is required to be provided within the approved footprint of dwelling 28.		The design changes have been addressed as part of the revised plans and as such, the deletion is supported;

<p>4. Integrated Development Approval - Requirement of Approval Bodies</p> <p>A. General Terms of Approval from Other Approval Bodies</p> <p>The development must be undertaken in accordance with all General Terms of Approval (GTA) of the following approval bodies under Section 91A of the Environmental Planning and Assessment Act 1979:</p> <ul style="list-style-type: none"> (i) <u>NSW Heritage Council (dated 10 October 2019)</u> (ii) <u>NSW Rural Fire Service (dated 27 April 2018)</u> <p>A copy of the GTAs and any further requirements of the approval body/bodies are attached to this development consent. These requirements must be incorporated in the application for a Construction Certificate.</p>	<p>The condition is to be updated to reflect the revised GTA's issued by Heritage Office of NSW dated 25 August 2021.</p> <p>The applicants request to include wording for the "relevant" Construction Certificate is supported to facilitate the issue of numerous Construction Certificates, in order to align with the phased construction of the approved development.</p>
<p>10 Lift Design to accommodate stretchers</p> <p>All lifts to be installed as part of this development must be designed to accommodate stretchers to be used by the NSW Ambulance Service.</p> <p>Approval of lifts to be used must be gained by the NSW Ambulance Service prior to the issue of any Construction Certificate.</p>	<p>The applicants suggested wording changes to reference only the lifts servicing the apartment is supported.</p>
<p>18. Internal Driveway, Parking and Manoeuvring</p> <p>A. Design</p> <p>The internal driveway profile, parking and manoeuvring areas must be designed in accordance with the approved architectural plans except where modified by the following:</p> <ul style="list-style-type: none"> i. Align with Access and Alignment levels issued by Council's Public Domain Unit. ii. The proposed loading and delivery area must be clearly defined with suitable signposting and pavement markings. iii. The car park must be able to accommodate a minimum 128 vehicles. 	<p>Condition 18 A (viii) the second sentence can be deleted as this has been addressed via the design changes condition.</p> <p>Condition 18 A (v) is to be deleted as waste collection is to be on street as per the recommendation of the waste officer.</p>

<ul style="list-style-type: none"> iv. Provide adequate sight distance for the safety of pedestrians using the footpath area. v. Provide a maximum grade of 5% for the length required to accommodate the waste collection vehicle. vi. The maximum longitudinal grade of the driveway must not exceed 25%. vii. The crest for the driveways providing access to the basement car parks should be a minimum of the kerb level. viii. Comply with AS2890.1(2004) in relation to the design of vehicular access, parking and general manoeuvring for the B85 vehicle. This will require amending the widths, lengths, column location and location of some of the parking spaces, as per the Condition 2 - Design Changes. <p>B. Construction</p> <p>Certification from an appropriately qualified engineer to the effect that the design requirements of “A” above have been met must accompany the Construction Certificate.</p> <p>C. Occupation</p> <p>Prior to the occupation of the development or the issue of any occupation certificate a suitably qualified engineer must certify that the works required in “A” above were undertaken and completed to their satisfaction and in accordance with the requirements of this Development Consent. This certification must be provided to the PCA and a copy also provided to Council.</p> <p>D. On-going</p> <p>The approved parking must be used exclusively for car parking as approved for the life of the development.</p>	<p>The applicants request to include wording for the “relevant” Construction Certificate is supported to facilitate the issue of numerous Construction Certificates, in order to align with the phased construction of the approved development.</p>
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<p>30. Landscaping Works</p> <p>A. Design</p> <p>The landscaping works must be designed in accordance with the approved Landscape Plan, except where modified by the following, and submitted to the Director of Shire Planning for approval prior to the issue of the relevant Construction Certificate:</p> <p>xvi. Each townhouse and ground floor unit must be provided with a clothes line in the rear garden easily accessible from the laundry. Each unit above the ground floor must be provided with a clothes line on a balcony. Ensure that clothes lines are not visible above the balustrade.</p>	<p>All apartments include an internal dryer and the rear courtyards of the townhouses include a fold down clothesline. As such deletion of the condition is supported.</p>
<p>45. Photographic Archival Recording</p> <p>a) A photographic archival recording of the place is to be undertaken prior to the commencement of works and submitted to Council's Heritage Officer for assessment and approval. The recording should capture the heritage site generally but focus on the cottage. The archival recording must be prepared in accordance with the Heritage Council of NSW guidelines, in particular Photographic Recording of Heritage Items Using Film or Digital Capture; and the General Terms of Approval dated 10 October 2019, issued by the Heritage Council. A minimum of three copies are to be produced: one for Council, the second for the local council's local studies library and the third to be retained by the owner; and any other copies as required by the Heritage Council of NSW.</p>	<p>The applicant request to require the recording provided prior to the Construction Certificate rather than the commencement of works is inconsistent with the General Terms of Approval issued by Heritage NSW. The approval of Council is not however required as this is a matter for Heritage NSW and minor adjustment to the condition is supported.</p>

<p>68. Car parking Areas</p> <p>A. Ongoing</p> <p>To ensure that the car parking area satisfies the demands of the development:</p> <ul style="list-style-type: none"> i) it must be made available on an unrestricted basis and free of charge at all times for employees' and visitors' vehicles ii) any parking nominated as visitor parking or common property must be continually available as common property. 	<p>Condition 68 (i) should be amended to remove the reference to “employee” vehicles as this would have been in reference to the commercial component of the Hall</p>
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<p>69. Car Parking Allocation</p> <p>A. Before Subdivision</p> <p>Residential car parking must be allocated to individual strata lots as part of their unit entitlement.</p> <p>Visitor parking facilities and/or car wash bays must be designated as common property on any strata plan.</p> <p>Parking must be allocated on the following basis:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Residential dwellings: a minimum of 1 space per one bedroom dwelling; 1.5 spaces per two bedroom dwelling; and 2 spaces per three bedroom dwelling. <input type="checkbox"/> Residential visitors: a minimum of 1 space per 4 dwellings <input type="checkbox"/> Car wash bay(s): 3 spaces total <input type="checkbox"/> Bicycle bays: 10 spaces total <input type="checkbox"/> Retail/commercial: minimum of 12 spaces, including a minimum of eight spaces to be provided in the separate basement level 2 commercial parking. <input type="checkbox"/> Loading/servicing: wholly within the site and within the driveway waste collection/ loading area <p>B. Ongoing</p> <p>The car-parking provided must only be used in conjunction with the dwellings and/or tenancies contained within the development and not for any other purpose.</p> <p>Note: This condition has been imposed to ensure that the car parking spaces are only used for car parking by the unit that it has been allocated to. It is intended to restrict the sale or subleasing of car parking to parties unrelated to each strata entitlement. Council's condition is a "restrictive use condition" pursuant to the Strata Schemes Development Act 2015 and should be noted as such on any future the Strata Certificate.</p>	<p>Condition 69 A, delete the dot point reference 5 to the retail / commercial car parking.</p>
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12.0 DEVELOPER CONTRIBUTIONS

Section 7.12 contributions were levied on the original DA17/0467. The proposed modification does not increase the demand for public facilities and therefore the 7.12 contributions remain

unchanged.

13.0 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 no declaration has been made.

14.0 CONCLUSION

The subject site is located within Zone E4 – Environmental Living. The townhouses and residential flat buildings are a prohibited form of development in this zone. The original development application was made however pursuant to / and reliant upon the Heritage Conservation incentives of Clause 5.10.10 of the SSLEP 2015.

In response to public exhibition, 15 unique submissions were received. The matters where applicable to the assessment of the current modification application have been discussed in the assessment report.

The Heritage Council of NSW support the removal of the commercial parking associated with the future use of Heathcote Hall subject to a restriction required to be placed on the title to ensure the historic use of Heathcote Hall as a single residential dwelling is maintained. Subsequently, possible negative impacts arising into the future from "other" uses to the locality is negated.

The changes primarily respond to the design change requirements of the existing consent. The introduced changes are considered relatively minor and in keeping with the approved built form and external appearance of the development with no detrimental additional impact to adjoining properties or the public domain. The proposal adequately maintains consistency with relevant Policies and Standards.

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. Further, consultation with the relevant Minister, public authority or approval bodies in respect to the modification sought by this application has been undertaken.

The application has been assessed having regard to the matters for consideration under Section 4.15 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 MA21/0051 can be supported.

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