

Joint Regional Planning Panel

(Sydney East Region)

Meeting Date: 21 September 2011

JRPP Number:	2011SYE063
DA Number:	DA-2011/446
Local Government Area:	ROCKDALE
Proposed Development:	Demolition of existing dwellings at Nos. 99-105 Harrow Rd and No 2 Washington St Bexley, and alterations & additions to existing aged care facility known as Huntingdon Gardens to include 60 additional beds and associated site works
Street Address:	1-11 Connemarra Street, 99-105 Harrow Road & 2 Washington Street BEXLEY NSW 2207
Applicant/Owner:	Snell Architects / Huntingdon Nursing Home
Number of Submissions:	19 letters of objection and a petition against the proposed development containing 54 signatures
Recommendation:	REFUSAL
Report by:	Marta Sadek – Senior Development Assessment Planner

Precis

Council is in receipt of a development application for the demolition of existing dwellings at Nos. 99-105 Harrow Rd and No. 2 Washington St Bexley, and alterations and additions to the existing aged care facility known as Huntingdon Gardens to include 60 additional beds and associated site works. The proposal will result in a total of 153 aged care beds in 148 rooms. The site has an irregular shape and comprises three street frontages to Connemarra Street, Harrow Road and Washington Street.

The application is regional development as defined under State Environmental Planning Policy (Major Development) 2005 as the proposed development has a capital investment value of \$18.8 million.

An assessment of the application has been carried out pursuant S79C(1) of the Environmental Planning and Assessment Act, 1979.

The site is zoned 2(a) - Low Density Residential and 2(b) – Medium Density Residential under the provisions of Rockdale Local Environmental Plan 2000 (RLEP 2000).

Development for the purpose of housing for older people and people with a disability is permissible with development consent.

The proposal is subject to State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (the SEPP) and relies on State Environmental Planning Policy No.1 (SEPP1) for variations to development standards regarding building height contained within the SEPP (clauses 40(4)(a),(b)and(c)). The proposal does not meet other standards of the SEPP such as street frontage, carparking and floor space ratio (FSR) and is not considered satisfactory having regard to the design principles stated in clauses 33, 34 and 35 of the SEPP. The proposal is not considered to comply with the objective of the SEPP of being 'of good design'. The SEPP 1 objection and the proposed variation to the controls and objectives of the SEPP are not supported.

In regards to local controls, the proposal is not considered to comply with the objectives of RLEP2000 and DCP 40 designed to protect the amenity and character of the low/medium density residential zones. The proposal has an institutional look and is not compatible with the low density character of the surrounding residential area.

The proposal has been notified in accordance with Council's Development Control Plan No. 50 – Community Engagement in Development Decisions. Nineteen (19) letters of objection including representations from a Member of Parliament and a petition against the proposal containing 54 signatures have been received. The issues raised by the residents relate to parking and traffic impacts, amenity impacts, excessive height, lack of character and compatibility with surrounding streetscape, non compliance with state and local policies etc.

The recommendation is for REFUSAL.

Officer Recommendation

1. That Development Application DA-2011/446 for the demolition of existing dwellings at Nos. 99-105 Harrow Rd and No 2 Washington St Bexley, and alterations & additions to existing aged care facility known as Huntingdon Gardens to include 60 additional beds and associated site works at 1-11 Connemarra Street, 99-105 Harrow Road & 2 Washington Street, Bexley be **REFUSED** pursuant to Section 80(1)(b) of the Environmental Planning and Assessment Act 1979 for the following reasons:
 - (i) The proposed development involves variations to development standards contained in clause 40 of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (the SEPP) under SEPP 1 and other standards and design principles. The proposed variations are not supported. The proposal is not considered to achieve the aims of the SEPP as being 'of good design' (Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act, 1979).
 - (ii) The proposed development does not achieve the objectives of the 2(a) and 2(b) residential zones under Rockdale Local Environmental 2000 (Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act, 1979).
 - (iii) The proposed development does not achieve the objectives of the R2 and R3 residential zones under Draft Rockdale Local Environmental 2011 (Pursuant to Section 79C(1)(a)(ii) of the Environmental Planning and Assessment Act, 1979).
 - (iv) The proposed development does not satisfy the objectives and relevant requirements of Development Control Plan No.40 - Housing for Older People and

People with a Disability (Pursuant to Section 79C(1)(a)(iii) of the Environmental Planning and Assessment Act, 1979).

- (v) The consent of the current registered owners of Lot 2 DP 901190 known as 4 Washington Street, Bexley to use the rear of the lot as part of the development site has not been provided. As such the application fails in regards to cl 49(1)(b) of the Environmental Planning and Assessment Regulations 2000 (Pursuant to Section 79C(1)(c) of the Environmental Planning and Assessment Act, 1979).
- (vi) The proposed development is an overdevelopment of the site and therefore the site is not considered to be suitable for the proposed development (Pursuant to Section 79C(1)(a) of the Environmental Planning and Assessment Act, 1979).
- (vii) The proposed development is not considered to be in the public interest due to the above reasons and the substantial number of objections received from adjoining neighbours (Pursuant to Section 79C(1)(e) of the Environmental Planning and Assessment Act, 1979).

2. That objectors be notified of the Joint Regional Planning Panel's decision.

Report Background

PROPOSAL

The subject site is known as Huntingdon Gardens. The most recent approval on site, comprising extensive renovations and additions to the facility, was determined by Council on 10 April 2002 under DA-2001/290. This approval resulted in a total of 93 beds in 60 rooms distributed to include 14 dementia beds (low care), 31 hostel beds (low care) and 48 nursing beds (high care). A total of 85 staff with a maximum of 28 staff at any one time is currently employed at the centre.

The proposal is to further enlarge the existing facility and involves the following works:

- Demolition of existing dwellings and associated structures, including existing swimming pools at 99 – 105 Harrow Road and 2 Washington Street, Bexley resulting in the demolition of 6 dwellings.
- Removal of existing trees including a *Corymbia maculata* (20 metre high, 900mm girth with 40yr + life expectancy), a *Brachychiton acerfolius* (40yr + life expectancy) and a *Jacaranda mimosifolia* (15 -40yr life expectancy). Replanting of some other trees on site.
- Alterations and additions to the existing building and outdoor area to facilitate the connection with the new addition, new pedestrian ramp, installation of free standing roof over existing carparking area in Connemarra Street, new driveway along the north-eastern boundary, internal changes to the layout of the existing building adjacent to the carparking area in Connemarra Street (octagonal shaped roof) to be used as a reception area and additional floor level to this building.
- New additions including carparking area in level 3 with capacity for 13 vehicles and ambulance bay, additional rooms and amenity facilities for staff and residents such as gymnasium, library, theatre, coffee shop, dining and lounge areas, new kitchen, lifts and garbage holding area.

The above modifications result in 88 additional rooms and 60 additional beds. The applicant states that some existing rooms will be altered to provide more single-bed rooms and improve the amenity of residents.

The overall number of beds as a result of the proposed alterations and additions is 153 in 148 rooms. Approximately 39% of residents are either dementia or high care residents. The proposed development requires 9 additional staff resulting in a total of 94 staff employed in the facility.

The main pedestrian access to the facility remains in the Connemarra Street frontage.

The existing carparking spaces located on the Connemarra carparking area (6 spaces) will be removed to accommodate a pedestrian path, drop off area and driveway to new carparking area in level 3. The total number of carparking spaces on site is 32. An ambulance bay is located within the carparking area in level 3.

The proposed additions retain some architectural elements and finishes characteristic of the existing facility such as pitched metal roof and rendered and painted external walls with some face brick elements.

EXISTING AND SURROUNDING DEVELOPMENT

The site is identified as Lot 1 DP 928497, Lot 1 DP 927048, Lot 3 DP 112856, Lot 2 DP 112856, Lot 1 DP 112856, Lot 22 Sec 19 DP 1680, Lot 1 DP 984073, Lot B DP 927202, Lot 1 DP 928719, Lot A Sec 19 DP 927202, Lot 3 DP 307377 and Lot A DP 379847.



Huntingdon Gardens - Site location

The proposal also extends to the rear of the lot known as 4 Washington Street, Bexley (refer to Site location map above). A recent subdivision certificate approval for consolidation of lots and boundary adjustment with Lot 2 DP 901190 (4 Washington Street, Bexley) has not been

registered with the Department of Lands. At the time of writing this report, the applicant has been unable to demonstrate that consent from the current registered owners of 4 Washington Street has been obtained for the use of the rear of their property as part of the development site.

On the site is an aged care facility known as Huntingdon Gardens. The site is located at 1-11 Connemarra Street, 99-105 Harrow Road, 2 Washington Street and 8 Washington Street, Bexley. As stated above, the rear of 4 Washington Street (approximately 122 sq.m.) is also part of the development site.

The site is an irregular shape having three street frontages (Connemarra Street, Harrow Road and Washington Street) and a total site area of approximately 8813.5sq.m. The frontage in Connemarra Street is 72.54 metres and in Harrow Road is 53.335 metres. The frontage in Washington Street is divided between two properties being 10.085m at 8 Washington St where the existing driveway is located and 13.715m at 2 Washington Street.

The topography of the site is very irregular. There is a difference in natural ground level between the front of the site and the footpath in Connemarra Street of approximately 3 metres. Rocky outcrops and retaining walls characterise the centre of the site in the area where the existing building is located and towards the rear of 2 Washington Street. The difference in natural ground level in this area is approximately between 1 – 4 metres. The level changes between the boundaries of the site and adjacent properties are also significant, particularly on the Washington Street property.

Several mature trees of significance are located within the site. The Arborist report submitted identifies a total of 29 trees on the site. Approximately 72% are in good health. Six (6) of these trees are between moderate to high level of significance, including a *Corymbia maculata* and a *Jacaranda*.

The existing facility has its main entrance and pedestrian access in Connemarra Street via a Port-Cochere. The facility has a capacity of 93 residential care beds in 60 rooms and provides internal communal areas such as lounge rooms, meeting rooms as well as amenity areas for staff and residents.

The existing building appears from Connemarra Street as a one-two storey building. However, given the steep topography of the site, the existing building is up to four (4) storeys at the rear. The existing building is mainly of rendered and painted brickwork with some face brick elements. The roof is metal pitched roof of a blue colour.

Vehicular access to the site is provided via a secured driveway in Washington Street. The driveway provides access to a carparking area at the rear (18 spaces) as well as service and garbage area. A dedicated ambulance bay is located in front of the site in Connemarra Street.

Also on the site are five(5) detached single dwellings fronting Harrow Road of Federation style and a Californian bungalow in Washington Street. The dwellings are of face brick and tiled roof construction. A sandstone base and sandstone front fence characterise the Washington Street property. There are no structures, other than the boundary fence in the area at the rear of 4 Washington Street, which is part of the development site.

The surrounding area is a mixture of building types and densities. Adjacent to the site on Connemarra Street to the west is a villa development. In all other boundaries, the site adjoins a low density residential area characterised by single dwellings. The opposite side of Washington Street is zoned medium density residential development. The existing development is predominantly single dwellings and villa developments. Part of the south-

eastern side of Harrow Road is zoned high density residential and is characterised by residential flat buildings.

Access to public transport is available in Connemarra Street.

PLANNING CONSIDERATION

The proposed development has been assessed under the provisions of the Environmental and Planning Assessment Act, 1979. The matters below are those requiring the consideration of the Joint Regional Planning Panel.

Section 79C (1) Matters for Consideration - General

Provisions of Environmental Planning Instruments (S.79C(1)(a)(i))

State Environmental Planning Policy No.1 - Development Standards (SEPP 1)

SEPP 1 provides flexibility in the application of development standards when in the circumstances of a case, the strict compliance with the standard is considered unreasonable or unnecessary. The proposal does not comply with development standards listed in State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (the SEPP) as stated below.

Clause 40(4)(a) – Requires a maximum building height of 8m. The proposal has a height of up to 13.035m at some points.

Clause 40(4)(b) – Requires a maximum number of storeys of 2. The proposal is up to 5 storeys at its highest point. Throughout the site, particularly within the centre of the site, the building is generally 3 storeys.

Clause 40(4)(c) – The rear 25% of the site shall be single storey. The proposal at the rear is between 3-5 storeys.

The applicant submitted a SEPP 1 Objection stating that the development standards listed above are unreasonable or unnecessary in the circumstances. It is stated that given the three (3) street frontages, it is difficult to determine which part of the site is the 'rear 25%'. Despite the proposed variation to the development standards, it is argued that the proposal achieves the underlying purposes of the height standards because:

1. The height variation is mainly within the centre of the site and is setback between 21m to 55.3m from the street frontages. The general appearance of the buildings from the street frontages is of a two storey building.
2. 'The proposed articulation of the façade and setback, in conjunction with varied roof forms, is considered to effectively reduce the bulk and scale of the development as viewed from Harrow Road'.
3. The proposed ridge of the building in Washington Street is compatible with the adjoining dwelling at 2A Washington Street and the ceiling is only 1.5m higher than the ridgeline of the adjoining dwelling at No. 4 Washington Street.
4. 'The proposal allows adequate sunlight to the main living areas of neighbours in the vicinity as required by AMCORD.' The proposal allows a minimum of three hours sunlight to the north facing windows at Nos 4 and 6 Washington Street.
5. A minimum 2 hours solar access is provided to the principal private open space area at No. 4 Washington Street. This impact is no more than 20% the impact of the existing boundary fence.

6. The proposed development will not impact on privacy and overlooking given the generous setbacks and the location of windows within internal corridors rather than living areas, which will provide casual surveillance of outdoor areas.
7. The scale of the proposed development does not impact on views and vistas of neighbouring properties and is compatible with the scale of high density residential development in the vicinity such as the area opposite Harrow Road.
8. The height at the most critical point (5.535m above the height limit) is screened from Washington Street by the large setback (55.3m) and landscaping.
9. The existing facility approved by Council is up to four (4) storeys at the rear.
10. 'Along Harrow Road the proposed development presents as a larger mass than the existing buildings, however, the façade has been articulated to represent the existing bulk and scale of development.'
11. The proposal respects the character of the surrounding development and is of good design quality.
12. 'The proposed development exceeds the 1:1 FSR by 12%. However, given that the departure from the standard contained in clause 48 is minor and that the development achieves the objects and purposes of all other controls with regard to density and scale, overshadowing, privacy and visual impact it is considered to achieve the purpose in this regard.'
13. The strict compliance with the standard would prevent the provision of 60 additional residential care facility beds and an increase in amenity to existing residents.
14. The variation to the height standard is largely due to the sloping topography of the land and the provision of higher than standard ceilings to allow better internal amenity and average clearances in the basement car park and storage areas.
15. The increased height reduces the need to excavate into existing rock.

The principles for assessing an application under SEPP 1 have been established in *Winten Property Group Limited v North Sydney Council* [2001] NSWLEC 46 and in *Wehbe v Pittwater Council* [2007] NSWLEC 827. Lloyd J in *Winten* (at 26) established that a SEPP 1 objection is subject to the following tests:

1. Is the planning control in question a development standard?

The standards specified in clauses 40(4)(a)(b) and (c) are development standards as defined in S4(1) of the EP&A Act.

2. What is the underlying purpose of the standard?

The objectives of the height controls are not specifically stated in the SEPP. However the underlying objectives of the height control are considered to be:

- To avoid an abrupt change in scale of development in the streetscape (from the note in clause 40(4)(b) of the SEPP).
- To provide an appropriate transition in built form and land use intensity (from Draft RLEP 2011).
- To encourage high quality urban form (from Draft RLEP 2011).
- To ensure development does not have an unreasonable impact on adjacent residential properties in terms of building size and scale, sunlight access and visual privacy.
- To ensure the scale, bulk, height, form and architectural character of the development is compatible with the building type as well as adjacent residential properties.

The proposed variation to the height control in conjunction with the FSR variation and the width of the lot in Washington Street create an intensity of development that is well beyond the predominant scale and density of development in the immediate surrounding area. The

scale of the proposed building as seen from the adjacent low density residential properties on the southern side of Harrow Road and Nos 4 and 6 Washington Street is unreasonable and creates visual and overshadowing impacts. The view of the proposal from the low and medium density residential properties on the higher side of Washington Street and on Connemarra Street is that of an institution resembling a hospital. Whilst the elevation fronting Harrow Road has been articulated, the encroachment of architectural elements onto the front setback, the height, roof form and the character of the buildings are not sympathetic to the streetscape in Harrow Road.

It is noted that the higher building elements are distanced from the street frontages, however given the gaps between the existing buildings, the topography of the area and the low scale of buildings surrounding the site, the proposal will be highly dominant in the streetscape and rather than creating a transition in scale and built form, it will represent an undesirable and prominent built form and scale in the context.

The degree of variation to the height controls sought by the applicant can not be justified against the underlying objectives. The site is an irregular shape and topography and as such the interpretation and strict application of the planning controls becomes a challenge. However this should not suggest that total disregard to the controls is warranted. In my view the 'rear of the site' is the area behind Nos. 2 to No. 6 Washington Street. It is in this area that the building is the highest, which clearly contradicts the objective of protecting the amenity of surrounding properties by having 25% single storey high requirement at the rear.

For the reasons outlined above and within other sections of this report, the proposal is not considered to meet the underlying objectives of the height control and as such the SEPP 1 objection is not supported.

3. Is compliance with the development standard consistent with the aims of the policy and in particular, does the development standard tend to hinder the attainment of the objectives specified in s.5 (a)(i) and (ii) of the EPA Act?

The specified objectives of the EPA Act are:

5(a)(i) ... the proper management, development and conservation of natural and artificial resources for the purpose of promoting the social and economic welfare of the community and a better environment.

5(a)(ii) the promotion and coordination of the orderly and economic use and development of land

The applicant states that 'strict compliance with the development standard in this instance would prevent the provision of 60 additional residential care facility beds and an increase in amenity for existing residents of the facility where they currently share rooms and services'. It is also stated that the strict application of the controls would be inconsistent with the aims of SEPP 1.

Whilst the proposal would no doubt contribute to an improvement to the existing facility and the provision of additional beds to meet the housing needs of seniors and people with a disability, by inflicting such as degree of variation to development standards in the SEPP and local controls as identified in this report, the proposal is considered to be an overdevelopment of the land and the site deemed unsuitable for the proposed development. Therefore the proposal is not considered to be consistent with the objects of the Act specified in S5(a)(i) and (ii).

4. Is compliance with the standard unreasonable or unnecessary in the circumstances of the case?

As stated above, the proposal does not comply with the underlying objectives of the height controls. The objectives are to ensure that the proposal is compatible with the character and scale of surrounding development and presents a transition in built form and land use intensity. The degree of non compliance with the development standards specified in the SEPP sought by the applicant is considered to be excessive. For the reasons outlined in this report, such variation to the development standards is not supported.

5. Is the objection well founded?

Taking into account the issues identified in the assessment of the proposal and the implications in allowing such a significant variation to the controls, the SEPP 1 objection is not well founded.

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

The proposal is defined as a residential care facility in the SEPP. The relevant clauses of the SEPP applying to the proposal are outlined below.

Clause 26 – Location and Access to Facilities

Comment: The proposal is for alterations and additions to an existing facility. Suitable access to public transport is available in Connemarra Street. The proposal is satisfactory having regard to this clause.

Clause 28 – Water and Sewer

Comment: Water and sewer facilities are available on site.

Clause 29 – Consider matters listed in clause 25(5)(b)(i), (iii) and (v) regarding compatibility with the surrounding land uses in terms of the natural environment, the services and infrastructure available to meet the demand of the development and the impact that the bulk, scale, built form and character of the proposed development is likely to have on the existing uses, approved uses and future uses of land in the vicinity.

Comment: The proposal is not considered to be compatible with the surrounding land uses in regards to bulk, scale and character. Refer to comments under clause 32 below.

Clause 30 – Site analysis

Comment: The application has been accompanied by a site analysis in accordance with this clause. However the proposal has failed to recognise/address significant features of the site such as existing vegetation and steep topography. As a result, the proposal involves the unnecessary removal of significant trees within the site. Similarly the bulk and scale of the building is accentuated in the area where the topography is most steep, which creates excessive bulk and scale. The proposal involves significant filling of the site on the Harrow Road properties. The relationship of the proposal with adjacent development, particularly the semi detached dwelling on the southern side boundary in Harrow Road and the dwellings in Washington Street is considered unreasonable. The proposal is not considered to achieve the design principles set out in Division 2 as required by this clause. Refer to clause 32 below.

Clause 32 – Design of Residential development

The proposal is to comply with the design principles set out in Division 2, clauses 33-39 below.

Clause 33 – Neighbourhood amenity and streetscape

Comment: Building setbacks are a minimum of 3m on the side boundaries in Harrow Road and between 2.5m and 3m on the side boundaries in Washington Street. The proposed front building setbacks are generally compatible with the setback of surrounding development. However the concept of retaining the floor levels in the existing buildings throughout the development site is in conflict with the existing topography and has created an excessive height and scale that is not considered to be compatible with adjacent development. It is noted that extensive filling of the site is required within the courtyard areas of the buildings in Harrow Road, which creates visual impacts to adjacent development.

Given the low scale of development in Washington Street and the significant change in levels in Washington Street forming an up hill towards Dunmore Street South, the development will be highly visible from this side of Washington Street. Similarly given the gap between the octagonal shaped building in Connemarra St, No. 1A Connemarra and the low scale of development at the street frontage, the 3-5 storeys high building, whilst having up to 40m setback from the street frontage will be highly visible from the street. The institutional character of the building is not considered to be sympathetic to the predominant low density residential character of Washington Street and Connemarra Street. Furthermore, the proposed narrow shaped building in Washington Street with a continuous wall on the side up to 46m in length and 10.5 m high towards the rear of 4 Washington Street and associated windows will create amenity impacts to the adjacent residents.

The proposed articulation of the façade in Harrow Road does not complement the pattern of development on the street. Furthermore, the front soft landscaped area is reduced by the location of paved private open space areas within the front setbacks, which detracts from the predominant low density character of adjacent development in Harrow Road.

The proposal involves the unnecessary removal of significant trees on the site. Whilst the applicant indicates that tree No. 23 will be retained, the plans, including the site plan and landscape plan have not documented this claim in regards to its proximity to the building and protection during construction.

For these reasons the proposal is not considered to achieve this principle under the SEPP.

Clause 34 – Visual and Acoustic Privacy

Comment: The excessive height of the development is visually intrusive in a predominant low density residential area. The uninterrupted long corridor on the western side of the Washington Street building in level 3 and associated windows create an overbearing appearance and visual impacts to the adjacent properties at No. 4 and 6 Washington Street. To address privacy impacts to courtyards of the dwellings at 107-111 Harrow Road, the applicant is proposing privacy screens to the windows located on the northern elevation of the building in Washington Street.

Further information would be required regarding the operation of the facility to demonstrate that the proposed outdoor area in proximity to neighbouring properties does not create acoustic impacts.

Clause 35 – Solar access and design for climate

Comment: Most proposed new rooms are located with a northerly orientation, which allows a reduction in energy use as required by this clause. However some of the courtyards are overshadowed by the proposed building. It is also noted that the excessive height of the building impacts on solar access to existing rooms located in the centre of the site. The proposal impacts on solar access to adjacent dwelling at No. 4 Washington Street and the semi attached dwelling at 107 Harrow Road.

The applicant states that all courtyards are community spaces that can be accessed by the residents throughout the year depending on the season. This allows the use of the southern courtyards during summer and the sunny courtyards during winter. In regards to the overshadowing of the existing rooms, it is stated that 'these rooms are secure rooms with no access to the adjacent courtyard. Residents of this wing spend most of their day in the adjacent secure dining and lounge room.' It has been further stated that this area is currently overshadowed by the existing buildings and mature landscape.

In regards to the impacts on adjacent properties, the applicant states that the proposal allows adequate sunlight to the main living areas of neighbours in the vicinity as required by AMCORD.' The proposal allows a minimum of three hours sunlight to the north facing windows at Nos 4 and 6 Washington Street and a minimum of 2 hours solar access is provided to the principal private open space area at No. 4 Washington Street. This impact is no more than 20% the impact of the existing boundary fence.

In reviewing the shadow diagrams, it is concluded that the proposed density and scale of the development are the main contributors in reducing solar access to open space areas within the facility and adjacent properties. The impacts on sun light access from the 3-5 storey components at the rear of 4 Washington Street are considered to be unreasonable. Furthermore, the three storey high building in Harrow Road creates overshadowing impacts to the semi detached dwelling at No. 117 Harrow Road. The proposal is not considered to achieve the solar access requirement of this clause, which involves the retention of adequate daylight to main living areas of neighbours in the vicinity and residents and adequate sunlight to substantial areas of private open space.

Clause 36 – Stormwater

Comment: The stormwater design involves the installation of an on site detention system. The proposal complies with Council's DCP 78 – Stormwater Management.

Clause 37 – Crime prevention

Comment: The existing development provides access control and other measures in line with safer by design principles. The proposed addition appears to retain some of these measures. It is noted that a new reception area is provided in the Connemarra Street octagonal shaped building, which would allow pedestrian access to this building. Pedestrian access is also shown on Washington Street and Harrow Road. Passive surveillance is achieved. Further information would be required to demonstrate that the proposal is satisfactory in regards to restricting access to the building on Harrow Road and Washington Street (if appropriate) and the implementation of additional safer by design principles.

Clause 38 – Accessibility

Comment: A BCA Assessment Report and Access Review Report have been submitted. The reports highlight some non compliance with the BCA. The applicant has further addressed these non compliances. Access from the site to public transport is adequate. The proposal is satisfactory having regard to this clause.

Clause 39 – Waste Management

Comment: Waste facilities are available at the rear of the property. Access for waste collection is via the driveway in Washington Street. The existing facility is subject to conditions of consent for the management of on site waste to ensure that the waste contractor uses a truck capable of manoeuvring in and out of the site in a forward direction (DA-2001/290). The applicant advises that 'the proposed garbage truck will be smaller than the existing industrial truck' and that the collection will be via 'wheelie bins'. It is further stated that adequate recycling facilities are provided on site.

Clause 40 – Development standards

Clause 40(2) – Site size

A minimum site area required is 1000sq.m. The proposal complies with the site area (8813.5 sq.m.)

Clause 40(3) – Site frontage

‘The site frontage must be at least 20 metres wide measured at the building line.’

Comment: The site frontage in Connemarra Street is 72.54m, the site frontage in Harrow Road is 53.335m and the site frontage in Washington Street is 13.715m.

It is noted that the SEPP makes no distinction as to whether the site frontage requirement should only apply to one street. The applicant, in addressing this clause has only referred to the site frontage in Harrow Road and Connemarra Street.

However, a building is proposed on the Washington Street frontage. As stated in other sections of this report, the reduced width of this lot has a significant impact on the bulk, character, streetscape and relationship of the building with the surrounding properties. It is considered that the minimum side frontage requirement should be applied to this frontage. A similar approach was followed in *Jenny-Lynn Properties Pty Ltd v Rockdale City Council* [2010] NSWLEC 1014. As such a variation to the minimum site frontage in Washington Street is not supported.

Clause 40(4) – Height in zones where residential flat buildings are not permitted

Comment: The proposal does not comply with the height requirement of being a maximum of 2 storeys, having a maximum height of 8m and being single storey in the rear 25% area of the site. Refer to SEPP 1 objection above.

Clause 48 of the SEPP refers to standards that can not be used to refuse development consent for residential care facilities as outlined below.

Clause 48(a) – Building height

A maximum of 8m high is required. The proposal does not comply with this standard. Refer to SEPP1 objection.

Clause 48(b) – Density and Scale

The maximum floor space ratio (FSR) shall be 1:1. The proposed FSR is 1.12:1. This represents 1063.2 sq.m. additional gross floor area on the site. The applicant argues that being only a 12% variation, it is considered minimal in the circumstances and that the proposal meets the objectives of the standard.

It is noted that Council's current and future policies for the immediate area and the site allow a maximum of 0.6:1 FSR. Therefore the proposal is well beyond the existing and likely future density for the area. However, the standards set out in the SEPP prevail and as such the FSR requirement has been assessed against the maximum permitted FSR under clause 48(b).

The objective of the FSR requirement is considered to be:

‘to control the intensity and scale of development to ensure that development will be in accordance with the land’s environmental capacity and zone objectives’. (from RLEP 2000)

The objectives of the 2(a) and 2(b) zones promote development, other than residential development, which does not adversely impact on the amenity of the locality and which is compatible with the character of the area.

The proposed floor space ratio is considered to contribute to the scale of the development and creates unreasonable impacts to surrounding properties. The proposal is not considered to meet the objectives of the zone. For these reasons and the issues outlined under clause 33, 34 and 35 above, the variation to the floor space ratio requirement is not supported.

Clause 48(c) – Landscaped area

A minimum of 25sq.m. of landscaped area per residential care facility bed is to be provided.

Comment: The proposal provides 24.51sq.m. landscaped area per bed. The applicant states that up to 39% of the residents are either dementia or high care residents with very limited mobility. The variation is considered marginal in this case and is supported.

Clause 48(d) – Parking for residents and visitors

Comment: This clause requires the provision of 34 on site carparking spaces and an ambulance bay. The proposal only provides 32 carparking spaces and an ambulance bay located in level 3 carparking area. The applicant's traffic consultant argues that there is sufficient on street parking to accommodate the deficiency. However, this claim has not been substantiated and as such the variation to the carparking requirement is not supported.

Furthermore, the design of the ambulance bay does not meet the requirements of Ambulance Service NSW in regards to dimensions and use of the driveway. Insufficient details have been provided to demonstrate that the height clearance is satisfactory.

Rockdale Local Environmental Plan 2000 (RLEP 2000)

The relevant clauses that apply to the proposal are below.

Clause 12 – Zone Objectives and Controls

The subject site is zoned 2(a) - Low Density Residential and 2(b) – Medium Density Residential under the provisions of Rockdale Local Environmental Plan 2000. Development for the purpose of housing for older people and people with a disability is permissible with development consent. As stated in the assessment under the SEPP, given the scale and intensity of the proposed development, the proposal is not considered to achieve the relevant objectives of the zone.

Clause 15 - Tree Preservation

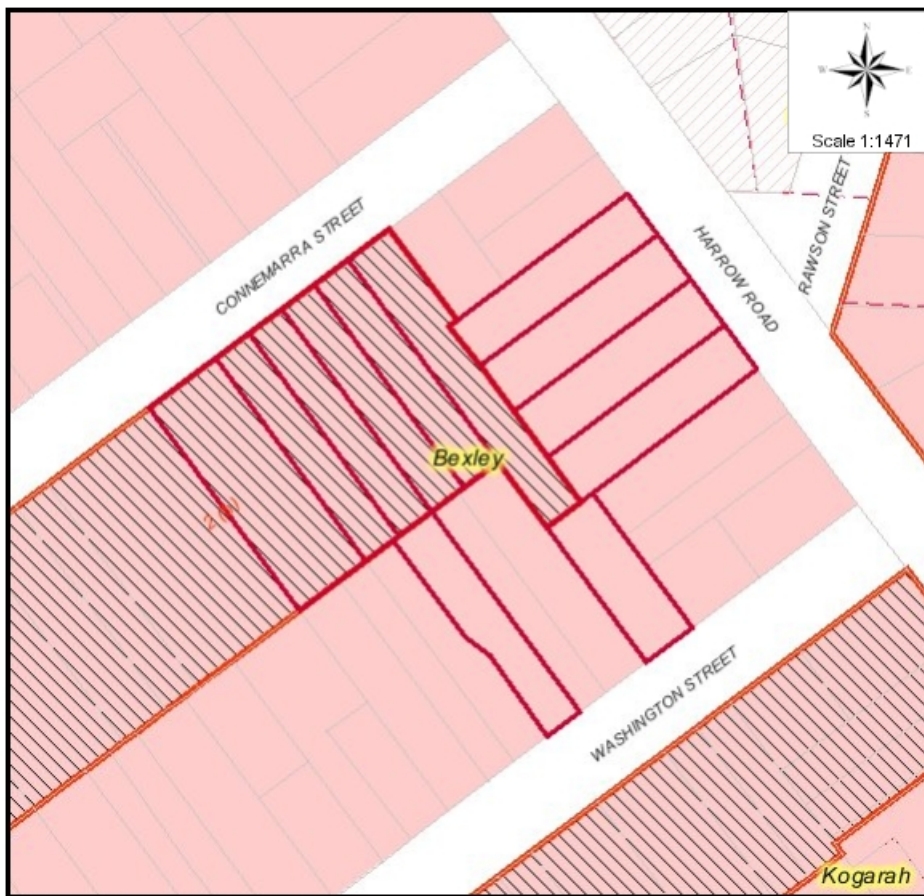
The site contains significant trees, which are subject to a Tree Preservation Order under clause 15. The removal of significant trees on site such as the tree identified in the Arborist report as Tree No. 3 (*Corymbia maculata*) is not supported. It is considered that this tree could have been used as a landscape feature within a communal area in its proximity. In addressing this issue the applicant indicates issues associated with maintenance, access for pruning etc and the provision of more suitable trees in the courtyard areas, which contribute to the 'suburban canopy'.

Some trees have been identified as being transplanted on site, such as a Kentia palm and a Cabbage tree palm. However, details of the method of transplantation, area to be stored etc have not been provided.

Clause 21 - Land filling and excavation

Excavation and filling of the site in some areas is proposed. The objectives and requirements of Clause 21 of RLEP 2000 have been considered in the assessment of this

application. Measures must be incorporated during construction to ensure that soil erosion, sedimentation, and drainage impacts are minimised. The proposed stormwater design complies with Council's DCP 78.



Huntingdon Gardens - Zoning Map

Clause 23 - Ecologically Sustainable Development

The principles of ecological sustainability relevant to the proposal have been used in the design of the proposal such as the orientation of rooms to maximise solar access, waste management etc. The proposal is satisfactory having regard to this clause.

Clause 34 – Floor Space Ratio for certain buildings

The maximum floor space permitted for buildings other than residential buildings in the zone is 0.6:1. The SEPP however, allows a FSR of 1:1. In consideration of the FSR permitted on site, the SEPP control prevails.

The proposed FSR is 1.12:1. The proposal fails to comply with the requirement of the SEPP. Refer to assessment under the SEPP above. The proposed variation is not supported.

Clause 60 – Development in the vicinity of heritage items, heritage conservation areas, archaeological sites or potential archaeological sites.

The proposal is in the vicinity of 12 Connemarra St and the sewer vent located on the opposite side of No. 1 Connemarra Street, which are listed as items of heritage significance in RLEP2000. The proposal is not considered to impact on the heritage significance of these items.

Environmental Planning and Assessment Model Provisions 1980 (as adopted by clause 10 of Rockdale Local Environmental Plan 2000)

The proposal has a frontage to a main road (Harrow Road). The Model Provisions require consideration of the aesthetics of the development as seen from a main road. As discussed previously in the report, the proposal is not compatible with the predominant scale of development in Harrow Road and is not supported from a streetscape perspective.

Provisions of any Draft Environmental Planning Instruments (S.79C(1)(a)(ii))

Draft Rockdale Local Environmental Plan 2011 (Draft LEP)

Draft Rockdale Local Environmental Plan 2011 applies to the proposal. The proposal has been assessed against the controls and objectives of the Draft LEP. The site is proposed to be zoned R2 – Low density residential and R3 – Medium density residential. The proposed zones are equivalent in scale and objectives to the current zone. The proposal is permissible with development consent, however the proposal is not considered to be consistent with the future character and scale of development envisaged by the future zones.

The maximum FSR stipulated in the Draft LEP is 0.6:1, which is consistent with the current permissible FSR. The proposal does not comply with this requirement.

The Draft LEP allows a building with a maximum height of 8.5m. As previously stated in this report, the proposal does not comply with this requirement. Significantly the height of the buildings adjacent to the single dwellings in Harrow Road and Washington Street is 8.87-10.2m in Harrow Road and 10-12m in Washington Street.

All other provisions of the Draft LEP have been considered under the SEPP and RLEP 2000 assessment. The proposal does not comply with the objectives and relevant controls under the Draft LEP.

Provisions of Development Control Plans (S.79C(1)(a)(iii))

Development Control Plan No.40 – Housing for Older People and People with a Disability (DCP 40)

The proposal has been assessed against the objectives and controls in DCP 40. Generally the controls under DCP 40 are similar to those in the SEPP. The controls under the SEPP prevail. As discussed previously in this report the variation to the development standards is not supported and this is also the case in the context of DCP 40.

Of relevance in the assessment of impacts on the streetscape and character of the proposed building is clause 6.2 of DCP 40, which promotes residential care facilities with adequate private and communal open space areas reinforcing a 'sense of home' and avoiding an institutional image. The proposal is not considered to address this clause satisfactorily. The proposed communal area lacks amenity facilities such as seating, pergolas etc to create opportunities for socialising.

Furthermore, DCP 40 requires 40-50% of the site area to be provided as landscaped area and 35% of the site area as soft landscaped area. The proposal provides 43% landscaped area and 21% soft landscaped area. The applicant states that a large percentage of residents are high care residents with limited mobility, unable to utilise those areas.

The objectives of the landscape control are to soften the appearance of the building, complement the streetscape and provide adequate and usable private and communal open space with a high level of amenity.

The proposed non compliance with the landscaped area requirement in the context of the non compliance with streetscape and FSR is not supported in this instance as it is not considered to achieve the objectives of the clause and DCP 40.

Development Control Plan No. 28 – Requirement for Access (DCP 28)

Accessible car parking spaces and other matters to be considered under the BCA, DDA and relevant standards have been addressed. The proposal is satisfactory having regard to DCP 28.

Development Control Plan No. 67 – Crime Prevention Through Environmental Design (DCP 67)

The proposal is generally consistent with the principles set out in DCP 67. Further information would be required to demonstrate that access controls and other safer by design measures are implemented in accordance with the objectives and requirements of DCP 67.

Development Control Plan No. 53 – Construction Site and Waste Management and Minimisation Plan (DCP 53)

A Waste Management Plan for the management of waste during demolition, construction and on going use of the facility has been submitted. Further information would be required regarding the re use of the existing sandstone on site. A more detailed Waste Management Plan is warranted.

Development Control Plan No. 78 - Stormwater Management (DCP 78)

The proposal is consistent with the requirements of DCP 78 in regards to stormwater management.

Any Planning Agreement that has been entered into under section 93F, or any draft planning agreement that the developer has offered to enter into under section 93F (S.79C(1)(a)(iia))

The proposal is not subject to a Planning Agreement.

Provisions of Regulations (S.79C(1)(a)(iv))

Clauses 92-94 of the Regulations outline the matters to be considered in the assessment of a development application. Clause 92 requires the consent authority to consider the provisions of AS 2601:1991 - Demolition of Structures when demolition of a building is involved. Council's building surveyor has assessed the fire safety considerations under the BCA. These issues are to be considered during demolition and construction. Given the recommendation for refusal, these issues are not relevant.

All relevant provisions of the Regulations have been taken into account in the assessment of this proposal.

The applicant has not provided written consent from the current registered owners of Lot 2 DP 901190 known as 4 Washington Street, Bexley to use the rear of the lot as part of the development site. As such the application fails in regards to cl 49(1)(b) of the Regulations.

The likely impacts of the Development (S.79C(1)(b))

The likely impacts of the proposed development have been addressed extensively in this report. The proposal creates unreasonable amenity impacts to surrounding properties and the neighbourhood given its bulk, scale and intensity. The proposal is not considered to be compatible with the existing and desired future character of the area.

In addition to the issues identified, the proposal may have an impact on the existing rock shelf in Washington Street. As such measures are to be implemented during construction to ensure the structural stability of the cliff face to avoid its collapse.

The site is subject to 15.24m building height Civil Aviation Regulations and consideration should be given during construction to any conditions imposed by Sydney Airports.

Suitability of the Site (S.79C(1)(c))

The site comprises physical constraints such as having three street frontages, significant trees, steep topography and low density residential context, which would influence the type and intensity of development appropriate for the site. Having regard to the issues identified in this report and the non compliances to state and local policies, the application has failed to demonstrate that the site is suitable for the proposed development.

Public Submissions (S.79C(1)(d))

The proposal has been notified in accordance with Council's Development Control Plan No. 50 – Community Engagement in Development Decisions. Nineteen (19) letters of objection including representations from a Member of Parliament and a petition containing 54 signatures have been received. The issues raised by the residents are listed below. Most issues have been addressed in this report.

- Traffic impacts
- Parking impacts. The development is 11 car spaces fewer than the requirement of the Parking and Loading Code and does not comply with the SEPP. There is insufficient provision of visitor parking, which would exacerbate existing parking issues in Washington Street
- The proposal will create constant noise
- Increased rubbish in the street as a result of the proposal
- Impact on property value
- Excessive height, which will result in privacy impacts
- Due to the slope of the site, the impacts of the proposed height are 'substantially greater' than stated
- The height is not sympathetic with the suburban/residential character. The height does not comply with SEPP requirements
- The proposed removal of 24 trees is not supported. In particular the Camphor tree located at 111 Harrow Road
- The excavation in proximity to the Camphor tree may cause damage to the root system of the tree. The tree may collapse and create a risk to lives of local residents
- The previous addition to the current facilities was approved after extensive consultation with the Resident Action Group. The application was modified by reducing building

height, provision of off-street visitor parking, retaining site trees, creating more open space, better street setback, improved garbage collection, improved facilities for residents, including a secured garden area for dementia patients. 'The new development would destroy most, if not all of these previously gained benefits

- The existing facility is already large 'and no further significant expansion is warranted.'
- The proposal 'would completely dominate what should be a predominately residential area.'
- The proposal results in the demolition of 5 houses in Harrow Road
- The proposal is a six storey building (5 above ground) in an area limited to two storeys
- The proposal 'isolates' a number of homes, 'and raises concern that they are targeted for future expansion.'
- The documentation contains some 'disputable assertions e.g. the traffic timings and underutilised parking claims do not reflect the observations of residents; the DA claims that currently Huntingdon has no dementia patients, although the previous DA had a dementia area and noise from the nursing home would suggest there are patients suffering from dementia; the application states that it would replace the trees destroyed' but there does not seem to have any space available for them
- Excessive density. The proposal has a FSR twice the limit of the SEPP (1.12:1)
- Inadequate landscaping. Landscaping is mostly provided in small courtyards and is only internal. 'Birds will go elsewhere and noise will be reflected amongst the hard walls of the buildings'. Neighbours will only perceive a multi-storey brick wall
- Overshadowing impacts
- The proposal does not comply with the SEPP control that 25% of the rear of the site be single storey. The residents living on the opposite side would expect that adjacent development be limited to one storey
- Does not comply with the height requirement in the LEP and is contrary to the zoning requirements
- Equity – Huntingdon is allowed to build a six storey development in contravention of planning rules, whilst neighbours are always advised by Council that if they wish to develop their properties they would have to comply with the two storey height limit
- Inaccurate information. The floor plan for the building at 2 Washington St shows one window at first floor level facing 2A Washington Street. However the proposed elevation shows 3 windows facing directly onto the windows at 2A Washington Street. It is not clear whether the first two windows are ornamental frames only
- The use of on street parking by commuters has not been accounted for in consideration of parking impacts
- The proposal is double the size of the existing structure
- The proposed garbage collection area in proximity to the corner near No. 16a Washington St is not appropriate
- 'The proposed development location exists on Bexley's "Ocean View Estate" that was developed in the 1880's. Rockdale Council should recognize the significance of this valuable local heritage area and ensure that the architectural streetscape of Harrow Road is treated as a heritage asset'. The demolition of the houses in Harrow Road is not appropriate from a heritage perspective
- The proposed streetscape in Harrow Road is not suitable as the style is generic and does not reflect the pattern in Harrow Road, the excessive height (north-eastern elevation) will be visible from Harrow Road and is unsympathetic and unsuitable, the south-east elevation 'indicates a towering edifice that will severely affect the residential privacy and access to sunlight for houses immediately in front of the proposed structures.'
- 'The notice period for residents directly impacted by the proposed development was unfairly short.'
- The proposed development does not 'recognise the desirable elements of the location's current character' as required by clause 33 of the SEPP

- The proposed development does not respect the site's land form as required by clause 33(ii) of the SEPP as the proposal involves major excavations
- The proposed buildings in Harrow Rd are mainly painted masonry with roofs constructed of grey Colorbond/corrugated iron, which is not in keeping with the streetscape and the location's current character
- The original sandstone fence at No. 2 Washington St should remain and 'repaired if necessary as it forms part of the original character of the streetscape/area.'
- The plans show a gate at 2 Washington Street. If access is proposed on Washington St, it will exacerbate already existing parking problems in proximity to No. 2.
- The proposed courtyards are small and will not be suitable for the planting of reasonable trees and existing trees removed from the site as part of the proposal
- The proposed courtyards do not receive adequate solar access, especially during winter.
- The landscaped area does not meet the minimum 25sq.m. per room required under the SEPP
- The proposed excavation interferes with the roots of major trees on neighbouring properties
- Impacts of the excavation on the structural stability of surrounding dwellings
- The traffic report does not take into account the traffic generated by the Marist Brothers High School located in Washington Street. There are no figures for prior to 4pm and during the morning peak between 7.30 and 9.00am
- The percentage of traffic turning left and right quoted in para 4.2 of the Traffic Statement is questionable. 'From Washington Street, the percentages are more likely to be 50:50.'
- The current garbage collection is not operating in accordance with the previous approval. 'The facility currently use high volume, commercial waste bins which are emptied by a truck which lifts the bins up over the front cabin of the truck and backs down the driveway, continually beeping and disturbing the neighbours. These bins are located in the open in a corner of the facility next to the neighbouring villas in Connemarra Street.'
- The proposal involves a new and larger garbage facility located at the rear of Washington Street. The plans show 'otto' bins in this new garbage storage area. 'This are not the type of bins currently in use and installing the current bins in the new, designated garbage store would mean that they would not be able to be emptied as the truck would not be able to turn to approach the garbage store in a forward direction nor would the truck be able to reach the bins as the goods lift will be in the way.'
- The proposed increase to the number of beds will increase the amount of garbage generated, which will increase the amount of truck movements within the site and will put more strain on the junction of Washington Street and Harrow Road. It will also create safety impacts for school children walking on Washington Street
- The traffic report indicates that there are no dementia beds in the existing facilities. However the previous approval had 13 dementia beds and the Huntingdon Gardens website advertises accommodation for residents with dementia
- The proposal is for 60 additional beds. A review of the drawings shows 88 additional rooms. The information suggests that existing beds will be moved to the new facility thus reducing the number of beds in the existing facility.' Our concerns are that as Huntingdon currently advertises the availability of twin rooms, what is to stop them from doing the same in the new buildings if not now, then at some stage in the future which would mean that the number of new beds would be much more than the 60 stated in this current proposal necessitating the employment of more staff and impacting on the parking numbers'.
- It appears that the only connection between the existing and proposed building is through the existing gazebo shaped building. The existing ambulance bay is not going to be easily accessible to the residents in the new building, especially in the buildings fronting Harrow Road and Washington Street, 'Where will the ambulance park if residents in the buildings fronting Harrow Road and/or Washington Street need emergency care and a speedy evacuation to hospital?'

- Given the impacts, the proposal must meet the height requirements of the SEPP and must address the parking issues by providing parking in accordance (if not more) with the Parking and Loading Code
- The proposal will cause 'massive infrastructure stresses and strains to sewage, reticulation, flash-flooding preventative measures, local traffic flow and air and water pollution threats etc. It is very doubtful that the local area and infrastructure could cope with these pressures.'
- The resolutions from the previous approval have been ignored. For instance the location of the garbage bin away from the boundaries, garbage collection is unhygienic, access to the site by garbage trucks is dangerous, the off street visitor parking has been allocated to staff parking, the dementia facilities are used for another purpose.

Public Interest (S.79C(1)(e))

The proposal has been assessed against the relevant planning policies applying to the site having regard to the objectives of the controls. The public benefit in providing additional housing for seniors and people with a disability is recognised. The proposed use of existing services and infrastructure is also supported. However, the proposal has failed to demonstrate that the built form, density and setting have been developed in line with the objective of the local planning controls and the SEPP to achieve a 'good design'.

In regards to the applicant's request for a variation to development standards, it is my view that the degree of variation is too significant and unwarranted within the scope of SEPP 1. The proposal creates unreasonable impacts to surrounding properties and the locality as a whole. As such it is considered that approval of the development application would not be in the public interest.

CONCLUSION

The proposed development has been considered under S79C(1) of the Environmental Planning and Assessment Act, 1979. The application involves extensive alterations and additions to the existing aged care facility known as Huntingdon Gardens to accommodate a total of 153 beds in 148 rooms. The proposal relies in three (3) objections to development standards in State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 and other major non compliances with state and local policies such as density, street frontage, on site parking, communal and landscaped areas. The degree of non compliance is excessive and creates unreasonable impacts on the amenity of surrounding properties and the streetscape. The proposal is not consistent with the objectives of the controls under the SEPP, RLEP 2000, DCP 40 and the future vision for the area reflected in Draft LEP 2011. The proposal is not considered to be in the public interest. As such, the application DA-2011/446 is recommended for refusal.