

Joint Regional Planning Panel

(Sydney East Region)

Meeting Date: 10 May 2012

JRPP Number:	2012SYE0004
DA Number:	DA-2012/205
Local Government Area:	ROCKDALE
Proposed Development:	Alterations and additions to existing aged care facility known as Huntingdon Gardens and associated site works
Street Address:	99-105 Harrow Road, 1-11 Connemarra Street & 2 Washington Street, Bexley
Applicant/Owner:	Huntingdon Nursing Home Pty Ltd c/o Snell Architects
Number of Submissions:	Eight (8) letters of objection
Recommendation:	Deferred commencement consent
Report by:	Marta Sadek – Senior Development Assessment Planner

Precis

Council is in receipt of a development application for 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 149 rooms. The site has an irregular shape and comprises three street frontages to Connemarra Street, Harrow Road and Washington Street, Bexley.

The application is defined as regional development under State Environmental Planning Policy (State and Regional Development) 2011 as the proposed development has a capital investment value in excess of \$22 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 R2 - Low Density Residential and R3 – Medium Density Residential under the provisions of Rockdale Local Environmental Plan 2011 (RLEP 2011). Development for the purpose of seniors housing 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 clause 4.6 of RLEP 2011 for variations to development standards regarding the building height contained within the SEPP (clauses 40(4)(a),(b)and(c)).

The SEPP controls restrict the height of the building to a maximum of 8m, two storeys and single storey in the rear 25% of the site. The proposed building is three storeys at some points, including the area considered to be 'the rear of the site' and the height is between 8.735m to 10.59m at some points, which is 2.59m above the maximum height permitted under the SEPP.

In calculating the gross floor area, the applicant has included the site area of the property at 2 Washington Street, Bexley. The existing dwelling on this site will be retained for use as a craft facility subject to future development consent. However, as required by clause 4.5(6) RLEP 2011, only those lots where 'significant development' is carried out are to be included in the site area for the purpose of calculating the FSR. In the case of the proposal, and based on the information provided by the applicant, it is considered that the development on the Washington Street property does not constitute 'significant development' and as such should not be included as part of the calculation of the site area and therefore the FSR calculation. The result is a development with approximately 345 sq.m. above the maximum permitted GFA or 1.04:1 FSR, which is above the prescribed 1:1 FSR under the SEPP.

The variation to the maximum FSR under the SEPP cannot be supported given the other non compliances with the height requirements of the SEPP and the potential impacts to neighbouring properties, future residents and the streetscape. It is considered appropriate in this case to allow the applicant to reduce the GFA of the building by 345sq.m. to achieve compliance with the FSR, further minimise impacts on the landscape and improve the amenity of the central courtyard area. A deferred commencement condition is proposed to achieve this.

Reducing the GFA of the building as proposed in the deferred commencement condition does not result in a development that fully complies with the height standards, however it does make a difference to the relationship of the development in the streetscape of Washington Street by reducing the bulk at the rear and makes the development closer to compliance with the height control. The deferred commencement condition also allows better amenity for the residents. The density parameters specified in the SEPP are greater than what it is permissible under council's LEP 2011, and in view of the physical constraints of the site, the resultant proposal is considered to be consistent with the objectives of the height controls.

Subject to the imposition of the deferred commencement condition, the proposed variation to the development standards is supported. As stated in this report, the deferred commencement condition will also allow better solar access to the central courtyard area, improved solar access to the property at 4 Washington Street and an increase to the landscaped area within the site.

The proposal has been notified in accordance with Council's Development Control Plan No. 50 – Community Engagement in Development Decisions. Eight (8) letters of objection including a submission from a Community Action Group 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. Those issues have been addressed in the report.

The recommendation is for approval as a deferred commencement consent.

Officer Recommendation

1 That the JRPP support the variation to the height controls contained in clause 40(4)(a),(b)and(c) of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.

2 That development application DA-2012/205 for alterations and additions to the existing aged care facility known as Huntingdon Gardens to include 87 additional rooms to create a total of 153 beds and associated site works at 99-105 Harrow Road, 1-11 Connemarra Street & 2 Washington Street, Bexley be APPROVED as a deferred commencement consent subject to the following:

The consent shall not operate until you satisfy Council about the following matters:

i. The architectural plans are amended to reduce the gross floor area of the building by deleting rooms 5.40, 5.41 and 5.42, by removing the protrusions into the central courtyard area in rooms 4.23, 4.24, 5.14, 5.15 and the dining/servery area (both levels) and by further reducing the GFA around the perimeter of the central courtyard to achieve a total reduction of GFA by 345sq.m.

Pursuant to Clause 95(3) of the Environmental Planning and Assessment Regulation, 2000, the period of the deferred commencement shall be six (6) months.

3 That the NSW Department of Planning be advised of the Joint Regional Planning Panel's decision.

4 That the objectors be advised 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:

- Retention of eight (8) existing trees out of 29 trees, including two (2) trees in Harrow Road.
- Retention of the existing dwelling at 2 Washington Street for future use as a craft centre subject to separate development consent.
- Addition of 87 rooms and 60 beds to create a total of 153 beds.
- 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 canopy over existing car parking area in Connemarra Street, new driveway along the north-eastern boundary, internal changes to the layout of the existing building adjacent to the car parking area in Connemarra Street (octagonal shaped roof) to be used as a reception area.
- New additions including car parking area in level 3 with capacity for 19 vehicles, 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 87 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 149 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 car parking spaces located on the Connemarra car parking area (6 spaces) will be removed, except for one space, to accommodate a pedestrian path and driveway to the new car parking area in level 3. The total number of car parking spaces on site is 38. Nineteen (19) of those are located within the new car parking area, one (1) is retained in the front car parking area in Connemarra Street and eighteen (18) are located at basement level and accessed via the existing driveway in Washington Street.

There are currently two (2) areas used as ambulance bays being the existing Porte-cochere and the on street dedicated ambulance bay.

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 10 DP 1170591, Lot 1 DP 984073, Lot B DP 927202, Lot 1 DP 928719, Lot A Sec 19 DP 927202 and Lot 3 DP 307377.



Huntingdon Gardens - Site location

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.

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 Porte-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 car parking 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. An application for the demolition of these structures has been recently approved by Council under DA-2012/237.

A sandstone base and sandstone front fence characterise the Washington Street property. The floor level of the existing dwelling is significantly higher than the street level (approximately 6.9m) and as such pedestrian access to this property via Washington Street is constrained by several steps.

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 (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 – Considers 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: 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.

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 at ground level in Harrow Road. Most of the first floor level along the southern boundary in Harrow Road has been setback between 6 and 6.8 metres. The proposed front building setbacks in Harrow Road are generally compatible with the setback of surrounding development.

The façade in Harrow Road has been articulated and complements the pattern of development on the street. The proposed roof form is compatible with the character of the low density residential area. Overall, the proposal as seen from Harrow Road is sympathetic to the character of the streetscape.

However the three storey element in the centre of the site is highly visible from the higher level of Washington Street. The scale of the development at this point protrudes beyond the predominant landscaped area of the surrounding low density residential properties. A deferred commencement condition is proposed requiring a reduction to the floor space at the

top level to achieve better articulation on the roof form and minimise the bulk and scale of the development as seen from Washington Street.

The application has been accompanied by an Arborist Report. The report identifies 29 mature trees within the site with different levels of significance. At least eight(8) of those trees will be retained. In particular tree number 3 has been retained as a significant feature of the outdoor communal area in the form of a private courtyard for residents.

Subject to compliance with the deferred commencement condition, the proposal is satisfactory having regard to neighbourhood amenity and streetscape.

Clause 34 – Visual and Acoustic Privacy

Comment: The side walls on the Harrow Road lots have been articulated to break their continuity and improve their visual appearance. The windows have been provided with privacy screens to avoid overlooking adjacent properties. Limited number of windows have been provided to the third storey component within the centre of the site. All internal and external communal spaces are located towards the centre of the site. As such visual and acoustic impacts from the proposal are not considered unreasonable.

Clause 35 – Solar access and design for climate.

This clause requires adequate daylight to main living areas of neighbours and residents and adequate sunlight to substantial areas of private open space. In establishing adequate solar access the SEPP suggests reference to *AMCORD: A National resource Document for Residential Development 1995*.

Comment: The applicant has provided shadow diagrams showing that the proposal impacts on solar access in mid winter to adjacent dwellings at No. 4 and No. 6 Washington Street and the semi attached dwelling at 107 Harrow Road. The shadow diagrams also show that the majority of the proposed central courtyard area within the facility is overshadowed in mid winter.

The overshadowing impacts on the properties in Washington Street occur to the rear private open space areas. The most critical impact is to No. 4, which shows that by 12 pm most of the rear area is overshadowed. However, the most usable private open space area adjacent to the dwelling is not affected between 9am and 11am. Furthermore the overshadowing impacts will be further reduced by the amendments proposed in the deferred commencement condition.

In regard to the overshadowing of the semi-attached dwelling at 107 Harrow Road, the shadow diagrams show that most side windows will be overshadowed between the hours of 10am and 3pm and by 3pm the private courtyard area is fully in shade. Solar access is however retained for most of the courtyard area between 9am and 12pm and the rear side windows between 10am and 11am.

The applicant argues that AMCORD requires that north facing windows to living areas do not have the sunlight access reduced to less than 3 hours over a portion of their surface between 9am and 5pm in mid winter. It is stated that the north facing windows are those fronting Harrow Road, which are not impacted by the proposal. It is further stated that most of the private open space of 107 Harrow Road is not affected by the proposal.

It is recognized that the applicant has made several attempts in designing the building to minimise the overshadowing impacts of the proposal on surrounding properties including generous side setbacks and an articulated roof form. Given the orientation of the site, overshadowing of the side windows of the adjacent property at 107 Harrow Road is inevitable. In fact it is considered that the impacts of an alternative permissible development such as a two storey dwelling would be worst, or at least not too different given the reduced

setbacks allowed for low density developments. A similar analysis applies to the private open space area. The diagrams show that it is from 12pm that sunlight access is reduced.

Given the orientation of the site, the topographical constraints of the site and the design response to minimise overshadowing impacts, the proposal is considered satisfactory in regard to the solar access requirements of the SEPP in allowing adequate sun light access to neighbouring properties.

In addressing the solar access requirements within the private open space areas, the applicant states that the proposal is consistent with the 'acceptable solution' in AMCORD as 30% of the area within the central courtyard receives 3 hours of solar access in winter between the hours of 9am and 3pm.

It is argued that 30% is considered 'substantial area' and as such complies with the SEPP. It is also stated that the central courtyard incorporates materials that maximise the absorption of heat such as concrete slabs and tile flooring, which 'will help retain and radiate warmth during the cooler winter months.' Furthermore the applicant states that the central courtyard area is not the only area used as private open space within the site and that due to the limited mobility of many residents, they will be enjoying the outdoors in other areas such as the landscaped areas facing Harrow Road and the area connecting the building with 2 Washington Street.

The central courtyard area is approximately 360.3sq.m. This area is considered to be the principal outdoor area for the residents as the area fronting Harrow Road has a high level of traffic noise and pollution, whilst the area at the rear of 2 Washington Street is distanced from the rooms and can only be accessed by stairs. For this reason, and given the FSR issues previously raised in this report, there is an opportunity to increase the solar access to this area by reducing the height of the building within the central core to achieve solar access to at least 50% of the area. A deferred commencement condition is proposed to address this issue.

Clause 36 – Stormwater

Comment: The stormwater design involves the installation of an on site detention system. The proposal complies with Council's DCP 2011 in regards to water 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 will retain some of these measures. Given the nature of the development, the management of security is vital. It is noted that a new reception area is provided in the Connemarra Street octagonal shaped building, which would allow pedestrian access to the facility. Passive surveillance is achieved by having rooms fronting Harrow Road at both levels and a balcony at first floor level. Additional conditions of consent are proposed in line with safer by design principles.

Clause 38 – Accessibility

Comment: A BCA Assessment Report and Access Review Report have been submitted. The reports do not reflect the amended scheme where access to the building and rear areas at 2 Washington Street is proposed. Updated reports would be required and a condition of consent is proposed to this effect. 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). In response to concerns raised by residents regarding amenity impacts from the operation of the garbage collection facility, the applicant advises that the service will only be conducted between 7am and 7pm Monday to Friday and the garbage contractor will only use vehicles capable of entering and leaving the site in a forward direction. Adequate recycling facilities are already provided on site. Conditions of consent are proposed to ensure that waste collection is carried out in accordance with the applicant's submission and impacts on surrounding properties are minimised.

Clause 40 – Development standards

Clause 40(2) – Site size

The minimum site area required is 1000sq.m. The total site area is 8813.5 sq.m. When excluding the site at No. 2 Washington Street, the site area is 8239.6sq.m. The proposal complies with this requirement.

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.

The site frontage in Harrow Road, where most of the addition is carried out, is considered appropriate for the development. As no major building work is proposed on the Washington Street frontage, the proposal is satisfactory in regard to this requirement.

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 the objection under clause 4.6 of RLEP 2011 below.

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 building height of 8m is required. The proposal does not comply with this standard. Refer to clause 4.6 objection in RLEP 2011 below.

Clause 48(b) – Density and Scale

The maximum floor space ratio (FSR) shall be 1:1. The proposed FSR is 0.98:1 (8720.4sq.m. GFA), when including the site area of the property at 2 Washington Street, Bexley, which represents an additional site area of 573.9sq.m. to achieve a total site area of 8813.5sq.m. The applicant proposes to retain the existing dwelling at 2 Washington Street and use the building as a craft facility for the use of the residents of Huntingdon Gardens subject to separate development consent. Further information was requested to demonstrate a clear linkage between this site and the proposed addition to justify the benefit of the additional gross floor area (GFA) (as required by RLEP 2011). In the response, the applicant summarised the proposed linkages as reflected in the amended plans as follows:

Installation of an inclinor (inclined lift) to transfer mobility-limited residents to the house from the nursing home;

A network of decking, paved areas and stairs, creating a path between the nursing home and the house; and

Extension of the nursing home's landscaping treatment to include the Washington Street property, including deck areas, sandstone retaining walls, seating and the planting of trees and shrubs.

The above changes are not considered sufficient to substantiate the additional GFA allocated to the site in the Harrow Road lots. This additional GFA creates the impacts outlined in this report. Furthermore, in response to the irregular topography of the site and the difference in levels, the applicant proposes an external inclinator to transport mobility-limited residents and a series of decks and stairs, which may also overlook surrounding properties. This is not considered appropriate and as such the site area of 2 Washington Street should be excluded from the GFA calculations. However, excluding this site results in an FSR of 1.04:1 or 344.8sq.m additional GFA. To address this issue, a deferred commencement condition is proposed requiring a reduction to the GFA within the perimeter of the internal courtyard area to improve the amenity of this area and the deletion of rooms 5.40, 5.41 and 5.42 to reduce the scale of the building in the centre of the site.

An additional condition is recommended to ensure that the proposed inclinator and associated deck are not approved as part of this development application. Further details regarding the connection between the facility and the property at No. 2 Washington Street Bexley should be considered under the application for the use of the existing dwelling at 2 Washington Street as a craft facility.

Clause 48(c) – Landscaped area

A minimum of 25sq.m. of landscaped area per residential care facility bed is to be provided. Landscaped area is defined as *‘that part of the site area that is not occupied by any building and includes so much of that part as is used or to be used for rainwater tanks, swimming pools or open-air recreation facilities, but does not include so much of that part as is used or to be used for driveways or parking areas’*.

Comment: The CI 48(c) landscaped area requirement is not a development standard; however it provides a guide as to what the policy deems to be acceptable. The proposal provides 18.4sq.m. landscaped area per bed when including the Washington Street property. When excluding the Washington St property from the calculations, the proposal provides 16.5sq.m. of landscaped area per bed. The applicant states that a large percentage of residents are high care residents with very limited mobility and that the proposal still achieves a high level of amenity for residents by providing ‘attractive landscaping of outdoor areas and courtyards’.

The Department of Planning Guide for the application of the landscaped area control under the SEPP is relevant in this instance, which states:

‘A potential conflict arises in relation to landscaping. The re-development of many residential care facilities or even new residential care facilities in established areas will be on sites that would not allow much land to be set aside for landscaping while achieving a 1:1 fsr. The most important external issues for these sites are the impacts on streetscape and neighbours. High amenity for residents can be achieved within the building without meeting a high landscape area standard. The clause 70 [now 48] landscape standard of 25sq.m. per bed, i.e. a standard that cannot be used to refuse consent, is not a minimum standard per se, that must be met. It is possible and reasonable for consent to be given to facilities that have less than 25sq.m. per bed landscaped area if they take other issues such as streetscape and impact on neighbours into account.’

The objectives of the landscaped area requirement are considered to be to provide a high level of amenity, to enhance the streetscape and to provide scale and density of planting that is appropriate to the surrounding built form.

As stated earlier, the proposal includes generous setbacks, which provide relief in the streetscape and contribute to minimising the impact on surrounding development. The landscape plan provided by the applicant is satisfactory in regard to plant species and

Council's policies. The central courtyard area is of a generous size, nevertheless the recommended deferred commencement condition, which requires that the internal courtyard area be extended, will also allow an increase to the landscaped area within the site. It is also noted that the proposal complies with the minimum 25% of landscaped area required for low and medium density residential developments in DCP 2011. The proposal is considered to be consistent with the objectives of the landscape control and as such the variation to the numerical standard is supported in this instance.

Clause 48(d) – Parking for residents and visitors

Comment: This clause requires the provision of 34 on site car parking spaces and an ambulance bay. The proposal provides 38 car parking spaces. The existing Porte-cochere has been designated as ambulance bay. In addition, there is a dedicated on street parking space for an ambulance. The applicant has submitted swept path demonstrating that the Porte-cochere is suitable for its use by an ambulance. The information has been reviewed by Council's consultant engineers and has been found satisfactory. As such the proposal complies with clause 48(d).

Rockdale Local Environmental Plan 2011 (RLEP 2011)

The site is zoned R2 Low density residential (properties in Harrow Road and Washington Street) and R3 Medium density residential (properties in Connemarra Street) under the provisions of RLEP 2011 (refer to map below). Development for the purpose of a seniors housing is permissible with consent.



Zoning Map

The relevant clauses that apply to the proposal are below.

Clause 4.3 – Height

A maximum height of 8.5m is required for developments in the R2 and R3 residential zones. The proposal does not comply with this standard. Refer to clause 4.6 below.

Clause 4.4 – Floor space ratio (FSR)

The maximum FSR in the R2 zone is 0.5:1 and in the R3 zone is 0.6:1. However, the SEPP allows an FSR of 1:1. The provisions of the SEPP prevail.

Clause 4.5 (6) and (9) – Calculation of FSR and site area

Clause 4.5(6) states that only those lots where 'significant development' is carried out are to be included in the site area for the proposed development. In the case of the proposal, it is considered that the proposed development on the Washington Street property does not comprise 'significant development' and as such should not be included as part of the calculation of the site area and therefore the FSR calculation. Refer to the assessment of FSR under the SEPP.

Clause 4.6 – Exceptions to development standards

The proposal does not comply with the following development standards:

Under the SEPP

Cl40 (4) (a) requiring a maximum building height of 8m,

Cl40 (4) (b) requiring a maximum of two (2) storeys,

Cl40 (4) (c) requiring a maximum height of one (1) storey for a building located within the rear 25% of the site.

Under RLEP2011

Cl4.3 (2) requiring a maximum building height of 8.5m.

The extent of the variation under cl40 (4) (a) has been determined as being between 8.735m to 10.59m at some points. The marginal variation is noticed on the Harrow Road frontage towards the southern side, whilst the more significant variation is within the centre of the site opposite the rear boundary of the lot at 2 Washington Street and at the point where the topography is very irregular.

In regard to cl40(4)(b) and (c), the proposal is up to 3 storeys high at some points, including what in this case can be considered as 'the rear of the site'.

Clause 4.6 of RLEP2011 allows exceptions to development standards. The objectives of this clause are *(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

In allowing a variation to a development standard under clause 4.6, the consent authority is required to consider a written request from the applicant justifying a variation to the standard by demonstrating:

(3)(a) that compliance with the development standard is unreasonable and unnecessary in the circumstances of the case, and

(3)(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

Furthermore, clause 4.6(4) requires that prior to granting consent, the consent authority is satisfied that:

(a)(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3);

(a)(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

This clause also requires the concurrence of the Director-General.

In accordance with clause 4.6, the applicant has submitted a written request justifying the variation to the development standard. In the justification, the applicant states:

The proposed design has made every attempt to minimise bulk and scale. Opposite the site in Harrow Road there are residential flat buildings. The proposed development provides a transition between the medium/higher density development to a lower scale and density.

The bulk and mass of the building is significantly setback from the street frontages. In Washington Street the streetscape is retained whilst in Connemarra and Harrow Road, the proposed development is of a similar bulk and scale to the adjoining and adjacent development.

The highest departure from the numerical control is screened from Washington Street by landscaping and the retention of the existing dwelling. The departure is largely due to the sloping topography of the land and to 'higher than average clearances in the basement carpark and storage areas to allow for adequate access for service vehicles and within individual rooms to provide greater amenity'.

'Whilst the proposal intensifies the use of the site, its impacts in terms of traffic and transport, noise and air quality, water, soils, natural hazards and social and economic impacts are akin to those experienced in any residential development. As such the proposal would have negligible impact on the residential character or amenity of the locality.'

In assessing the proposed variation, the following has been considered:

The objectives of the height controls as specified in the SEPP and RLEP 2011 as follows:

- 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 RLEP 2011).
- To encourage high quality urban form (from RLEP 2011).

Furthermore, the underlying objectives of the height control are considered to be:

- 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 relevant objectives of the R2 and R3 zones are:

- To provide for the housing needs of the community within the residential zone
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

The site offers significant constraints such as the steep topography, existing trees as well as the existing facility, which would determine to some extent the floor levels of the proposed addition. Around the perimeter of the proposal on the Harrow Road lots, the design of the building allows generous setbacks and building articulation. The proposal is predominately a two storey building, which is compatible with its surroundings.

It has been conveyed, previously in this report, that the increase in height within the centre of the site does not create significant visual impacts to surrounding properties. However the third storey element in the centre of the site and continuous roof form contributes to impacts on the landscape and streetscape when viewed from Washington Street. It is recommended as a deferred commencement condition, that a portion of this area be reduced to minimise these impacts. Whilst this does not make the development fully compliant with the numerical height requirements of the SEPP, it does make a difference to the relationship of the development in the streetscape and makes the development closer to compliance with the height control. The deferred commencement condition also allows better amenity for the residents.

The density parameters specified in the SEPP are greater than what it is permissible under council's LEP 2011, and in view of the physical constraints of the site, the proposal is considered to be consistent with the objectives of the height controls. As such the strict application of the numerical controls is considered to be unreasonable and unnecessary in this case and the proposed variation to the development standards is supported in this case.

Clause 5.9 – Preservation of Trees

As discussed, eight(8) existing trees will be retained. New trees will be planted as part of the landscaping of the site. The proposal is satisfactory having regard to this clause.

Clause 6.2 – Earthworks

The proposal involves extensive excavation to accommodate the basement car parking. The proposed excavation is setback from neighbouring properties a minimum of 4m. The impacts of the proposed excavation have been considered in the assessment of the application. The proposed management of stormwater is in accordance with Council's policies. Conditions of consent are recommended to ensure minimal impacts on surrounding properties as a result of the excavation, including measures to manage noise and vibration.

Clause 6.3 – Aircraft Noise

The site is located between the 20 and 25 ANEF (2029) noise contours. This clause requires the consent authority to consider the location of the development in relation to the criteria set out in Table 2.1 in AS 2021 – 2000. This criteria indicates that a condition of consent requiring compliance with the noise criteria set out in AS 2021 – 2000 is appropriate in this case. As such a condition of consent is proposed to ensure that the proposal complies with this clause.

Clause 6.7 – Stormwater

The proposal complies with Council's policies in regard to stormwater management and is subject to additional conditions of consent to ensure that the stormwater system is maintained in good working order.

Clause 6.12 – Essential Services

Essential services are available. Further consultation with utility providers is a requirement of the consent conditions.

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

There are no drafts Environmental Planning Instruments applying to this proposal/site.

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

Rockdale Development Control Plan 2011(DCP 2011)

The proposal has been assessed against the controls under DCP 2011 and associated documents being the Technical Specifications for Parking, Technical Specifications for Stormwater, Waste Minimisation and Management and Landscaping. There are no specific controls for this development type and the DCP relies on the density and other requirements of the SEPP. Issues such as site planning and streetscape have been considered under the SEPP and previously addressed in this report.

When applying the landscaping requirements of the DCP for low and medium density developments, the proposal is required to provide a minimum of 25% of the site area as landscaping. If excluding the Washington Street site, the total landscaped area is 2529.9sq.m., which represents 30.7% of the total site area (8239.6sq.m.). As such the proposal complies with this requirement.

The applicant has provided a waste management plan, stormwater plan and landscape plan in accordance with the requirements of DCP 2011. Subject to the imposition of additional conditions, the proposal is satisfactory in regard to compliance with DCP 2011.

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)(iiia))

The proposal is not subject to a Voluntary Planning Agreement (VPA).

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. The demolition of the dwellings in the Harrow Road lots has already been approved; however, the proposal still involves some alterations to the existing facility. In this regard a condition of consent is proposed to ensure compliance with the standard.

All other provisions of the Regulations have been considered in the assessment of this development proposal.

Impact of the Development (S.79C(1)(b))

Traffic and Parking

As previously stated, the proposal complies with the parking requirements of the SEPP. The application has been accompanied by a Traffic Report by McLaren Traffic Engineering. The report has been reviewed by Council's traffic consultants. Further information was requested to ensure that the geometry of the basement layout and the nominated ambulance bays complied with the relevant standards. SIDRA files were requested and reviewed. It was confirmed that the analysis of intersection performance was correct and the delay and queuing impact in Connemarra and Washington Streets as a result of the development are not critical. To address the single access ramp to the new basement, the applicant proposes a Stop/go Red-Green light facility to allow a right of way for vehicles exiting the parking area. This has been confirmed as acceptable and in compliance with AS2890.1-2004 by Council's consultants. Additional conditions of consent are proposed to ensure that the driveway profile complies with the relevant standards and Council's policies. Measures to ensure the

efficient use of the parking area and ambulance bay have also been included as conditions of consent. The proposal is considered to be satisfactory in regard to parking and traffic.

Streetscape, context and setting

The impacts of the development have been extensively addressed in this report under the assessment of the proposal against the planning policies and in response to the issues raised by residents. Approval of the proposal is recommended subject to a deferred commencement condition requiring a reduction to the GFA, which would further reduce the height of the building at the rear, improve the response of the building to its context and create better amenity in the central courtyard area. Subject to compliance with this condition, the proposal is not considered to result in unreasonable impacts to neighbours and the locality.

Construction works

The proposal is subject to strict development consent conditions to ensure minimal impacts of construction activities to the amenity of surrounding properties and the neighbourhood. A Construction Management Plan, a Traffic and Pedestrian Management and a Noise and Vibration Management Plan are required prior to the issue of a Construction Certificate.

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

The relevant matters pertaining to the suitability of the site for the proposed development have been considered in the assessment of the proposal. The site contains 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. However, the SEPP allows a higher density development than those allowed in the immediate surrounding context and the variations to development standards sought by the applicant are not considered unreasonable in the circumstances.

Additional conditions of consent are proposed to further minimise any impacts on neighbouring properties. There are no known major physical constraints, environmental impacts, natural hazards or exceptional circumstances that would hinder the suitability of the site 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. Eight (8) letters of objection have been received, including a letter from Connemarra, Harrow and Washington Street Resident's Action Group. The issues raised by the residents are listed below.

- The existing facility is already too large and dominates a residential area.

Comment: When modified, the proposal would comply with the density controls under the SEPP.

- The demolition of four federation houses in Harrow Road, particularly three of them which are in pristine condition should not be allowed and deserve an urgent preservation order.

Comment: These building have no heritage status. Their demolition has already been approved under DA-2012/237.

- The applicants for the previous development assured the residents that there would be no significant impact on traffic and parking in Connemarra Street given access to the site via the driveway in Washington Street. However this driveway's gates are permanently locked and staff, visitors and emergency vehicles use parking and access on Connemarra Street.

Comment: The proposal meets the parking provisions under the SEPP. Traffic impacts are not unreasonable. The applicant states that the Washington Street driveway is locked for safety reasons. Access to this driveway is via a swipe card or by intercom. A condition of consent is proposed requiring the applicant to provide a Plan of Management to Council prior to the issue of the Occupation Certificate, demonstrating that a system is in place to ensure that the on site car parking spaces are used by customers and staff.

- The proposed roof structure in Connemarra Street is of little apparent benefit to the few car park users and has a negative impact on the streetscape. The roof is too high and will bring the building line 2metres from the footpath. This will also create a 'dangerous precedent for later conversions or modification of this new structure, and for future developments along the Connemarra St. boundary.'

Comment: The height of the roof structure is significantly lower than the height of the adjacent property at 2A Connemarra Street. This height will allow access to the facility by emergency vehicles etc. Whilst a prominent element on the streetscape, this structure complements the character of the building and accentuates the entrance to the facility.

- The eastern end of the building is three storeys. Given the topography and the basement level, which extends well above the ground level, the building will look 'immense' particularly from the houses in Washington Street. The proposal is not appropriate in a low density residential zone.

Comment: This issue has been discussed in the report.

- The proposal involves the removal of the existing visitor parking area in Connemarra Street to provide access to an underground staff parking facility. 'This is dangerous' given the difficult entrance and the proposed long single-car-width driveway as incoming cars will be meeting outgoing cars and will be required to reverse and manoeuvre into the reverse carport area, possibly reversing into Connemarra Street.

Comment: The entrance to the basement will be provided with a stop/go Red-Green light facility to allow right of way to exiting vehicles. This complies with clause 3.2.2 of the relevant Australian Standard AS2890.1-2004 for flows along a single lane access corridor with less than 30 vehicles. A condition of consent is proposed to ensure that this measure is in place prior to the issue of the Occupation Certificate.

- It is not clear which trees are to be removed. 'We believe any retained trees existing in No. 2 Washington Street should not be included in this DA.'

Comment: A detailed assessment of existing trees have been provided in the Arboricultural Impact Assessment Report. As 2 Washington Street is part of the development site, the trees currently at this site have been included.

- The use of No. 2 Washington Street as a craft facility subject to a future DA 'reinforces the on going nature of this development'. There does not seem to be a connection with this site, 'except presumably to help meet the landscape and floor to space ratio.'

Comment: This report recommends to the JRPP that a deferred commencement condition be imposed requesting a reduction to the GFA by excluding the Washington Street site.

- The proposal would destroy an existing outdoor landscape area and decrease current open space. The DA does not meet the landscape requirements.

Comment: This issue has been addressed in this report. The proposal complies with Council's DCP requirements and is considered satisfactory in regard to landscaping subject to further amendments as stated in the deferred commencement condition.

- The garbage collection is causing amenity impacts to neighbours (hygienic given its location and noise). The garbage truck can not turn and has to reverse all the way out into

Washington Street. This issue was raised in the previous development and to date management of Huntingdon has not attempted to address this problem.

Comment: Conditions of consent are proposed to ensure that garbage collection will be conducted at specific times and smaller garbage trucks are used to ensure that enter and exit the site is in a forward direction.

- The secured area created for dementia patients under the previous approval is to be removed to allow 87 additional rooms. 'The design suggests that quantity not quality is what is being proposed.'

Comment: The proposal does not involve physical changes to the existing facility. It is stated that there will be 14 dementia beds within the facility.

- Based on the proposed increase to the number of beds, it is assumed that some existing two bedrooms might be converted into single bedrooms. However the DA does not identify any changes to the existing facility. The claim that there are no dementia beds is not consistent with previous approval. A new kitchen is proposed and the existing kitchen will be retained. It is likely that the old kitchen will be used for extra patient rooms. 'All up, we do not see how the claimed bed count is substantiated, and consider that the development might support considerably more beds.'

Comment: The proposal is for a total of 153 beds spread over 149 rooms. A condition of consent is proposed to ensure that the number of beds within the site is limited to 153.

- The proposal would more than double the number of available rooms. The proposal is changing the nature of the neighbourhood and is more akin to a hospital in size.

Comment: The proposed density is supported by the SEPP. The built form has been articulated particularly around the perimeter of the site to minimise the scale of the development. Conditions of consent are proposed to further minimise the scale of the development within the centre of the site.

- The proposal isolates a number of residences in Harrow Road and Washington Street. This will allow the future further expansion of Huntingdon.

Comment: The proposal does not result in physical isolation of adjacent sites as they will be able to be redeveloped for a permissible use. Future applications for additions to the nursing home will require development consent.

- Privacy impacts to adjacent properties in Harrow Road given excessive height.

Comment: Privacy impacts are anticipated from first floor windows fronting the courtyard of the adjacent development in Harrow Road. The applicant has provided diagrams showing the installation of louvers on those windows to minimise overlooking. Privacy impacts are not considered unreasonable.

- Overshadowing impacts.

Comment: This issue has been previously addressed in this report.

- The proposal does not comply with the height requirements of the SEPP.

Comment: This issue has been previously addressed in this report.

- RLEP 2000 does not permit buildings higher than 2 storeys.

Comment: This issue has been previously addressed in this report.

- Noise and amenity impacts during construction given the proximity of the building to the boundary and the necessary excavation of the existing rock. The excavation will damage surrounding buildings.

Comment: The applicant is required to ensure minimal impacts to neighbouring properties during construction. Conditions of consent are proposed requesting a dilapidation survey

prior to construction certificate as well as measures during construction to ensure minimal impacts to neighbours.

- It would be inequitable and unjust to approve the proposed development in contravention of planning controls when neighbours have been advised that the maximum building height in the area is two storeys and they must comply with same regulations and codes.

Comment: The proposed development is subject to a state policy, which facilitates the provision of housing for seniors. The development controls apply to any development of this type in the area as well as the possibility of varying the controls when in the circumstances of the case, the strict application of the standards is found to be unreasonable and unnecessary.

- Traffic and parking impacts in Washington Street.

Comment: The submitted traffic report has been assessed and the proposal is found to be satisfactory in regards to traffic.

- The proposed development is located within Bexley's 'Ocean View Estate' developed in the 1880s. To destroy the streetscape will significantly reduce the value of this heritage area in Rockdale city and the homes on 'Ocean View Estate'.

Comment: The area is not listed as a conservation area in Council or State policies nor has the heritage significance of the existing dwellings being identified in such policies.

- Traffic and parking impacts on Harrow Road.

Comment: The submitted traffic report has been assessed and the proposal is found to be satisfactory in regards to traffic.

- The proposal, 'being a slight variation on the previously denied proposal DA2011/446 and a first stage intention of major expansion, is a reflection of Huntingdon's obstinate disregard of current urban issues of residential aesthetic, heritage, privacy, noise level and vista.'

Comment: The proposal has been amended to address the reasons for refusal under DA-2011/446 and has been improved by a more articulated built form, increased setbacks, better response to the streetscape and reduced height.

- The proposal does not 'contribute to the quality of the area' as required by the SEPP. It looks like an institutional building and is an overdevelopment of the site.

Comment: As stated in this report, the proposal is generally compliant with the controls under the SEPP. However there are some non compliances. The non compliances are justified against the objectives of the controls. The proposal is found to be satisfactory for the site.

- The proposal detracts from the quality of the area by reducing the open space and removing 20 large fully grown trees.

Comment: The removal of the trees has been supported by Council's Tree Management Officer having regard to the Arboricultural Impact Assessment Report. Many of those trees will be replaced by new trees, including 22 semi-advanced trees to be planted as part of the landscaping of the site.

- The SEPP requires that the built form and siting relates to the site's land form. The proposal does not follow the current land form and relies in extensive excavation.

Comment: The topography of the site is very irregular. In this context, the majority of the excavation is proposed within the centre of the site at the rear of the Harrow Road lots to accommodate the basement carpark. Excavation is minimised in other areas by retaining the existing ground levels. This approach is not inconsistent with current construction trends and is not considered to create unreasonable impacts to surrounding properties.

- The proposal is not sympathetic to the streetscape and as such does not comply with clause 33 of the SEPP.

Comment: As previously discussed, the proposal complements the streetscape of the Harrow Road low density residential character. In Connemarra Street, the proposal does not involve major changes other than the proposed canopy at the main entrance. It has been stated that this structure is a light structure and complements the character of the building. The height of the proposed building at the rear is highly visible from Washington Street. A deferred commencement condition of consent is recommended to ensure that this height is reduced and the roof form is articulated to mitigate the predominance of the building. Subject to compliance with this condition, the proposal is satisfactory in regard to streetscape.

- The internal courtyard will be overshadowed. Its enclosure means that there won't be cooling breezes in summer. This will impact on the usability of the courtyard space.

Comment: The deferred commencement condition requires that the central courtyard area be increased to allow better solar access and improve the amenity of the area. There are opportunities for cross ventilation east-west through the building.

- It is not clear whether access is proposed in Harrow Road. If proposed this will create security and parking issues in Harrow Road.

Comment: A single pedestrian access point is proposed in Harrow Road. Given the security requirements of this type of development, it is anticipated that access through this frontage be very limited.

- The proposed excavation may impact on existing trees located on neighbouring properties.

Comment: Conditions of consent are proposed to ensure that trees located on surrounding properties are not affected by this proposal.

- The Traffic Impact Assessment does not address the fact that Washington St is barely a two way Street in proximity to the intersection with Harrow Road. It also fails to recognise the traffic generated by the Marist Brothers High School in Washington Street. The assumptions made in para 4.2 of the Statement underestimate the traffic turning left and right in Harrow Road. The percentage is more likely to be 50:50.

Comment: The submitted traffic report has been assessed and the proposal is found to be satisfactory in regards to traffic.

- The current arrangement for garbage collection is unsatisfactory. This issue will be exacerbated with the proposal as the number of beds will double. The extra garbage will also require more trucks entering the facility. The application does not address how the extra garbage will be handled.

Comment: The Waste Collection Methodology submitted by the applicant shows that general waste will be collected Mondays, Wednesdays and Fridays and clinical waste will be collected every 6 weeks. The recyclables are compacted by a machine owned by the nursing home and collected by the recycling truck as required. The applicant states that the garbage contractor has already been requested to use smaller vehicles to allow movements within the site in a forward direction. Furthermore the proposed garbage collection services will be limited to between 7am to 7pm Monday to Friday. Conditions of consent are proposed to ensure that waste is managed in accordance with these requirements. Subject to compliance with the conditions, the proposal is not considered to create unreasonable impacts on residents.

- Possible contamination as it would appear that the Goods lift will be used for the transport of both fresh food and garbage.

Comment: The facility is subject to health regulations, including the conditions imposed by Council's environmental health officer contained in the draft consent notice attached to this report.

- The existing ambulance bay is not easily accessible to the residents in the new complex and will not be sufficient to accommodate one ambulance and any other emergency vehicle required for a speedy evacuation to a hospital.

Comment: The applicant has demonstrated that the use of the existing Porte-cochere and on street designated ambulance bay are satisfactory in regards to swept paths and accessibility. It is also noted that the connection of the ambulance bays with the new addition is in compliance with the accessibility requirements of the BCA.

- There are 20 aged care facilities in the area (list provided). Additional facilities are not necessary.

Comment: The proposal is permissible by Council's policies and is supported by national and state policies, which recognise the increasing demand for this type of accommodation.

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 proposal involves a variation to development standards contained in the SEPP. However, those variations do not create unreasonable impacts to surrounding properties and are supported by cl 4.6 in RLEP 2011. The proposal provides additional housing for seniors and is supported by federal and state policies. The proposed use of existing services and infrastructure is also supported. As such it is considered that approval of the development application would 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 147 rooms. The proposal relies on three (3) objections to development standards in State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004. The non compliances are supported as the proposal is still consistent with the objectives of the standards. The variations are justified against the criteria in clause 4.6 of RLEP 2011. The proposal is considered to be in the public interest. As such, the application DA-2012/205 is recommended for approval subject to a deferred commencement consent.