

Joint Regional Planning Panel

(Sydney East Region)

JRPP Number:	2013SYE097 DA
DA Number:	DA-2013/164/B
Local Government Area:	ROCKDALE
Proposed Development:	Modification to Eddystone Aged Care Facility, being modifications to the floor to ceiling levels, an increase in the overall height of the building by 100mm, provision of one additional bed to 146 beds and one additional car space to 38 spaces, internal alterations and reduction in terrace areas.
Street Address:	1-7 Eddystone Road & 17 Rye Avenue & 104-110 Stoney Creek Road, BEXLEY
Applicant/Owner:	Martin Morris & Jones Pty Ltd
Number of Submissions:	0
Recommendation:	Approval
Report by:	Fiona Prodromou – Senior Development Assessment Planner

Precis

On 11 June 2013, the JRPP approved the construction of an aged care facility comprising 145 beds, basement parking with capacity for 37 vehicles and additional services within the basement including a therapy pool, staff facilities, laundry and kitchen. The proposal also included associated landscaping works, boundary fencing and consolidation of lots.

The proposal was approved with a variation to the number of storeys; with the basement in the north western corner of the building protruding between 1.06 metres and 1.5 metres above natural ground level. In accordance with the definition of storey in the SEPP, this part of the basement was considered a storey. Therefore the building in this area was a three (3) storey building.

The proposal was further approved with variation to the 1:1 applicable FSR, approval was given to a 1.026:1 FSR on site. This variation was agreed to given on site parking is higher than what it is required under the SEPP and subsequently this parking area (5 spaces) was considered gross floor area.

On 8 November 2013, a Section 96 application was submitted to Council, which sought to modify floor to ceiling levels with an increase in the overall height of the building by 100mm, provision of one additional bed increasing the total to 146 beds, one additional car space

increasing the total to 38 spaces, internal alterations, reduction in terrace areas, deletion of a therapy pool and deletion / modification of conditions of consent including condition numbers 15, 19, 30, 31, 32, 33, 106 and 108.

As a result of the current proposal to raise the basement, a further variation to the number of storeys on site will occur, in that a larger portion of the building will now become a three storey building. The basement wall along the western elevation is proposed to be raised up to a height of 2.1m. This wall is proposed to be provided with planters, however, still appears solid and visually obtrusive from Rye Ave given the low density residential streetscape. An additional condition of consent is recommended to be imposed requiring that planters be terraced and densely planted in order to soften the appearance of the raised basement wall from Rye Avenue.

The current proposal also seeks to marginally decrease side setbacks to Rye Avenue and Eddystone Road and Stoney Creek Road, this is proposed given the increased wall thickness of the development that is required in order to ensure structural stability and compliance with Section J of the Building Code of Australia. This results in an additional 17sq/m of FSR across the site. This additional FSR is supported and discussed within this report.

The proposal to add an additional bed to the facility results in a reduction of landscaped area per bed across the site of 30sq/m. This reduction is supported for the reasons outlined in this report.

The proposed modifications are generally consistent with the requirements of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (the SEPP) and Rockdale Local Environmental Plan (RLEP) 2011. The proposal also complies with the relevant requirements under Rockdale Development Control Plan (RDCP) 2011.

The proposal was publicly notified for a period of 2 weeks, from 15 November – 5 December 2013 in accordance with the requirements of Rockdale DCP 2011. No submissions were received.

The proposal has a Capital Investment Value greater than \$20 million (i.e. approx. 21 million) and as such the development application is subject to State Environmental Planning Policy (State and Regional Development) 2011. The development application is referred to the Joint Regional Planning Panel (JRPP) for determination. The recommendation is for approval.

Officer Recommendation

That voting on this matter be by way of a Division.

That the S96(2) application to modify development consent DA-2013/164/B at 1-7 Eddystone Road & 17 Rye Avenue & 104-110 Stoney Creek Road Bexley be APPROVED subject to the modifications below.

A. Modifications to Notice of Approval dated 11 June 2013 are as follows:

Amend the following conditions to read;

2. "The development must be implemented in accordance with the plans listed below, the application form and on any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions:

Plan Title	Plan No.	Revision	Date	Received
Architectural Plans by McNally Architects				
Site Plan	100	D	04/11/13	08/11/2013
Basement Floor Plan	101	H	04/11/13	08/11/2013
Ground Floor Plan	102	F	04/11/13	08/11/2013
First Floor Plan	103	F	04/11/13	08/11/2013
Roof Plan	104	E	05/11/13	08/11/2013
Finishes	108	B	18/04/13	19/04/2013
Elevations	201	D	05/11/13	08/11/2013
Sections	203	E	05/11/13	08/11/2013
Driveway Section	C204	A	31/10/13	08/11/2013
Driveway Design by McLaren Traffic Engineering				
Driveway Design	12171		05/11/13	08/11/2013
Landscape Plans by A Total Concept				
Private Open Space Plan	L/02	A	04/11/13	08/11/2013
Front Entry Plan	L/03	A	04/11/13	08/11/2013
Planting Plan	L/13	A	30/10/13	08/11/2013
Section A Private Open Space	L/07	B	20/12/13	23/12/2013
Section C & D	L/14		04/11/13	08/11/2013
Landscape Fencing Plan	L/08	A	04/11/13	08/11/2013
Fencing Type 1	L/09		04/12/12	11/12/2012
Fencing Type 2	L/10		04/12/12	11/12/2012
Fencing Type 3	L/11		04/12/12	11/12/2012
Landscape Details	L/12	A	05/11/13	08/11/2013
Stormwater Management plans by Erbas Building Services				
Title Sheet	SW00	P1	06/11/13	08/11/2013
Roof plan	SW01	P1	06/11/13	08/11/2013
First floor plan	SW02	P1	06/11/13	08/11/2013
Ground floor plan	SW03	P1	06/11/13	08/11/2013
Basement floor plan	SW04	P1	06/11/13	08/11/2013
Stormwater works plans by Forrest Engineering				
Basement Layout	C01	C	05/11/13	08/11/2013
Ground Floor layout	C02	D	05/11/13	08/11/2013
Environmental site management plan	C05	B	05/11/13	08/11/2013
Site management details sheet 1	C06	B	05/11/13	08/11/2013
Site management details sheet 2	C07	B	05/11/13	08/11/2013

10. The maximum number of beds within the facility is limited to 146.
11. The maximum number of rooms within the facility shall be limited to 112.
15. The existing and future owners (Registered Proprietor) of the property will be responsible for the operation and maintenance of the on-site detention tank and rain tank system. The Registered Proprietor will:
 - i) permit stormwater to be temporarily detained by the system;
 - ii) keep the system clean and free of silt, rubbish and debris;
 - iii) maintain, renew and repair the whole or parts of the system so that it functions in a safe and efficient manner; and in doing so complete the same within the time and in the manner specified in written notice issued by the Council;
 - iv) carry out the matters referred to in paragraphs (ii) and (iii) at the proprietor's expense;
 - v) not make alterations to the system or elements thereof without prior consent in writing of the Council.
 - vi) permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of emergency) to enter and inspect the land for compliance with the requirement of this clause;
 - vii) comply with the terms of any written notice issued by the Council in respect to the requirements of this clause within the time stated in the notice.
19. The use of mechanical plant including air conditioners, fans, compressors, condensers, freezers shall not cause sound pressure levels in excess of the criteria given in the NSW Industrial Noise Policy - 2000. Services shall not be located in proximity to the boundaries with adjacent residential properties. Details shall be submitted to the certifying authority prior to the issue of the construction certificate.
21. The following conditions are required to minimise privacy impacts to adjacent properties:
 - i. In addition to the planter boxes shown on the approved landscape plan listed in condition 2, privacy screens shall be installed along the northern side of the terrace adjacent to the lounge area at ground floor level. Details shall be submitted to the certifying authority prior to the issue of the construction certificate.
 - ii. Privacy screens shall be installed to the balconies of rooms R2.21 to R2.26. The privacy screens must prevent direct overlooking to the private open space of the adjacent property at 15 Rye Avenue by having a fixed or obscured element to a height of at least 1.5 metres from finished floor level. Details of the screens shall be provided to Council for approval prior to the issue of the Construction certificate. The screens shall be installed prior to the issue of the Final Occupation Certificate.
 - iii. Windows in rooms 2.55, 2.56 and 2.57 shall be treated by having a fixed obscured/opaque glass panel to a minimum height of 1.5m from finished floor level or any other fixed device to avoid direct overlooking to adjacent villa development. Details shall be submitted to the Council for approval prior to the issue of the Construction Certificate.
 - iv. Deleted.

- v. The terrace located at first floor level adjacent to rooms 2.20 and 2.21 shall not be enclosed or roofed except for the roof connecting the doors, without prior development consent.
52. Skylights shall be installed in corridors adjoining rooms 2.36-2.38, 2.30-2.35, 2.03-2.04 and to bathrooms, and solar collectors shall be installed on the roof as shown on the roof plan approved under condition 2 of this consent. Details shall be provided prior to the issue of the Construction Certificate.
108. The underground garage shall be flood proofed. The driveway crest level shall be a minimum of 300mm above the 1% Annual Exceedance Probability flood level (RL - 41.33m, (350mm above top kerb level)). All other side basement openings are to be minimum of 500 mm above the 1% Annual Exceedance Probability flood level. The levels shall be certified by a registered surveyor prior to construction of the driveway or other openings.
- B. Deletion of the following conditions;
30. The following conditions apply to the construction, operation and management of the proposed therapy pool:
The proposed therapy pool area shall comply with the requirements of the Swimming Pools Act 1992, Swimming Pools Regulation 1998 and relevant standards.
The proposed therapy pool shall be operated and maintained in accordance with the provisions of the Public Health Act 2010 and Public Health Regulation 2012.
The pool is for residents of the facility only and not for public use.
- C. Additional condition is as follows:
- 59A. A detailed Landscape Plan depicting stepped planters with dense planting adjoining the western elevated basement wall along Rye Avenue is to be submitted and approved by Council, prior to the issue of the Construction Certificate.

The reason for this additional condition is:

* To soften the visual impact of the protruding basement wall.

Report Background

11 June 2013

JRPP approved DA-2013/164 - Demolition of existing structures and construction of an aged care facility with basement parking for 37 vehicles, associated facilities, boundary fencing and lot consolidation.

8 November 2013

S96(2) submitted to Council. DA-2013/164/B - Modification to Eddystone Aged Care Facility, being modifications to the floor to ceiling levels, an increase in the overall height of the building by 100mm, provision of one additional bed to 146 beds and one additional car space to 38 spaces, internal alterations and reduction in terrace areas.

15 November - 5 December 2013

Public notification of proposal.

PROPOSAL

The proposal involves the following modifications;

Basement

- RL of basement increased from 39.50RL to 40.50RL.
- Ramp levels changed to accommodate raised basement.
- Garbage room relocated.
- Hot water plant room removed and replaced with maintenance room.
- Therapy pool deleted and replaced with multipurpose room / exercise room.
- Storeroom in northern corner made larger and entry relocated to allow for an additional car parking spot to be incorporated.

Ground

- RL of ground floor increased from 43.00 to 43.65RL.
- RL of northern ground floor terrace and courtyard adjoining lounge room increased from 42.97 to 43.610RL.
- Northern terrace reduced in length.
- Stairs / landing provided to Stoney Creek Road frontage adjacent to Room 1.08 and 1.16.
- Modifications to gradient of driveway.
- Setbacks along Rye Ave, Stoney Creek Road and Eddystone Road reduced.
- Internal reconfiguration / amendments i.e. addition of toilets
- Depth of balconies to rooms increased to from 1.8m to 2m.

First

- RL of first floor increased from 46.70RL to 46.90RL.
- Addition of 1 patient room in NE corner of site.
- Reduction in extent of north facing terrace.
- Internal reconfiguration / amendments i.e. addition of toilets.
- Combine 2 rooms in NW corner to 1 room with independent living area.
- Depth of balconies to rooms increased to from 1.8m to 2m.

Roof

- Parapet increased in height from 50.60RL to 51.150RL (550mm) to screen plant.
- Deletion of skylights to halls / bathrooms

The following conditions were also proposed to be deleted / modified.

Condition 2 - Amend plan table to included modified drawings.

Condition 10 - Number of beds to be increased to 146.

Condition 11 - Number of rooms to be decreased to 112.

Condition 15 - Delete as unnecessary.

Condition 19 - Delete as unnecessary.

Condition 21 - Delete part iv as unnecessary.

Condition 30 / 31 / 32 / 33 - Delete as unnecessary.

Condition 52 - Remove reference to skylights.

Condition 106 - Delete as unnecessary.

Condition 108 - Amend the requirement for basement flood proofing to 300mm.

EXISTING AND SURROUNDING DEVELOPMENT

The site is described as Lots 11 and 14, Section 6 DP 1878, Lot 2 DP 864823 and Lots 13 to 17 DP 5207. The site is known as 1-7 Eddystone Road, 17 Rye Avenue & 104-110 Stoney Creek Road Bexley. The total site area is 6,067.6sq.m.

The site is an irregular shape having three(3) street frontages to Stoney Creek Road, Eddystone Road and Rye Avenue Bexley. The frontage to Eddystone Road is 111.25 metres. The site has a frontage to Stoney Creek Road and Rye Avenue of 44.5 metres and 58 metres, respectively.

An existing nursing home occupies the lot known as 3 Eddystone Road, Bexley. All other lots were occupied by single dwelling houses which have since been demolished. The topography of the site is irregular, having a slope towards the northern boundary of approximately 2 metres.

Stoney Creek Road is a classified road. Opposite the site in Stoney Creek Road is Bexley Park, which is listed in RLEP 2011 as an item of heritage significance. The surrounding area is characterised by low density residential developments, except for the sites adjacent to the subject site in Eddystone Road and Rye Avenue, which are zoned R3 medium density residential.

The adjacent site at 11-15 Eddystone Road is a medium density development containing 11 villas. Rockdale Council's utility depot is located in proximity to the site at 10 Rye Avenue, Bexley.

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))

SECTION 96(2) - Modification of consents

Section 96(2) states:

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and

Comment: The proposal involves minor amendments and as modified remains substantially the same as the development for which consent was originally granted.

(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and

Comment: The proposal did not involve a Permit or approval from a government agency or public authority.

(c) it has notified the application in accordance with:

(i) the regulations, if the regulations so require, or

(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and

Comment: The proposal was publicly notified from 15 November – 5 December 2013 in accordance with Council's Development Control Plan 2011 and no submissions were received.

(d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.

Comment: N/A.

Section 96(3) states:

In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 79C (1) as are of relevance to the development the subject of the application. The relevant matters under S79C(1) as listed below.

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

Part 3 (Division 2) - Design Principles

Clause 33 – Neighbourhood Amenity and Streetscape

Comment: The proposed reduction to side and front setbacks along Rye Avenue, Eddystone Road and Stoney Creek Road are minimal and the development remains consistent with nearby surrounding developments whilst addressing its corner location.

As a result of the proposal to further raise the basement above natural ground level, the basement wall along the western elevation fronting Rye Avenue protrudes 0.9m – 2.1m above natural ground level. This wall is proposed to be provided with planters, however planters are raised (refer to figure 1) and the basement wall remains solid and visually obtrusive from Rye Ave given the fall of the site towards Rye Avenue where it is lowest, the raised ground floor level and existing low density residential streetscape.



Figure 1 – Perspective

In order to minimise the visual impact of the raised basement wall, an additional condition of consent is proposed to be imposed requiring that planters be stepped and densely planted in order to soften the appearance of the raised basement wall from Rye Avenue allowing the development to integrate well into the streetscape.

Clause 34 – Visual and Acoustic Privacy

Comment: As a consequence of the proposed raising of the floor levels on site as discussed above, the northern courtyard / terrace area on site has also been raised from 42.97RL to 43.610RL, in order to enable level access between indoor and outdoor areas on site. This common external area is therefore raised up to 1.6m above natural ground level.

In order to maintain privacy between this common area on site and northern neighbours, 1.8m high privacy screening surrounds the raised periphery of the communal area on site, which is setback 3m from adjoining neighbours. Dense landscaping is approved within this 3m setback to the northern boundaries. These measures are sufficient in achieving separation between neighbours in order to retain visual and acoustic privacy.

Condition 21(iv) of the original consent required the deletion of the first floor north facing terrace given its proximity to neighbours and potential for adverse privacy / acoustic impacts.

The proposal incorporates amendments to the first floor north facing terrace, which is reduced in extent and provided primarily setback into the overall building. The terrace has been provided with full height fixed privacy screening to a portion of the northern side and entirely to the western side. The proposed terrace does not protrude further than the adjoining approved balconies to rooms 2.36 - 2.38 and is setback 6.1m from the closest neighbour being 15 Rye Avenue.

The provision of the first floor terrace as proposed is deemed satisfactory and given the proposed privacy screening, adverse overlooking into the rear private open space of 15 Rye

is not anticipated. There are no adverse privacy impacts as a result of the proposed modifications.

Clause 36 – Stormwater

Comment: The stormwater design involves the removal of a pump system and retention of the previously approved on site detention system. The proposal complies with Council's DCP 2011 in regards to water management.

Clause 40 - Development Standards to be Complied with

CI 40(4)(a) Maximum of 2 storeys

As previously discussed, the proposal was approved with a variation to the number of storeys; with the basement in the north western corner of the building protruding between 1.06 metres and 1.5 metres above natural ground level. In accordance with the definition of storey in the SEPP, this part of the basement was considered a storey. Therefore the building in this area was a three (3) storey building.

As a result of the current proposal to raise the basement, a further variation to the number of storeys on site will occur, in that a larger portion of the western component of the building will now become a three storey building.

Notwithstanding the overall height of the development has only marginally increased by 0.1m to a maximum of 8m as defined in the SEPP.

The additional component of the development which technically becomes a three storey building is of negligible impact, given the overall marginal height increase of the development and lack of additional adverse impact in regards to overshadowing and visual privacy.

CI 40(4)(b) Maximum 8m building height

Building height is defined in the SEPP as 'the distance measured vertically from any point on the ceiling of the topmost floor of the building to the ground level immediately below that point'. The overall proposed ceiling height is RL 49.5. The lowest natural ground level is RL 41.5 (existing) on the corner next to the driveway. Based on these estimates, the building height is calculated as 8 metres maximum. As such, the building complies with the max height stipulated in the SEPP.

Clause 48 - Standards that can not be used to Refuse Development Consent

Clause 48(a) – Building height

A maximum building height of 8m is required. The proposal complies with this requirement.

Clause 48(b) – Density and Scale

The maximum floor space ratio (FSR) shall be 1:1. The development was approved with an FSR of 1.026:1 (6223sq/m GFA) as a result of the inclusion of five (5) additional car parking spaces (178sq/m) on site as gross floor area as only parking required to meet the requirements of the consent authority is to be excluded from the calculation of GFA as per the definition of GFA in RLEP 2011. When excluding these parking spaces, the development comprised an FSR of 0.99:1. (6045sq/m GFA)

The current proposal seeks to marginally decrease side setbacks to Rye Avenue and Eddystone Road and Stoney Creek Road, resulting in an overall minor increase of gross floor area across the site of 17sq/m. Modifications to the setbacks are proposed given the increased wall thickness of the development required in order to ensure structural stability and compliance with Section J of the Building Code of Australia.

The current proposal incorporating the additional 17sq/m of gross floor area results in an FSR of 1.028:1 (6240sq/m GFA) on site. The proposed additional 17sq/m of GFA on site is satisfactory given its minor nature and negligible impact.

Clause 48(c) – Landscaped area

Comment: A minimum of 25sq/m of landscaped area per bed is required under the provisions of this clause. The original development provided 2670sq.m. total landscaped area on site, which represented 18.41sq.m landscaped area per bed. A variation to the SEPP requirement was supported.

The amended proposal appears to delete 30sq/m of landscaped area on site from the north facing communal open space in order to accommodate a change to the building footprint at ground level and provide 1 additional bed within the facility. The proposal will reduce landscaped areas on site to a total of 2640sq/m, which equates to 18sq/m landscaped area per bed.

The proposed modification to the ground level northern communal open space is relatively minor. The size, location and amenity of the northern communal area will ensure a high level of amenity to future residents and minimal impact on neighbouring properties. A reduction of 30sq/m on site as proposed is unlikely to result in adverse amenity impacts to future residents on site.

Based on the above, the proposed variation to the minimum landscaped area requirement is supported.

Clause 48(d) – Parking for residents and visitors

Comment: The proposed development will comprise a maximum of 35 staff and 146 beds. In accordance with the requirements of the SEPP a minimum of 33 parking spaces and one (1) ambulance bay on site are required. The proposal provides 38 car parking spaces, an area for motorbike/pushbike parking and an ambulance bay at basement level. In addition, there is a drop off bay with access to an ambulance in Eddystone Road. As such the proposal complies with clause 48(d).

Local Environmental Plan (LEP)

Rockdale Local Environmental Plan 2011 (RLEP 2011)

The following are the relevant matters from Council's RLEP 2011.

The site is zoned R3 – Medium density residential under RLEP 2011. The proposal is permissible with development consent. The proposal is consistent with the objectives of the zone.

Clause 4.3 - Height of buildings

The maximum permitted height under this clause is 8.5 metres. In accordance with the RLEP definition, height is measured from the top most elements in the roof to the ground

level immediately below. Notwithstanding, the provisions of the SEPP prevail. Refer to assessment under the SEPP above.

Clause 4.4 – Floor Space Ratio (FSR)

A maximum FSR of 0.6:1 is permitted on the site under this clause. However, the FSR provisions of the SEPP prevail. Refer to assessment under the SEPP above.

Clause 5.10 – Heritage Conservation

The site is opposite Bexley Park, at 95 Stoney Creek Road, Bexley, identified in RLEP 2011 as an item of heritage significance (I159). Consideration of the heritage significance of the park was undertaken as part of the original assessment. The proposed modifications are unlikely given their nature and scale to adversely impact upon the heritage significance of the heritage listed park opposite the site. The proposal is satisfactory in regards to the heritage provisions of clause 5.10.

Clause 6.2 – Earthworks

The proposal involves a significant reduction in the amount of earthworks required on the subject site, given the proposed raising of the basement. Environmental impacts of the proposed excavation have been considered in the assessment of this application. Original conditions of consent were imposed to minimise impacts to the environment and neighbouring properties requiring the implementation of dilapidation surveys prior to demolition and construction and sediment controls measures during construction.

The proposal to further minimise excavation on site is satisfactory in regards to the objectives and requirements of this clause.

Clause 6.7 – Stormwater

The proposed modifications to the stormwater system have been approved by Council's development engineers and are consistent with the requirements of this clause and Council's DCP 2011.

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

Draft Rockdale Local Environmental Plan 2011 (Amendment No. 1) - Housekeeping was on public exhibition from 28 June 2012 until 27 July 2012. The proposal is consistent with the draft LEP.

There are no other Draft Environmental Planning Instruments applying to this proposal.

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

Development Control Plan 2011 (DCP 2011)

The proposal has been assessed against the objectives and 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 relating to streetscape, visual and acoustic privacy have been considered under the SEPP and previously addressed in this report.

The proposal as modified is deemed satisfactory with the relevant requirements and objectives of 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)(iia))

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

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

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

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

Visual / Acoustic Privacy

The matter of visual / acoustic privacy has been addressed previously within the report.

Overshadowing

The proposal does not create additional adverse overshadowing impacts and is supported in regards to achieving adequate solar access within the site and surrounding development.

Streetscape

As previously discussed, an additional condition of consent is proposed in order to soften the appearance of the basement wall protrusion along Rye Avenue. This condition will require the provision of stepped planters with dense planting to ensure the basement wall, once raised, will not be visually obtrusive from Rye Avenue.

Modification / Deletion of Conditions

Applicant: Condition 2 - Amend plan table to included modified drawings.

Comment: Condition 2 has been amended accordingly.

Applicant: Condition 10 - Number of beds to be increased to 146.

Comment: Condition 10 has been amended to reflect an increase in the number of beds on site.

Applicant: Condition 11 - Number of rooms to be decreased to 112.

Comment: Condition 11 has been amended to reflect a decrease in the number of patient rooms on site.

Applicant Condition 15 - Delete as unnecessary.

Comment: This condition has been modified to delete reference to the pump system on site as this is no longer relevant. The OSD component of the subject condition still applies to the development.

Applicant Condition 19 - Delete as unnecessary.

Comment: Condition 19 stipulates as follows;

19. The use of mechanical plant including air conditioners, fans, compressors, condensers, freezers, swimming pool or spa pumps shall not cause sound pressure levels in excess of the criteria given in the NSW Industrial Noise Policy - 2000. Services shall not be located in proximity to the boundaries with adjacent residential properties. Details shall be submitted to the certifying authority prior to the issue of the construction certificate.

The subject condition will be modified to delete reference to the "swimming pool or spa pumps", given the deletion of the therapy pool from the development. The condition is still however deemed relevant to apply to other mechanical plant on site and will remain as part of the conditions of consent.

Applicant Condition 21 - Delete part iv as unnecessary.

Comment: Amended plans depict a first floor terrace area primarily set into the building and provided with privacy screening to the northern and western sides. Accordingly condition 21(iv) may be deleted as it is no longer relevant given the amended design which is considered appropriate.

Applicant Conditions 30 / 31 / 32 / 33 / 106 - Delete as unnecessary given deletion of therapy pool.

Comment: Condition 30 related to the construction, operation and management of the approved therapy pool on site. Given the proposed deletion of the pool, condition 30 can now be deleted.

Conditions 31, 32, 33 and 106 are as follows;

31. The proposed Warm Water System shall be designed, installed and commissioned in accordance with the provisions of the Public Health Act 2010, Public Health Regulation 2012 and Australian Standard 3666.1 "Air Handling and Water Systems of Buildings - Microbial Control - Design, installation and commissioning".

32. Should a thermostatic mixing valve be installed in the premises, the following requirements shall be met:

i) The thermostatic mixing valves shall be set at a predetermined temperature of no lower than 37 °C and no higher than 43 °C. The "fail safe" mixing valves shall be installed.

ii) A copy of the commissioning report for the thermostatic mixing valve shall be submitted to Council with an additional copy kept on the premises. The thermostatic mixing valves are to be serviced annually by a suitably qualified and registered plumber who has completed a TAFE course in mixing valves.

iii) The thermostatic mixing valve shall be registered with Council as a warm water system, in accordance with the provisions of the NSW Public Health Act, 2010 and the Public Health Regulation 2012 for the control and prevention of Legionnaires Disease.

33. The proposed Warm Water System shall be operated and maintained in accordance with the provisions of the Public Health Act 2010, Public Health Regulation 2012, and Australian Standard 3666.2 "Air Handling and Water Systems of Buildings - Microbial Control - Operation and maintenance."

106. The occupier of the premises where the warm water system is installed shall notify particulars to Council in accordance with the provisions of the Public Health Act 2010 & Public Health Regulation 2012 prior to the issue of an Occupation Certificate.

The Public Health Act 2012 states that warm water systems are systems “*designed to heat and deliver water at a temperature of less than 60°C at each outlet point*”. As such, Part 30 of this Act requires the maintenance of such a system and Part 31 requires the notification following installation.

Conditions 31, 32, 33 and 106 do not relate specifically to the therapy pool proposed to be deleted, rather they relate to the requirement for the installation of a warm water system on site in accordance with the above, and should remain.

Applicant Condition 52 - Remove reference to skylights.

Comment: The subject condition requires the installation of skylights to bathrooms and hallways at first floor. This requirement arose as a result of a Design Review Panel recommendation.

The applicant seeks the removal of the skylights, as it is argued that the installation of skylights will impede the location of solar collectors on the roof, that bathrooms will be fitted with motion sensor lighting and that sufficient lighting is achieved to the first floor given sufficient window glazing throughout the building.

Consideration has been given to the above; it is acknowledged that solar collectors are likely to impede the location of skylights above corridors; however skylights can be relocated to certain corridor areas which are likely to receive limited solar access given their internalised locations, being corridor spaces adjoining rooms 2.36-2.38, 2.30-2.35, 2.03-2.04.

Notwithstanding the arguments provided by the applicant, it is considered that skylights could still be provided to ensuites at first floor level and would benefit future residents, by providing natural as opposed to artificial daylight.

In this regard, Condition 52 will be amended to require the provision of skylights adjoining the abovementioned rooms and to also require their installation to ensuites at first floor level.

Applicant Condition 108 - Amend the requirement for basement flood proofing to 300mm.

Comment: Councils Engineers have reviewed the subject condition and amended information. Condition 108 will be amended accordingly to reflect the amended proposal.

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. 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 development application has been notified in accordance with Council's Development Control Plan 2011. No submissions were received.

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. As demonstrated in the assessment of the development application, the proposal will allow for appropriate modifications to the stormwater system on site reducing reliance on pump systems, and minimising extensive excavation of the site. The proposal will delete and modify conditions where required to ensure the development can be enacted appropriately and also incorporates minor changes to ensure a more practical development, which ensures privacy to neighbours is retained.

The overall impact of the proposed modifications on the relationship of the approved development with surrounding properties is discernible. Issues such as visual and acoustic impacts and streetscape have been addressed. As such it is considered that the development application is in the public interest.

CONCLUSION

The proposed development has been considered under S96(2) and S79C(1) of the Environmental Planning and Assessment Act, 1979. The application involves a range of proposed modifications which have been discussed within this report.

The proposal as modified does not impact substantially on the relationship of the development with surrounding properties. It is reiterated that an additional condition of consent is proposed, to incorporate stepped planting along the Rye Avenue elevation in order to soften the appearance of the basement wall protrusion along Rye Avenue.

Overall impacts on adjoining properties and the future residents of the facility are not unreasonable. The proposal is consistent with the objectives of the controls under the SEPP, RLEP 2011 and DCP 2011. As such, the application DA-2013/164/B is recommended for approval.