

Report to Sydney West Joint Regional Planning Panel

JRPP No.	Item (2015SYW048)
DA No:	JRPP-15-482
Proposed Development:	Residential aged care facility (RACF)
Development Type:	'Regional Development' – Capital Investment Value > \$20 million
Lodgement Date:	6 March 2015
Land/Address:	Lots 10 & 11, Section 1, DP 5893 and Lot 121 DP 1047375, 12-16 Florence Street, Oakhurst
Applicable Land Zoning:	2(b) Residential pursuant to Blacktown Local Environmental Plan (BLEP) 1988
Capital Investment Value of Development:	\$22,077,959
Applicant:	Melaleuca Ventures Pty Ltd
Report Author:	Holly Palmer, Senior Project Planner
Instructing Officers:	Judith Portelli, Manager Development Assessment and Glennys James, Director Design and Development
Date Submitted to JRPP:	30 July 2015
Date Considered by JRPP:	19 August 2015



Source: Perspective plan prepared by Integrated Design Group

ASSESSMENT REPORT

CONTENTS

1	Executive summary.....	3
2	Location	3
3	Site description	4
4	Background	6
5	The proposal.....	6
6	Planning controls	8
7	Internal referrals.....	10
8	Council assessment.....	12
9	Public comment	19
10	Section 79C consideration	25
11	Concluding comments	25
12	Recommendation.....	25

FIGURES

Figure 1	Location context (Source: Six Maps, 2015)	4
Figure 2	Location plan (Source: Blacktown City Council, 2015)	4
Figure 3	Zoning plan (Source: Blacktown City Council, 2015)	6
Figure 4	Aerial photo of site and surrounds (Source: Six Maps, 2015)	6
Figure 5	Florence Street elevation demonstrating the proposed development with the access stairs in the foreground (Florence Street Context Plan, Ref 9304).....	14
Figure 6	3D view of the proposed development as viewed from outside of the adjoining Swim School at 8 Florence Street (which has a retaining wall and fencing along its boundary (Florence Street Context Plan, Ref 9304)	14
Figure 7	3D view of the proposed development as viewed from in front of the driveway to 18 & 20 Florence Street (which has a retaining wall and fencing along its boundary (Florence Street Context Plan, Ref 9304).....	15
Figure 8	Proposed plan of the rooftop indicating the 3 locations for plant and equipment (Plan Ref 0102)	24
Figure 9	Aerial view of the proposed development indicating the areas of the rooftop where the plant and equipment is proposed to be located.....	25

ATTACHMENTS

- Attachment 1 – Draft conditions of consent
- Attachment 2 – Assessment of the SEPP 1 variation to a development standard
- Attachment 3 – Amended development application plans and shadow diagrams
- Attachment 4 – Compliance table – Seniors Housing SEPP
- Attachment 5 – Compliance table – Blacktown Development Control Plan 2006
- Attachment 6 – Compliance table – Section 79C of the EP&A Act 1979
- Attachment 7 – Acoustic assessment
- Attachment 8 – Assessment of privacy measures
- Attachment 9 – Location of the objectors

1 Executive summary

- 1.1 Council is in receipt of a Development Application (DA) from Melaleuca Ventures Pty Ltd for the construction of a residential aged care facility (RACF) on the subject site. The development has a Capital Investment Value of \$22,077,959.
- 1.2 The RACF will be a two storey building containing 112 aged care beds. The proposal consists of basement car parking which is accessed from Florence Street and consists of 39 car parking spaces plus an ambulance bay. Access for private waste collection vehicles and large delivery vehicles is provided via Cassar Place at the rear.
- 1.3 The proposed development constitutes 'regional development' requiring referral to a Joint Regional Planning Panel (JRPP) for determination as the proposed development has a Capital Investment Value of more than \$20 million. While Council is responsible for the assessment of the DA, determination will be made by the Sydney West JRPP.
- 1.4 The site is currently zoned R2 Low Density Residential pursuant to BLEP 2015 (which commenced on 7 July 2015), in which the proposed 'Seniors housing' development is permissible with development consent. Subject to clause 1.8A 'savings provision relating to development applications' of BLEP 2015, as this DA was lodged before the commencement of BLEP 2015 and it was not determined before that commencement, the DA must be determined as if BLEP 2015 has not commenced. This DA is therefore being assessed under BLEP 1988, under which the site is zoned 2(b) Residential and 'housing for aged or disabled persons' is permissible with development consent.
- 1.5 The DA was notified to adjoining and nearby property owners and occupants between 21 April and 5 May 2015. In response to the public exhibition, one submission was received from the single owner of 7 of the adjoining medium density residential units.
- 1.6 The submission objects to the proposal and raises a number of issues, including alleged non-compliances in terms of permissibility, height, location of the garbage collection and noise/ventilation from air conditioning units and the basement carpark.
- 1.7 In response to this submission, the applicant has made some amendments to the submitted plans. We consider that, given that the revised proposal addresses the objector's concerns, together with additional conditions of consent, the issues raised within the submission do not warrant refusal of the DA.
- 1.8 We consider the proposal to be satisfactory when assessed against the relevant matters for consideration under Section 79C of the *Environmental Planning and Assessment Act* 1979. The location and characteristics of the site make the site suitable for this form of land use and built form. Further, given the community-based nature of the development, it is considered to be in the public interest. The DA satisfactorily addresses key issues, including built form, design, stormwater drainage, car parking, accessibility and social impact, subject to the imposition of suitable conditions of consent.
- 1.9 It is recommended that the Sydney West JRPP approve the DA subject to the imposition of suitable conditions of consent. Recommended conditions are provided at **Attachment 1** to this report.

2 Location

- 2.1 The subject site is located approximately 7 km north-west of the Blacktown CBD.
- 2.2 The subject site fronts Florence Street to the north and Cassar Place (being a cul-de-sac) to the south. The site is in the vicinity of Rooty Hill Road North and the M7 Motorway.

- 2.3 The subject site is serviced by regular bus routes within 400 m walking distance, which are located on Rooty Hill Road North. These bus routes provide services to the major centres of Blacktown, Mount Druitt and St Marys which provide retail, commercial, community and recreational uses for local residents.

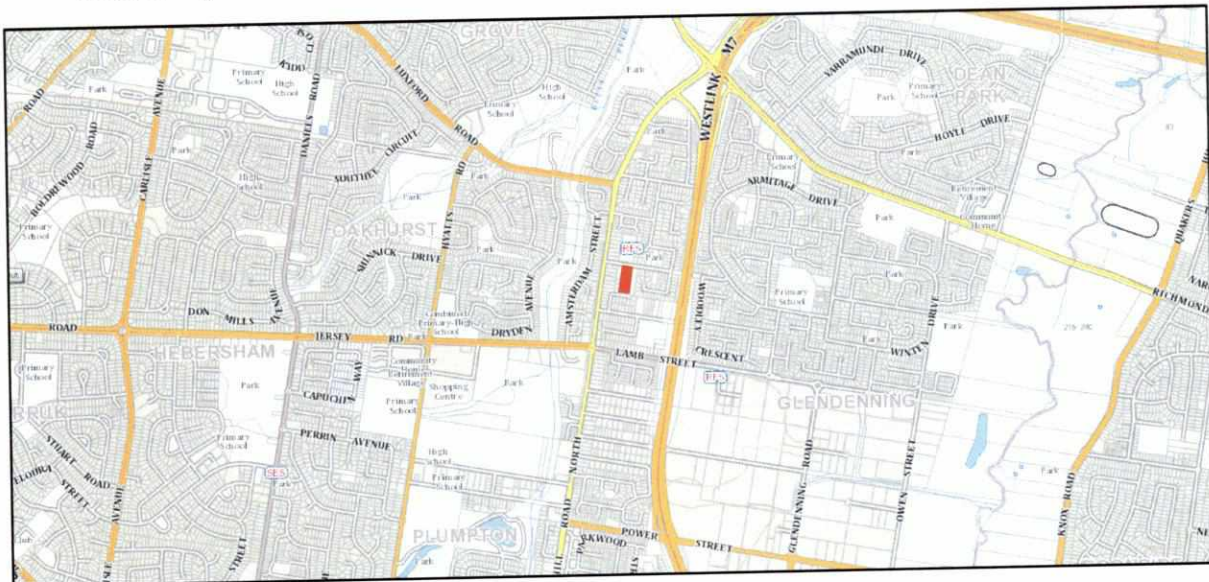


Figure 1. Location context (Source: Six Maps, 2015)

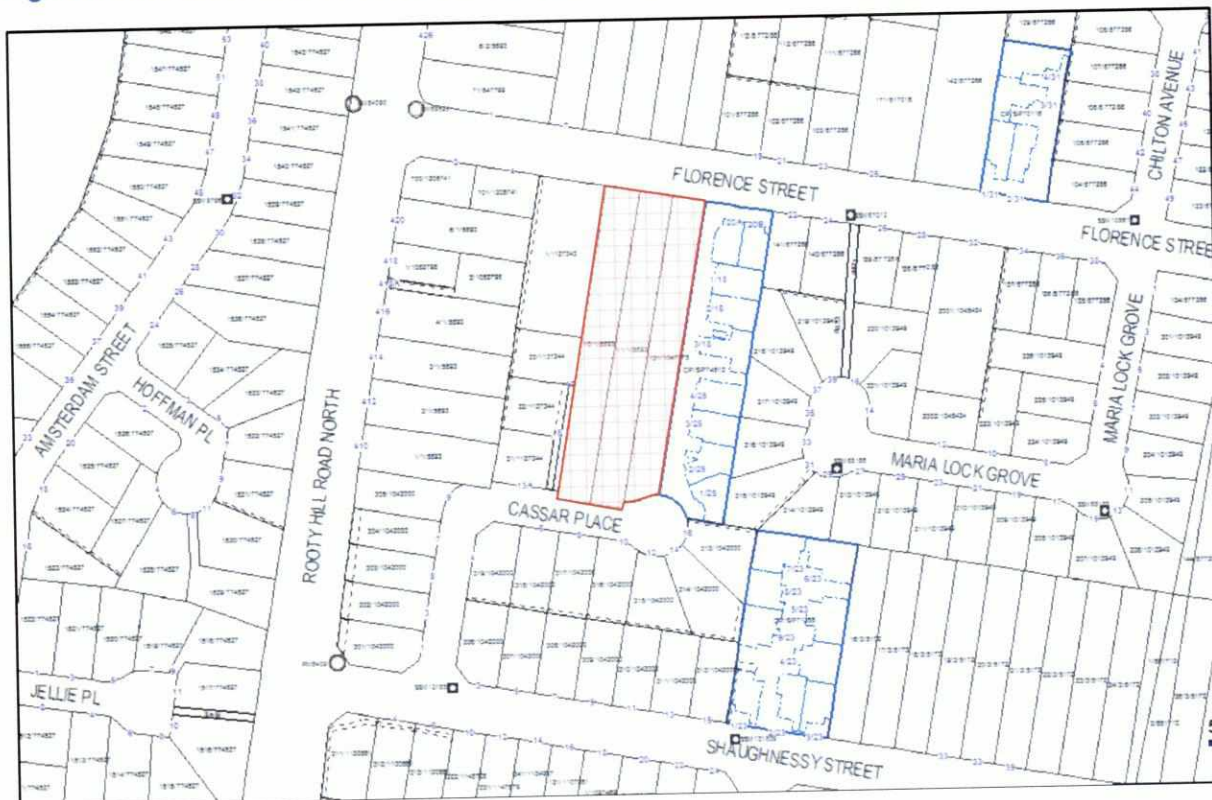


Figure 2. Location plan (Source: Blacktown City Council, 2015)

3 Site description

- 3.1 The site consists of 3 allotments which are legally described as Lots 10 and 11, Section 1, DP 5893 and Lot 121, DP 1047375, Florence Street, Oakhurst. The site is currently vacant with several existing trees and a gentle downwards slope to the northern boundary.

- 3.2 The total site area is 4,885 sqm. The site frontage to Florence Street to the north is 39.95 m. The site frontage to Cassar Place (being a cul-de-sac) to the south is 39.95 m. The length of the site along the eastern boundary is 116.6 m. The length of the site along the western boundary is 121.05 m.
- 3.3 The existing development adjacent to the site to the west consists of 3 x two storey dwellings, including shared vehicular access along their eastern boundary. There is also a two storey building and open carpark which operates as a swim school. The NSW Rural Fire Service (RFS) is located to the north of the site, across Florence Street. The existing development adjacent to the site to the east is a complex consisting of 9 dwellings, being a two storey duplex fronting Florence Street, a two storey duplex fronting Cassar Place to the south, and 5 single storey dwellings in the central portion of the site. These dwellings are accessed via shared driveways along their western boundary. The existing development to the south of the site consists of a mix of single and two storey dwellings accessed via the cul-de-sac, Cassar Place.
- 3.4 The site is currently zoned R2 Low Density Residential under BLEP 2015 (which commenced on 7 July 2015) in which the proposed 'Seniors housing' development is permissible with development consent. Subject to clause 1.8A 'Savings provision relating to development applications' within BLEP 2015, as this DA was lodged before the commencement of BLEP 2015 and had not been determined before the planning instrument's commencement, the DA must be determined as if BLEP 2015 had not commenced. Therefore, this DA is assessed under BLEP 1988, in which the site is zoned 2(b) Residential as shown in **Figure 3** below.

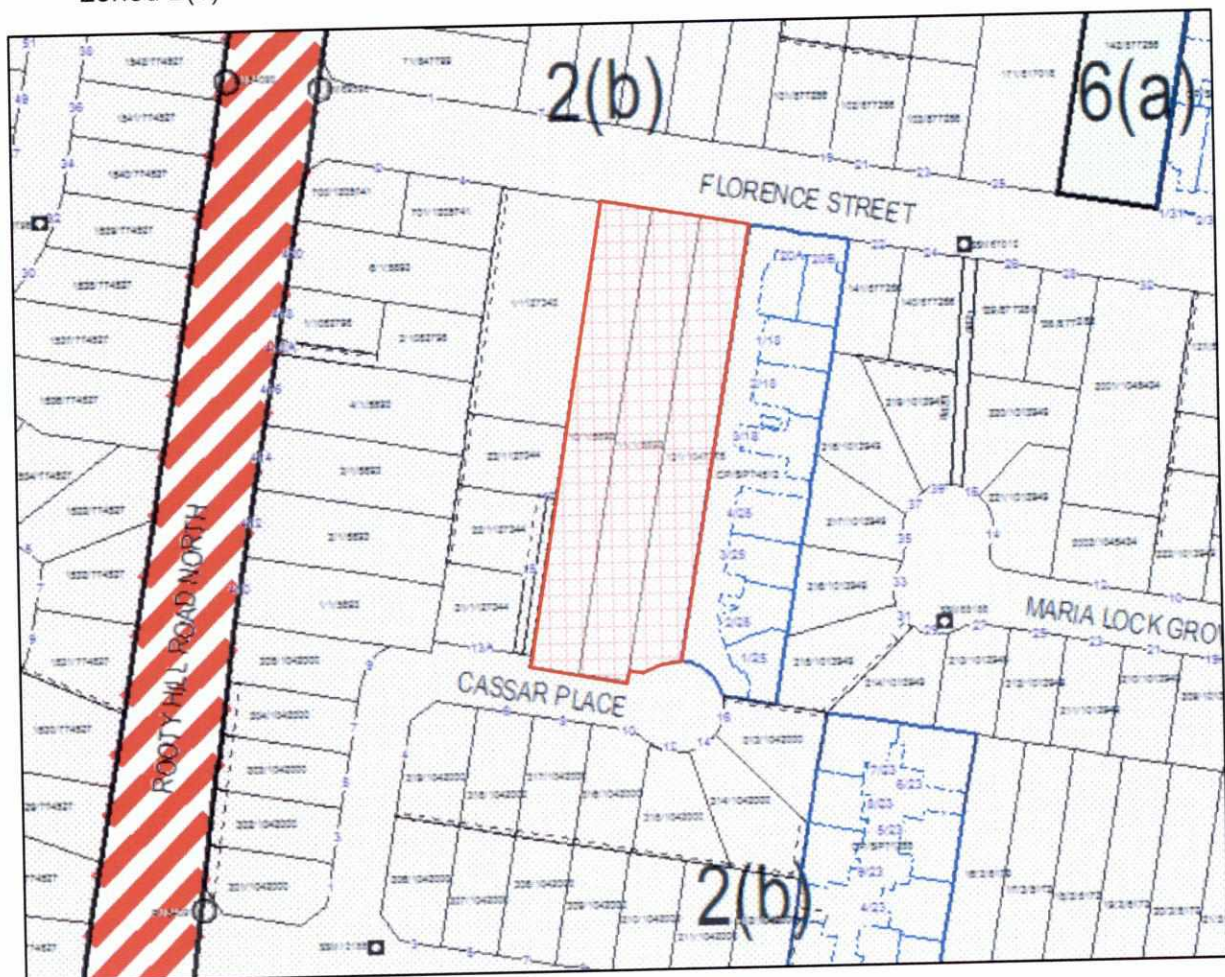


Figure 3. Zoning plan (Source: Blacktown City Council, 2015)



Figure 4. Aerial photo of site and surrounds (Source: Six Maps, 2015)

4 Background

- 4.1 The owner of the site purchased the 3 subject lots on 14 June 2014 at a public auction. Lot 10, Section 1, DP 5893 and Lot 121, DP 1047375 Florence Street, Oakhurst (being the eastern and western lots) were previously owned by Council. Lot 11, Section 1, DP 5893 Florence Street, Oakhurst (being the central lot) was previously privately owned.

5 The proposal

- 5.1 The proposal is for the construction of a 112 bed residential aged care facility (RACF) which will operate 24 hours a day, 7 days a week. The development has a total capital investment value of \$22,077,959.
- 5.2 The proposal seeks the removal of all of the trees which are centrally located within the site, being 31 trees. One tree which is located near the Florence Street boundary is to be retained. Four trees located within the Cassar Place setback are also to be retained.
- 5.3 The proposal is for the construction of a 2 storey building with a maximum building height of approximately 6.8 m to the ceiling of the development, and 9.6 m to the top of the roofline. The main entry point is accessed via Florence Street to the north of the site.
- 5.4 The proposed building follows the shape of the allotment, being a long building form with internal courtyards at the centre of the site. The building is setback:
- 7.5 m from the building line to the northern boundary (Florence Street). However there are retaining structures and access stairs (to the basement and ground levels) which encroach into the street setback up to 3 metres, and a low height signage wall setback 1.5 metres.
 - 8.3 m from the building line to the south boundary (Cassar Place).
 - 2.3 m along the eastern side boundary, with the exception of 2 structures which accommodate emergency access stairs from the basement to the ground and

first floor levels. The stairs located to the north have a side setback of 1.1 m. The stairs located to the south have a side setback of 1.7 m.

- 2.8 m along the western side boundary, with the exception of emergency access stairs from the basement to the ground and first floor levels with a setback of 2 m.
- 5.5 The proposal is for 112 high care beds, contained within a total of 88 rooms, each with an ensuite. Common facilities for the use of residents include the dining areas, communal lounges and sitting areas, activity areas, theatre lounge, hair salon, outdoor courtyard and garden areas, and outdoor covered terrace areas. Common facilities are also provided for the staff, including staff rooms, staff amenities and administration areas.
- 5.6 The proposal includes a basement carpark which is accessible from Florence Street. The basement parking level features a total of 39 parking spaces comprising:
- 24 staff spaces
 - 15 visitor spaces (including 2 visitor disabled spaces)
 - 1 ambulance bay.
- 5.7 The proposal includes a secondary vehicular access point via Cassar Place for the purpose of private waste collection and to receive deliveries. This area includes a waste storage area, and a manoeuvring area which provides a loading area for waste collection and deliveries which enables vehicles to enter and exit the site in a forward direction. Once received, deliveries are taken along the side access path to the goods lift. All deliveries / waste collection activities are to be restricted to between 7 am to 6 pm Monday to Saturday only, with no collection permitted on Sundays or public holidays.
- 5.8 The proposal includes the provision of landscaping throughout the site, including landscape screening within the side setbacks adjoining the eastern and western boundaries, which are shared with the existing adjoining residential properties and the swim school. The design of the building includes further screening measures to protect the amenity of neighbouring properties, including raised sill heights, planter boxes on the ground and first levels, translucent glazing and louvres.
- 5.9 Stormwater management measures include a rainwater tank located in the basement, drainage to the street at the northern boundary and stormwater quality treatment solutions.
- 5.10 The proposal includes the provision of a new electrical substation located at the south-western corner of the site to service the new development. The applicant has also committed to augmenting the water and sewage connections to the site to accommodate the proposed development.
- 5.11 Lots 10 and 11 currently extend to the kerb and gutter of Cassar Place along their southern boundary. The applicant will be required to dedicate a public footway to Council to match the alignment of the adjoining lots, being a depth of approximately 3 m. This will be included in the conditions of consent (**condition 10.7.3**).
- 5.12 The proposal seeks to retain the existing side boundary 1.8 m high colorbond fencing to both the eastern and part western boundaries. Two of the adjoining properties to the west (Nos. 13A and 15 Cassar Place) currently have metal mesh fencing along the shared boundary. The proposal includes the extension of the existing 1.8 m colorbond fencing along the western boundary to match the building alignment of 15 Cassar Place, being a length of approximately 8 m. Any windows or common rooms/areas which have an outlook across this side boundary are to have fixed privacy screening installed. Palisade fencing is also proposed to be erected along the remaining portion of the side

boundary and within the Cassar Place setback for security purposes. This fencing is to be 1.8 m in height and finished in a black colour. Refer to the 'Landscaping & Fence Diagram' provided at **Attachment 3** for further details.

- 5.13 The proposal includes 2 x emergency access staircases within the eastern side setback and 1 x emergency access staircase within the western setback. These stairs and landings feature fixed privacy screening and will only be for emergency access purposes only.
- 5.14 Business identification signage is proposed on the feature wall within the Florence Street front setback. The signage content is 'Oakhurst Gardens Aged Care' with the address and contact number.
- 5.15 The application is supported by a Traffic Impact Assessment prepared by McLaren Traffic Engineering. The report has undertaken an assessment of the traffic and parking implications of the proposed development. Using the Roads and Maritime Services Development Guidelines criteria for 'aged persons' housing of 0.1 to 0.2 vehicle trips per hour in the evening peak, it is identified that, based on 112 beds, the development is anticipated to have a peak traffic generation of 19 vehicle trips per hour (vtp). The report concludes that the proposal satisfies the SEPP requirements, the relevant Australian Standards and ambulance requirements, and that the surrounding road network can readily absorb the minor traffic flows of the site safely and efficiently.
- 5.16 The traffic report also identified that the development requires 29 parking spaces plus 1 ambulance bay to satisfy the requirements of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004. The proposal satisfies the parking requirements by providing a total of 39 parking spaces (including 2 accessible spaces) plus an ambulance bay, all of which are provided in the basement and are only accessible via Florence Street. The report identifies that the car parking provision will accommodate the shift changeovers and peak seasonal visitation. The extra parking provision will reduce the likelihood of on-street parking demand.
- 5.17 There will be a maximum of 33 staff on site at any one time. This consists of approximately 6 office staff between the hours of 9am to 5pm. The day shift (7 am to 3 pm) will consist of approximately 27 staff. The afternoon shift (3 pm to 10 pm) will consist of approximately 14 staff. The night shift (10 pm to 7 am) will consist of approximately 7 staff. It is expected that most visitors will attend the site in the evening when less staff occupy the basement.
- 5.18 The application is supported by an Acoustic Assessment, prepared by Renzo Tonin, which examined the conditions of the site and the potential noise impact from the proposed development. This report states that the operation of the development will be in accordance with the NSW Environment Protection Authority (EPA) noise criteria in its Industrial Noise Policy (INP), being a maximum noise emission of 46dB(A) during the day, 45dB(A) during the evening period and 40dB(A) during the night period. Detailed consideration of these noise levels is provided at Attachment 5. The Acoustic Report confirms that noise amelioration treatments will be incorporated in the design to ensure that noise levels comply with the recommended EPA INP noise emission criteria. The recommendations of this acoustic report will be included as conditions of the consent (**conditions 3.2.3 & 10.9.3**).
- 5.19 Refer to **Attachment 3** for amended development plans.

6 Planning controls

6.1 The planning controls that relate to the proposed development are:

- (a) **State Environmental Planning Policy (State and Regional Development) 2011**

State Environmental Planning Policy (State and Regional Development) 2011 confers 'Regional Development' as listed in Schedule 4A of the Environmental Planning and Assessment Act 1979 to the Joint Regional Planning Panel (JRPP) for determination. The proposed development constitutes 'Regional Development' requiring referral to a JRPP for determination as the proposed development has a capital investment value of more than \$20 million. As such, while Council is responsible for the assessment of the DA, determination will now be made by the Sydney West JRPP.

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

The proposed development has been assessed against the provisions of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (Seniors Housing SEPP) and is considered to satisfactorily achieve the aims of the policy. The application satisfies the site requirements for a seniors living development and achieves compliance with the design requirements, principles and development standards outlined in the Seniors Housing SEPP.

A compliance table of the proposal against the provisions of the Seniors Housing SEPP can be found in **Attachment 4**.

Pursuant to Clause 40(4)(c) of the Seniors Housing SEPP, a building located in the rear 25% area of the site must not exceed 1 storey in height.

Given that the proposal is for an entirely 2 storey development, the applicant seeks a SEPP 1 variation to this control on the basis this is a unique site that has no rear boundary but has 2 street frontages and so should not have to comply with this requirement. This is examined in (c) below.

(c) State Environmental Planning Policy No. 1 – Development Standards

In accordance with Planning Circular B1 issued on 17 March 1989 by the Department of Planning (known as the Department of Urban Affairs and Planning when the circular was released), an assessment of the applicant's SEPP 1 objection to Clause 40(4)(c) outlined above regarding the 1 storey height rule, applicable to the rear 25% of the site, has been carried out and is provided at **Attachment 2**.

In our assessment the applicant's SEPP 1 objection against the principle is reasonable and compliance with the standard is considered unnecessary in the circumstances. It is recommended that it be supported as there is no rear boundary in this unique situation.

(d) State Environmental Planning Policy No. 55 – Remediation of Land

State Environmental Planning Policy No. 55 relates to the remediation of contaminated land. This policy states that land must not be developed if it is unsuitable for a proposed use because it is contaminated. If land is considered to be unsuitable, remediation must take place before the land is developed. A Phase 1 Contamination, Salinity and Geotechnical Investigation prepared by GeoEnviro Consultancy Pty Ltd has been undertaken, which concluded that *"the likelihood of gross ground chemical contamination on the site is generally considered low, however the site was found to be impacted by surface bonded asbestos and asbestos impacted topsoil/fill."*

As a result, site remediation was carried out to clean up the surface bonded asbestos scattered across the various locations within the site. The site remediation works are reviewed in the Remediation and Validation Report which was prepared by environmental consultants GeoEnviro Consultancy Pty Ltd.

GeoEnviro has certified that it is satisfied that the site has been adequately remediated of bonded asbestos and asbestos impacted topsoil/fill and therefore the site is suitable for the proposed aged care facility.

However, it acknowledges that bonded asbestos may still exist and, if bonded asbestos is encountered during site preparation for the proposed development, all works should cease and the Unexpected Asbestos Finds protocol provided by the consultant is to be implemented.

A **condition** of consent will be included requiring the Unexpected Asbestos Finds protocol to be implemented if any bonded asbestos is found on the site during works (**condition 8.4**). Therefore, the site is considered satisfactory with respect to site contamination subject to compliance with this protocol.

(e) State Environmental Planning Policy No. 64 - Signage and Advertising

The proposal includes one business identification sign which is proposed on the low feature wall within the Florence Street front setback. The signage content is 'Oakhurst Gardens Aged Care' and the address and contact number (as shown on the Elevation Plan Ref 2000). The signage will not be illuminated. No signage is proposed to Cassar Place.

The proposed signage has been considered with regard to Part 2 'signage generally' and the assessment criteria of Schedule 1 of the SEPP. The proposed signage clearly communicates the use of the development, is in keeping with the desired amenity and visual character of the proposed use, and is supported.

(f) Blacktown Local Environmental Plan (BLEP) 2015

BLEP 2015 was published on 26 May 2015 and commenced on 7 July 2015. The site is zoned R2 Low Density Residential pursuant to BLEP 2015 and 'seniors housing' is permissible with development consent.

Clause 1.8A Comment re savings provisions states that *"if a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had been exhibited but had not commenced."*

As the DA was lodged prior to the commencement of BLEP 2015, this assessment is made in accordance with the controls applicable at the date of lodgement, being Blacktown Local Environmental Plan 1988.

(g) Blacktown Local Environmental Plan 1988

The land was zoned 2(b) Residential pursuant to Blacktown Local Environmental Plan 1988 (BLEP 1988). The proposed use is defined in BLEP 1988 as 'housing for aged or disabled persons'. Under BLEP 1988 'housing for aged or disabled persons' has the same meaning as in *State Environmental Planning Policy No. 5 - Housing for Aged or Disabled Persons*. Within the 2(b) zone, 'housing for aged or disabled persons' is permissible with consent.

7 Internal referrals

7.1 The application was referred to the following internal sections of Council as summarised in the table below:

Section	Comments
Engineering	No objections subject to the imposition of appropriate conditions of consent (conditions 2.6, 5, 9 & 10.7).
Building	No objections subject to the imposition of appropriate conditions of consent (conditions 4, 7 & 10).
Traffic Management Services (TMS)	No objection is raised to the proposal.
Environmental Health Unit	Council's Environmental Health Unit (EHU) has reviewed the proposal and the following comments were provided: Noise The EHU has reviewed the Acoustic Assessment prepared by Renzo Tonin which examined the conditions of the site and the potential noise impact from the proposed development, which is discussed in detail at Attachment 5. The Acoustic Report confirms that noise amelioration treatments will be incorporated in the design to ensure that noise levels comply with the recommended EPA INP noise emission criteria. The EHU is satisfied that the development is capable of satisfying the EPA INP noise emission criteria during the day, evening and night periods (including the relevant sleep disturbance criteria) with regard to the occupants within the facility, as well as neighbouring properties. To ensure this is achieved, EHU has requested an Acoustic Statement be submitted at detailed design stage confirming that all plant and equipment will meet the criteria outlined within the EPA INP (condition 3.2.3). Recommendations for internal window glazing should be implemented. A condition of consent will be imposed requiring appropriate noise attenuation measures to be confirmed and detailed on the Construction Certificate plans prior to any work being undertaken (condition 3.2.3). A condition of consent will also be imposed requiring noise emission testing to be undertaken prior to the issue of any Occupation Certificate, to ensure that the implemented noise attenuation measures satisfy the EPA INP noise emission criteria (condition 10.10.3). Land contamination Subsequent to the Phase 1 report, a further remediation and validation report was prepared by Geo Enviro Consultancy Pty Ltd as detailed above. Should bonded asbestos be encountered during site preparation for the proposed development, all work should cease and the Unexpected Asbestos Finds protocol needs to be implemented (condition 8.4).
Waste Services	The site is to be serviced by a private waste contractor via the dedicated waste storage and collection facilities accessed via Cassar Place. Council's Waste Section raised no objection to the proposal subject to conditions of consent in relation to the management of waste collection including restricting the time periods for waste collection to during the daytime only (condition 11.1.3).
Biodiversity	Council's Biodiversity Officer supports the proposal, subject to amended landscape plans to be submitted which include the use of indigenous species grown from local seed to provide a link to the remnant vegetation community of the locality and subject site. These local species are adapted to the local climate and soil conditions and provide natural resources for local wildlife while performing an 'accent' function within the planting plan (condition 3.3).
Trees and Landscaping	With regard to the selection of trees and landscaping within the site (eastern and western) setbacks of the development, Council's Open Space Policy and Tree Management Coordinator was asked to comment on their suitability and impact on the neighbouring properties, especially in response to the objector's

Section	Comments
	concerns. It was confirmed that the selected trees are suitable in this location. However, in light of the requirement of the Biodiversity Officer above, these species can be altered to provide indigenous species. Therefore, a condition will be imposed requiring suitable plants to be provided which address the requirements of Council's Biodiversity Officer, as well as the objector's concerns. The landscaping is also to be maintained and pruned to ensure that the amenity of the neighbouring properties is protected. (condition 11.2).

8 Council assessment

8.1 An assessment of the key issues relating to the proposed development is presented below:

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

The proposal complies with the provisions of the SEPP, and this is considered in the checklist at **Attachment 4**.

(b) **Blacktown Local Environmental Plan 1998**

The proposal is considered with regard to BLEP 1988 in Section 6 above.

(c) **Blacktown Development Control Plan 2006**

The provisions of Blacktown Development Control Plan 2006 (BDCP), including Part C, Section 8 – Housing for Aged or Disabled Persons and Part O – Site Waste Management and Minimisation, are relevant to the proposal. The table at **Attachment 5** outlines that the application is compliant with the relevant provisions of BDCP, with the exception of height. BDCP proposes a one storey height limit depending on the level of disability involved. As the development provides lift access to the second level, there is no objection to the 2 storey development. Further, SEPP Seniors Housing allows 2 storey development, being the dominant instrument.

(d) **Context and scale**

The existing character of the immediate locality is a mix of non-residential and residential uses.

The desired future character of this locality is directed by the planning controls applying under the provisions of BLEP 1988 and the DCP. The proposal is designed in accordance with SEPP Seniors Housing and also considers Council's requirements.

The development's design, bulk and scale, setbacks and height are compatible with the existing and desired future character of the immediate locality, and therefore favourably contributes to the quality and identity of the Oakhurst area. The site's proximity to services, facilities and public transport makes the site suitable for the proposal.

The proposal satisfies the development controls which are relevant to this development pursuant to SEPP Seniors Housing, being a 2 storey development which does not exceed 8 m to the roofline. Although the applicant seeks a variation to Clause 40(4)(a) with regard to 25% of the rear of the site to be limited to single storey, this variation is addressed in detail in **Attachment 2**, and the variation is

There is also a minor shortfall with regard to landscaping, but this is a variation of 32 sqm or 1.1% which is very minor. Overall, the proposal is that which is anticipated by SEPP Seniors Housing, and is representative of a suitable scale when considered in light of the context of the immediate locality, which is predominantly 2 storeys.

The proposed front building setback to Florence Street (the northern boundary) is 7.5 m to the building line. However, there are retaining structures and access stairs (to the basement and ground levels) which encroach into the street setback by up to 3 metres, and a low height signage wall set back 1.5 metres as shown in **Figures 5, 6 and 7** below:





Figure 6: 3D view of the proposed development as viewed from outside of the adjoining Swim School at 8 Florence Street (which has a retaining wall and fencing along its boundary (Florence Street Context Plan, Ref 9304)



Figure 7: 3D view of the proposed development as viewed from in front of the driveway to 18 & 20 Florence Street (which has a retaining wall and fencing along its boundary (Florence Street Context Plan, Ref 9304)

The presentation of the proposed development as viewed from Florence Street compliments the overall streetscape, and provides a visual gradation from the public domain to the proposed 2 storey development. The proposal creates an aesthetically pleasing presentation by integrating the built form with a mix of colours and finishes, water features, landscaping and low lying wall features, and is therefore satisfactory.

(f) Setbacks – to the side boundary

The Seniors Housing SEPP does not stipulate a minimum side setback requirement. The development of the site for a standard 2 storey dwelling permits a minimum side setback of 900 mm. However, in response to the objector's concerns, the applicant revised the layout of the southern emergency stairs located within the eastern setback, from a nil setback to 1.7 m. The revised side setbacks have been increased as follows:

- 2.3 m along the eastern side boundary, with the exception of 2 structures which accommodate emergency access stairs from the basement to the ground and first floor levels. The emergency stairs located to the north have a side setback of 1.1 m for a length of 8.4 m. The emergency stairs located to the south have a side setback of 1.7 m for a length of 6.3 m.
- 2.8 m along the western side boundary, with the exception of emergency access stairs from the basement to the ground and first floor levels with a setback of 2 m for a length of 4.8 m.
- All other openings to the development have a setback of at least 3 m.
- The applicant has included measures to ameliorate the physical impact of the stairs, including screening them from view using landscaping and fixed vertical batons. The applicant has also confirmed that these stairs will be used for emergency egress only.
- The revisions made to increase the setback to the stairways and the screening measures are considered to satisfy the concern raised in the objection with regard to providing sufficient setbacks to the boundary, especially as these stairs will be rarely used.
- We are satisfied that the proposed setbacks are acceptable subject to conditions regarding screening, fencing, emergency use of stairways and limiting the use of balconies (**conditions 10.12.3 & 11.1.6**).

(g) Visual privacy

The applicant has submitted several plans and diagrams that demonstrate that, for all common areas and windows of the development, there are suitable privacy measures to ensure that the visual privacy of the neighbouring properties is maintained. It is noted that the adjoining units have their driveways along the common side boundary with this proposal, and so there is an existing building separation of 5m from the boundary which will assist with maximising visual privacy.

The proposal will also protect the visual privacy of neighbouring residents, as well as future residents and staff of the facility, through the provision of landscape screening and fixed timber battens / louvres which control the visual outlook from both a sitting and standing position within the facility. Refer to the table of screening measures at **Attachment 6**.

Overall, the proposal ensures that there is limited opportunity to 'look into' the neighbouring dwellings, as well as their private and common open space areas. A condition of consent is to be imposed requiring these privacy measures to be in place prior to the issue of any Occupation Certificate (**condition 10.12.3**).

(h) **Acoustic privacy**

The potential acoustic impacts from plant and equipment are addressed above and in **Attachment 7**.

In response to the concern raised in the objection, the applicant has demonstrated that the waste collection area will be appropriately managed to mitigate potential acoustic impacts during waste collection and delivery activities, which will occur at the southern end of the site via Cassar Place. This has been achieved by relocating the waste collection area to within an enclosed room, increasing the distance to the side boundary to 1 m and increasing landscape screening. Also, waste collection times will be limited to daytime hours between 7 am to 6 pm Monday to Saturday only, with no waste collection permitted on Sundays or public holidays. This will be conditioned in the consent (**condition 11.1.3**).

The applicant has demonstrated that this facility will be professionally managed and has been designed in a manner which is sensitive to the surrounding commercial and residential properties. To deter potential noise impacts from the general use of the stairways, loitering, smoking, etc., a condition of consent is recommended to be imposed to ensure that the use of the common areas near residential boundaries, and in particular the balconies and stairs, is appropriately managed (**conditions 11.1.6 & 12.3.6**).

(i) **Landscaping**

The applicant has submitted a detailed landscape plan which demonstrates the intention to extensively embellish the development when completed, by providing ground covers, shrubs and trees to complement the proposed built form. A condition will be imposed on the consent requiring the landscaping to be completed prior to the issue of any Occupation Certificate, and which includes species which are suited to this site and do not adversely affect the amenity of the neighbouring properties (**condition 3.3 & 11.2**).

Clause 48(c) of the Seniors Housing SEPP requires a minimum of 25 sqm of landscaped area per residential care facility bed. The landscape plans submitted to Council provide 2,768 sqm as landscaping. The required landscaped area is 2,800 sqm (112 x 25 sqm) and the provision on-site is 32 sqm under the required area (1.1%).

As detailed in **Attachment 4**, the proposed landscaping shortfall does not adversely affect the presentation of the development, which provides a visually aesthetic mix of building and landscaping materials. The proposed minor variation is supported.

With regard to the selection of trees and landscaping within the side (eastern and western) setbacks of the development, Council's Open Space Policy and Tree Management Coordinator was asked to comment on their suitability and impact on the neighbouring properties. Refer to further discussion in Section 7 above.

(j) **Solar access**

Detailed consideration of the impact of overshadowing generated by the proposed development is provided at **Attachment 4**.

The layout of the development ensures that the residential rooms, communal areas and internal courtyard / terrace areas all benefit from solar access. The development also provides measures to control the extent of sunlight to the rooms where required.

The extent of overshadowing generated by this proposal is considered to be acceptable, and maintains a suitable level of solar access to the neighbouring dwelling and their courtyards.

(k) Accessibility

A BCA / Accessibility Compliance Statement prepared by Blackett Maguire + Goldsmith was submitted to Council with the DA. This report provides a review of the proposed development's capability to achieve the spatial requirements to provide access for people with a disability. The report has undertaken a review against the access requirements of the relevant Australian Standards and the provisions of the BCA. The report concludes that the proposal can achieve compliance with the relevant access provisions. Further, a condition will be imposed on the consent requiring compliance with the relevant access provisions in accordance with the recommendations of this statement prior to the issue of a Construction Certificate (**condition 4.1.2**).

(l) Parking

The proposal satisfies the parking requirements of SEPP Seniors Housing. Refer to the detailed discussion provided at **Attachment 4**.

(m) Contamination

Section 7.1 above provides details of the assessment undertaken by Council's Environmental Health Officer. Conditions of consent are recommended to ensure that the site is suitable for the proposed use (**condition 8.4**).

(n) Salinity and soil aggressivity

The Phase 1 Investigation dated October 2014 considers potential salinity and soil aggressivity issues on the site. This report contains several recommendations with regard to activities in relation to excavation, regular inspections during works, method of trenching for underground services, testing of imported fill and compliance with the relevant Australian Standards. As such, a condition has been included requiring the recommendations of the Phase 1 Salinity / Soil Investigation to be implemented (**condition 8.3**).

(o) Cut and fill and the retaining works

The site has a gentle slope, and the proposal provides levels which suitably relate to the existing ground level at the boundaries. The proposed plans demonstrate that any changes in levels are comfortably catered for by the landscaping within the setback areas. A condition of consent will ensure that any retaining walls along the side boundaries do not abut existing boundary fencing, so as to avoid creating any privacy issues to neighbours (**condition 10.5.1**).

(p) Bushfire

The subject site has not been identified as bushfire prone land or as buffer to bushfire prone land. There are therefore no Asset Protection Zone or construction standard requirements for the proposed development.

(q) Fencing

The proposed boundary fencing is detailed in Section 5 above. All fencing, along with any privacy screening, is required to be erected prior to the issue of any Occupation Certificate at full cost to the applicant (**conditions 10.5.2 & 10.12**).

(r) External building materials and colours

Proposed external materials and finishes are consistent with the scale and character of development in the locality. The materials of the building include face brickwork in natural / neutral tones, 'timber-like' pre-coated metal cladding, colorbond roof sheeting, fascias and gutters in a red colour, and aluminium window frames and balustrades in a grey colour. Timber batten privacy screening is also provided throughout, along windows, balconies and external staircases.

The proposed external building materials and colours are of a high quality and will enhance the streetscape in line with the non-residential and residential developments in the immediate vicinity.

A condition will be included within the consent requiring that the building is to be constructed in accordance with the materials plan submitted as part of the DA (**condition 2.1.1**).

(s) Developer contributions

The subject site falls within Section 94 Contributions Plans (CP) No.1 and No. 2. Contributions are required for trunk drainage \$25,095, major roads \$13,262 and the Plumpton overbridge \$2,122. These contributions are calculated on a total developable area of 0.4485 ha.

As the site fronts Florence Street, which is a local road under CP1, a contribution is required for this road to the value of \$35,551. This is calculated at \$890 per lineal metre of frontage, being 39.945 m. This contribution is payment for works already done by Council. All contributions must be paid prior to the issue of any Construction Certificate. These contributions are to be updated to the current CPI at the time of payment (**condition 3.6**).

The applicant is also required to construct a footpath along the Cassar Place frontage and dedicate this area free of cost to Council, out of existing Lots 10 and 11 in DP 5893, to align with the adjoining property boundaries prior to the issue of any Occupation Certificate (**conditions 5.6.2 & 10.7.3**).

(t) Impacts during construction

Conditions of consent will be imposed to mitigate the potential impacts of construction works on the amenity of surrounding properties, including limiting construction hours in accordance with the EPA guidelines to between 7 am to 6 pm Monday to Friday and 8 am to 1 pm on Saturday, with no work on Sundays or public holidays (**conditions 7, 8 & 9**).

(u) Social and economic impact

It is considered that the proposed residential aged care development will compliment the locality. The proposal is not expected to have any adverse social or economic impacts. The development will also provide essential community services which will have a benefit to the locality.

(v) ESD and cumulative impact

The development satisfactorily responds to the principles of Ecologically Sustainable Development. The proposal is not expected to have any cumulative negative impacts and the proposal will not inhibit the development of surrounding properties.

(w) BCA compliance

The proposed development is required to comply with the relevant requirements of the Building Code of Australia (**condition 4.1.2**).

(x) Water management

The proposal has been reviewed by Council's Development Engineers and no objection is raised subject to conditions of consent (**conditions 2.6, 5, 9 & 10.7**).

(y) Soil management

The proposal has demonstrated that appropriate measures will be undertaken with regard to soil erosion or sedimentation during construction works, especially to ensure that the adjoining land uses are protected from any runoff (**conditions 7.1.4 & 9.3**).

(z) Waste management

Council's Waste Management Officer has reviewed the proposed waste storage and collection arrangement. The applicant has advised that waste collection is to be managed by a private contractor and that the waste collection and delivery vehicles which will use this area will be at a low level of frequency, as follows:

- Waste will be collected as required. At 100% occupancy, it is anticipated that waste will be collected by a private contractor 3 week days per week.
- Food deliveries – 3 per week.
- Consumables (paper, cleaning supplies, etc) - 1 per fortnight.
- Medical equipment supplies – a couple of times per year.
- Where deliveries will be made by a van, these will be received within the basement which is accessed from Florence Street.

No objection is raised subject to conditions of consent, including restricting waste collection to between 7 am to 6 pm Monday to Saturday only, with no Sunday or public holiday collection to be permitted (**condition 11.1.3**).

(aa) General services

The subject site has access to services such as water and sewer, power, telecommunications and gas supply, and the applicant has advised that these will be utilised and/or enhanced as required.

The proposal includes the provision of a new electricity substation at the south-western corner of the site.

Conditions of consent are recommended to be imposed requiring all the service authority clearances to be obtained (**conditions 3.4 & 10.8**).

9 Public comment

9.1 The subject DA was notified in accordance with Blacktown Development Control Plan 2006 Part K – *Notification of Development Applications*, to adjoining and nearby property owners and occupants for a period of 14 days from 21 April to 5 May 2015. During this period 1 submission from the owner of 7 medium density residential units on the land to the east of the subject site was received, as shown on **Attachment 9**. Each of the issues raised are addressed below, with a corresponding town planning comment.

9.2 Permissibility

The Nursing Home is not permissible in this zoning and does not comply.

The use does not fit in this area.

Town planning comment:

- The site was zoned 2(b) Residential under Blacktown Local Environmental Plan (BLEP) 1988. The proposal for 'housing for aged or disabled persons' is permissible within the zone with consent under BLEP 1988. This use is also permissible pursuant to the Seniors Housing SEPP.
- The proposed use will be compatible with the existing land uses in the immediate vicinity, which comprise a mixture of one and two storey residential dwellings, a swim school and the NSW RFS. The integration of aged care residential housing in a neighbourhood context is encouraged.

9.3 Building height

The building height does not comply.

The height at the central portion of the site does not comply and should be limited to single storey (as was the requirement for the adjoining townhouse / villa development).

Town planning comment:

- The adjoining townhouse / villa development to the east (25 Cassar Place and 18 - 20 Florence Street) was assessed under the provisions of BLEP 1988. Clause 48 'Development of land in Zone Nos 2(a), 2(b) and 2(c)' restricts the height of medium density housing to single storey, unless a dwelling immediately adjoins an existing public road. Given the redevelopment of the adjoining site to the east consisted of dwellings at the central portions of the site which do not directly adjoin a public road, these dwellings were required to be single storey.
- SEPP Seniors Housing overrides BLEP 1988 and permits a maximum building height of 8 m as measured from the any point on the ceiling of the topmost floor of the building to the ground level immediately below that point (before development). The maximum building height of the development is 6.8 m. Therefore, the proposed building height complies.
- The proposed development is not subject to the same development controls as standard residential housing and demonstrates compliance with the maximum building height provisions of the SEPP.

9.4 Bulk and scale

The bulk and scale of the building is excessive.

The 2 storey development is an overdevelopment of the site in terms of bulk and scale.

The roof should be a flat roof to reduce the bulk and scale and overshadowing.

Applicant's justification

- *"The streets are of mixed use including residential, child care, RFS station and swim school. Careful analysis was taken of the streetscape and specific design measures have been deployed articulating and breaking elements of the built form up such that the development presents an equivalent bulk and scale to neighbouring houses."*
- *"Large areas of the development are already notionally 'flat' and very low pitch. The areas of pitched roof deliberately match pitch and form of neighbouring development. Generally the shadow is generated by the height of the eave, not the*

height of the roof. Shadow diagrams do not present unacceptable impacts according to planning requirements.”

Town planning comment:

- The proposal demonstrates compliance with the maximum permitted building height allowed by the SEPP. The design of the proposed development ameliorates the visual impact of the proposed development by providing an interesting and varied built form. The built form is also complemented by suitable colours, finishes and landscaping which is in keeping with the shape and scale of the existing built form. The resulting bulk and scale are satisfactory in relation to this site and the surrounding developments.
- Suitable setbacks will be provided to the development, with the main walls of the building setback at least 2.3 m from the side boundaries, which is consistent with Council's medium density housing requirements.
- The roof form of the proposal is varied and has a low pitch which results in 'self-shadowing' of the roof. The proposed roof line compliments the overall presentation of the building and is in keeping with the streetscape.

9.5 Presentation and streetscape

The presentation should be enhanced to provide a better fit with the streetscape of the area.

Applicant's justification

- *“We are taking our best endeavours to carefully ensure a comfortable ‘fit’ of the new building within its context and purpose. The character of the building and its architectural style has been developed through careful study of the genre of surrounding homes and the familiar forms, materials and ‘thresholds’ appropriate to the social context. The building is intended to be a comfortable ‘home’ for its residents (rather than an ‘institution’) and a well-scaled neighbour. We have taken a progressive, rather than defeatist view of this opportunity, with a ‘measured’ understanding of the capacity and perceptions of the marketplace.”*

Town planning comment:

- The proposal has been considered in light of the existing non-residential and residential developments in the locality. The proposal will deliver a development which 'fits with the streetscape' and enhances the presentation of the site and both street frontages.

9.6 Side setbacks

The side setbacks are inadequate and should be 3 metres including all access stairs.

Town planning comment:

- Refer to detailed discussion in Section 8 above. The SEPP Seniors Housing does not stipulate a side setback and the development could be setback 900 mm. The main walls of the building will be setback at least 2.3 m from the side boundaries. The location of the access stairs within the side setbacks are considered appropriate in this instance, given that they are for emergency use only and feature landscaping and privacy screening measures which will also help to screen these stairways.

9.7 Overshadowing

There is excessive overshadowing due to the second storey. The overshadowing affects the adjoining dwellings and their common open space areas.

The roof should be a flat roof to reduce the bulk and scale and overshadowing.

The details on the shadowing diagrams are incorrect.

Town planning comment:

- The proposal is supported by shadow diagrams provided at **Attachment 3**, which show the location of the common open space (COS) and private open space (POS) of the neighbouring residences.
- The shadow diagrams have been checked against the proposed plan and are considered to be accurate. The shadow diagrams have also been checked against the approved plans of the adjoining development to the east, and a site inspection of all surrounding properties. They accurately reflect the existing and proposed built form, and the location of the surrounding COS and POS areas. The objector is possibly referring to the representation of the existing shadows identified in orange, which take into account the existing shadows caused by the boundary fencing. This representation has been taken into account in the assessment of this application, and the extent of additional overshadowing has been considered in the absence of the fencing, and is considered to be satisfactory.
- The shadow diagrams confirm that between 9 am and 3 pm at midwinter (22 June) the proposed development does not result in any overshadowing of the POS of the neighbouring units' courtyards.
- The shadow diagrams also confirm that from approximately 12:00 noon the COS of the townhouse/villa development to the east begins to be overshadowed by the proposed development. However, by this time the COS will have enjoyed 3 hours of sunlight. By 3 pm, only 50% of the adjoining COS is overshadowed by this development.
- The proposed development will comprise a shallow pitched roof. The applicant has selected this roof line as a design consideration to be in keeping with the roof designs of the buildings in the immediate vicinity, which are standard residential pitched roofs. This shallow pitch 'self-shadows' the building, and is not considered to generate excessive additional overshadowing when compared to a flat roof design. Therefore, the proposed pitch roof line is supported in this case. The proposed roofline is no worse than that of dwellings if these were proposed adjacent to the neighbouring site.
- The extent of overshadowing generated by this proposal is considered to be acceptable, and maintains a suitable level of solar access to the neighbouring properties.

9.8 Amenity and Privacy

Privacy screens are to be erected on the second storey windows which look opposite windows in our property.

Overlooking from stairs located along the boundary.

Plans do not clearly show the amount of glass located along the boundary.

Town planning comment:

- The applicant will be providing privacy screening measures along the top floor windows, balconies and stairways to Council's requirements in metal and timber finishes. Refer to **Attachment 8** for details of the proposed screening measures.

- As outlined in Section 8 above, the increased setbacks, screening measures and fencing will be provided to address the privacy and overlooking issues, and will be conditioned in the consent (**conditions 10.5 & 10.12**).

9.9 Landscaping

There is insufficient information with regard to boundary trees and landscaping.

There are excessive shadow impacts from boundary landscaping.

We require plants not to grow over 1.8 m in height.

Town planning comment:

- As detailed in Section 7 above, the selected tree species are considered to be suitable within this location, and will be required to be suitably maintained and pruned to ensure there is no impact on the neighbouring properties (**conditions 3.3 & 11.2**).

9.10 Waste collection

The location of the garbage collection is inappropriate and is too close to the residential properties.

Town planning comment:

- In response to this objection, the applicant revised the garbage storage and collection arrangement. The garbage storage area is still located at the south-eastern corner of the development, however it will now be contained within an enclosed room. The proposed driveway and manoeuvring area which are accessed via Cassar Place now feature a 1 m wide setback to the side boundary which contains landscape screening. There is also an existing colorbond fence along this shared boundary.
- The applicant has confirmed that the enclosed garbage storage area will be ventilated using *“an exhaust hood which will have a fan running which will keep the store in negative pressure and discharge the exhaust at roof line set within the site some 10 – 12 metres off the neighbouring boundary, which exceeds BCA setback requirements.”*
- Council requires this form of development to provide on-site waste collection. Council’s Waste Management Officer has reviewed the proposal and raised no objection subject to a condition to ensure that waste collection is appropriately managed (**condition 11.1.3**).

9.11 Impacts from plant and equipment

The method and location of basement ventilation and air conditioning units is not clear.

Plant and equipment will have noise and amenity impacts and we do not want them near our boundary as they will be on 24/7.

Town planning comment:

- The applicant has indicated that the basement carpark will be ventilated, with the location of the exhaust being within the courtyard within the centre of the development. A condition of consent is recommended to be imposed ensuring that the carpark exhaust is not located within the side setback where it adjoins a residential property (**condition 2.5.2**).

- The proposal includes the provision of air conditioning units on the rooftop in 3 locations. The applicant has confirmed the location of these areas as shown in **Figures 8 and 9** below.

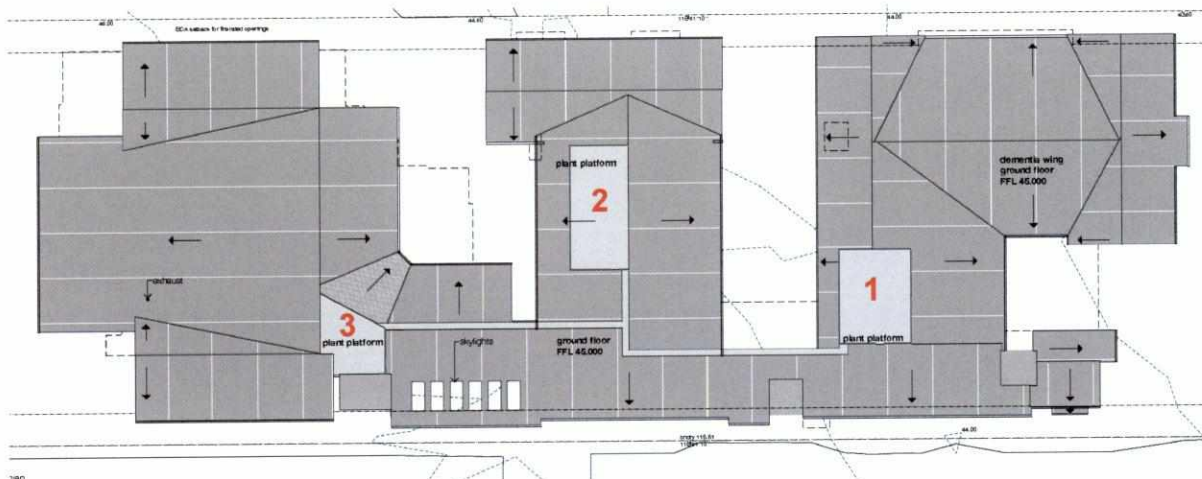


Figure 8: Proposed plan of the rooftop indicating the 3 locations for plant and equipment (Plan Ref 0102).



Figure 9: Aerial view of the proposed development indicating the areas of the rooftop where the plant and equipment is proposed to be located.

- As shown above, the applicant has sited the rooftop plant platforms in these areas so as to mitigate the potential noise impacts as follows:
 - Locating the plant platform at least 1 m below the roofline.
 - Centrally locating the platforms within the site so that they are away from neighbouring dwellings and concealed behind built elements, such as the lift overrun and roof planes.
 - Providing the plant and equipment in locations which are intended to direct noise away from neighbouring dwellings.
- Refer to **Attachment 7** for detailed consideration of the Acoustic Assessment and measures to be implemented to ensure that the future operation of the plant and equipment satisfies the relevant noise emission criteria.

- Conditions are also to be imposed to ensure that suitable measures are implemented to protect the acoustic amenity or the neighbouring properties (**conditions 3.2.3, 10.10.3 & 12.1.3**).

9.12 None of the issues raised above warrant refusal of the DA and most issues have either been addressed by the applicant or conditions will be imposed to ensure appropriate measures are included in the development.

10 Section 79C consideration

10.1 The proposal satisfies the matters prescribed by Section 79C of the Environmental Planning and Assessment Act 1979. See **Attachment 6** for a detailed analysis of the S79C heads of consideration.

11 Concluding comments

- 11.1 The proposed development has been assessed against the matters for consideration listed in Section 79C of the *Environmental Planning and Assessment Act* 1979 and is considered to be satisfactory. The likely impacts of the development have been satisfactorily addressed and the proposal is considered to be in the public interest. Further, the subject site is considered suitable for the proposed development given that the site benefits from dual street frontages, and is in the immediate vicinity of other commercial and community uses, as well as residential dwellings.
- 11.2 The concerns raised in the public submission have either been addressed by conditions or, where appropriate, suitable measures have been integrated into the design and operation of the development to mitigate potential impacts on the amenity of neighbouring properties.
- 11.3 The proposal is consistent with the objectives of Blacktown Local Environmental Plan 1988 and is permissible in the zone with development consent. The proposal also satisfies the provisions of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 and the Blacktown Development Control Plan 2006. The development is considered satisfactory with regard to relevant matters such as built form, bulk and scale, access, overshadowing, noise, stormwater drainage, site contamination, salinity, and social and economic impacts subject to the imposition of suitable conditions of consent to satisfactorily control the development.

12 Recommendation

- 12.1 The DA be approved by the Sydney West Joint Regional Planning Panel subject to the conditions held at Attachment 1.
- 12.2 The applicant be advised of the Sydney West Joint Regional Planning Panel's decision.



Holly Palmer
Assistant Team Leader Projects



Judith Portelli
Manager Development Assessment



Glennys James
Director Design and Development