

Report to Sydney Central City Planning Panel

Panel reference	2016SYW166
DA number	JRPP-16-03319
Proposed development	Seniors housing development and place of public worship
Street address	134-140 Reservoir Road, Blacktown
Applicant	Rudolfsson Alliker Associates Architects
Owner	St Hedwig Village Albert Buettner Association (Blacktown) Incorporated
Date of DA lodgement	7 July 2016
Number of submissions	1
Regional development criteria (s 9.1 EP&A Act and Ministerial Direction)	Capital investment value (CIV) over \$20 million (DA has CIV of \$67.3 million)
All relevant s4.15 EP&A Act matters	<ul style="list-style-type: none"> • Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River • State Environmental Planning Policy (State and Regional Development) 2011 • State Environmental Planning Policy (Infrastructure) 2007 • State Environmental Planning Policy No. 19 – Bushland in Urban Areas • State Environmental Planning Policy No. 55 – Remediation of Land • State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 • State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 • Central City District Plan 2018 • Blacktown Local Environmental Plan 2015 • Blacktown Development Control Plan 2015
Report prepared by	Blacktown City Council
Report date	4 April 2018
Recommendation	Approval subject to conditions

Summary of s79C matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report? Yes

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments, where the consent authority must be satisfied about a particular matter, been listed and relevant recommendations summarised in the Executive Summary of the assessment report? Yes

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? Yes

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (s7.11)? No

Conditions

Have draft conditions been provided to the applicant for comment? Yes

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ATTACHMENTS

Attachment 1	–	Location map
Attachment 2	–	Aerial images
Attachment 3	–	Zoning extract
Attachment 4	–	Detailed information about proposal and DA submission material
Attachment 5	–	Development application plans
Attachment 6	–	Plans showing the proposed building height variation
Attachment 7	–	Assessment against planning controls
Attachment 8	–	Applicant's clause 4.6 request to vary SEPP development standard
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Attachment 10	–	Council's assessment of clause 4.6 request to vary SEPP development standard
Attachment 11	–	Council's assessment of clause 4.6 request to vary BLEP development standard
Attachment 12	–	Concern raised in the public submission
Attachment 13	–	Draft conditions of consent

1 Executive summary

- 1.1 This report considers a proposal for an integrated Development Application (DA) for staged alterations and additions to the existing St Hedwig Village seniors housing and place of public worship lodged under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 at 134-140 Reservoir Road, Blacktown.
- 1.2 Assessment of the application against the relevant planning framework and consideration of matters by Council's technical departments has not identified any issues of concern that cannot be dealt with by conditions of consent.

1.3 The key issues that need to be considered by the Panel in respect of this application are:

- a. **Building height variation** (Section 7.1) - The Applicant has submitted a request under clause 4.6 exceptions to development standards, seeking a variation to the development standards for the maximum permitted building height. The variation has been assessed and is considered acceptable on its merits as the majority of the proposal is largely consistent with the existing 3 storey buildings on the site and is a suitable built form adjacent to Council owned reserves to most of its boundaries.
- b. **Stormwater, contamination and ecological impacts** (Section 7.2) - The proposed stormwater management measures are supported, given that it is an existing arrangement which does not increase the volume of stormwater which will discharge from the site as a result of this development, will not adversely impact on the areas of lead contamination within the adjoining Reserve to the south and will cause only minimal disturbance to trees and vegetation within the Reserve.
- c. **Removal of 3 trees in Council's Reserve and ecological impacts** (Section 7.3) - The proposal includes the replacement of the existing driveway along the southern boundary adjoining Harpers Bush Reserve. The levels of the proposed driveway are lower than the existing levels to accommodate access to the new basement levels, which will impact on 3 trees located within the adjoining Reserve. The excavation required to achieve this has been assessed and we do not object to the removal of these trees subject to a monetary contribution to be paid by the applicant for the replacement of the trees.
- d. **Removal of trees within the site** (Section 7.4) - The proposal to remove 93 trees and shrubs within the site was assessed by our Civil and Open Space Infrastructure section and is supported, subject to the retention of 3 trees within the street setback area to Reservoir Road. A total of 129 new replacement trees and shrubs are proposed to be planted, which is considered appropriate.
- e. **Number of storeys** (Section 7.5) - The proposed Residential Aged Care Facility (RACF) is 3 and 4 storeys in height, which is inconsistent with BDCP 2015 which states that, depending on the level of disability involved, buildings for aged or disabled persons should be 1 storey in height. The proposal provides suitable disabled access throughout and between each level of the RACF, including lift access, and is considered acceptable.
- f. **Impact on the adjoining residential property to the south** (Section 7.6) - The proposal will result in additional overshadowing of the adjoining residential property to the south, 144 Reservoir Road. The extent of additional overshadowing is minimal and direct solar access is still received to the private open space of this dwelling. Therefore the extent of overshadowing is considered acceptable in this instance. Further, the property owner did not object to the proposal.
- g. **Section 7.11 Development Contributions** (Section 7.7) - Section 7.11 contributions are required to be levied when land is developed, as it creates additional demands for public facilities that are funded from contributions made by developers. St Hedwig Village is not exempt from these contributions and must be levied as a result.
- h. **Matter raised by a submitter** (Section 8) - One comment was received from a member of the public, raising concern with regard to traffic congestion along Reservoir Road. The proposal was referred to Roads and Maritime Services (RMS) and no objection was raised with regard to the traffic generation as a result of this development. Suitable conditions of consent are recommended to be imposed to manage traffic impacts during the construction of this development.

1.4 The application is assessed as satisfactory when evaluated against Section 4.15 of the *Environmental Planning and Assessment Act 1979*.

- 1.5 This report recommends that the Panel approve the application subject to the recommended conditions.

2 Location

- 2.1 The site is located within the suburb of Blacktown as shown in **attachment 1**.
- 2.2 The existing locality to the north comprises land zoned R2 Low Density Residential and includes a child care centre known as 'Tina's Kindergarten' and one and 2 storey dwellings accessed via a private estate road. Residential dwellings are also located further to the south-west of the site, including a recently approved multi dwelling housing development along Highpoint Drive which is currently under construction.
- 2.3 The land to the north-west and west of the site consists of Council owned land which is zoned RE1 Public Recreation. This area (Reserve 751) is heavily treed and is mapped as containing Shale Hills Woodland and Shale Plains Woodland.
- 2.4 The land to the east on the opposite side of Reservoir Road is zoned SP2 Educational Establishment and Place of Public Worship. This area includes St Michael's Primary School, St Michael's Catholic Early Learning Centre, St Michael's Church and Nagle College.
- 2.5 The land to the south is Harpers Bush (Council owned Reserve 752) and is zoned E2 Environmental Conservation. This area is mapped as containing Shale Hills Woodland and Shale Plains Woodland. The Reserve is on the Environment Protection Authority's contaminated site register as it contains elevated lead in soil, trees, woody debris and leaves.
- 2.6 The land to the south also comprises an individual residential property at Lot 1 DP 1046716, known as 144 Reservoir Road, Blacktown. The existing improvements on this site include a single storey dwelling with a setback of 20 m to Reservoir Road.
- 2.7 The area is suitably serviced by the surrounding road network with frontage to Reservoir Road, which is a RMS State Road and sub-arterial route linking the Great Western Highway and Blacktown CBD. The site is in the vicinity of the Great Western Highway and the M4 Motorway which are both located to the south.
- 2.8 The subject site is serviced by regular bus routes within 400 m walking distance which are located on Reservoir Road. These bus routes provide services between Arndell Park and Blacktown Railway Station, providing convenient access to higher order retail, commercial, community and recreational uses, and public transport, for local residents.
- 2.9 An aerial view of the locality is provided at **attachment 2**. The zoning map is provided at **attachment 3**.

3 Site description

- 3.1 The site comprises Lot 101 DP 1053959 and Lot 2 DP 1144920 at 134-140 Reservoir Road, Blacktown.
- 3.2 The site is rectangular in shape with an area of 25,056 sqm. The site has a 70.4 m street frontage to Reservoir Road along its eastern boundary. The length of the site is approximately 355 m. The existing improvements on the site are shown in **attachment 2** and include:

Lot 101 (the eastern portion of the site fronting Reservoir Road)

- St Raphaels Church and associated church hall and church presbytery (these are single storey buildings and the church has a raised roof form equivalent to a 2 storey building)
- vehicular entry and exit via the southern driveway to Reservoir Road
- a vehicular turning area within the street frontage area, with secondary egress to Reservoir Road and car parking.

Lot 2 (St Hedwig Seniors Housing Village in the central and western portions of the site)

- 48 Independent Living Units (self-contained dwellings) distributed throughout the centre of the site which are 2 and 3 storeys in height
- hostel containing 57 rooms at the rear of the site which is 3 storeys in height
- nursing home containing 75 beds at the rear of the site which is 3 storeys in height
- internal driveway access which travels along the southern boundary of the site
- administration and support facilities
- landscaping and pathways throughout.

- 3.3 The overall site has trees, landscaping and pathways throughout. The eastern portion of the site is mapped as containing Shale Hills Woodland and Shale Plains Woodland.
- 3.4 With regard to site levels, there is an existing crest at the centre of the site. The eastern portion of the site slopes downwards to the north-eastern corner, being a slope of 2.5 m along the Reservoir Road street frontage. The western portion of the site slopes downwards to the south towards Harpers Bush (Council owned Reserve 752), being a slope of 8.5 m along the rear (western) boundary.
- 3.5 The western portion of the site has retaining walls along its boundaries due to the substantial level changes.
- 3.6 The site is subject to a 30 m wide electricity easement, which is located in the centre of the site at an angle, for an existing overhead transmission line. This area is clear of any building structures.
- 3.7 The 2 existing allotments are subject to easements for telecommunications, gas supply, drainage of water, right of carriageway, water supply, sewage purposes and car parking.
- 3.8 Stormwater discharge from the rear of the site is dispersed over the southern boundary into Harpers Bush (Council's adjoining Reserve 752). There are also downpipes from the rear building in the vicinity of the southern boundary which discharge into Harpers Bush.

4 Background

- 4.1 DA-85-5399D was approved on 27 June 1985 for the construction of an aged persons hostel and a nursing home at 140 Reservoir Road, Blacktown at the rear of the site.
- 4.2 DA-85-5686D was approved on 25 June 1985 for the construction of an aged persons housing development consisting of 70 self-contained 1 bedroom units at 140 Reservoir Road, Blacktown in the central part of the site.

- 4.3 Further development consents were issued by Council resulting in the seniors housing village development which exists on the subject property, including DA-05-3320 approved on 20 July 2006 for alterations and additions to the existing St Hedwig Village including the construction of a new lounge room, covered walkway, a connecting first floor structure to link the hostel and nursing home and expanding the existing administration building to provide 3 additional offices.
- 4.4 On 7 July 2016 the subject DA was lodged with Council.
- 4.5 This application is classified as 'integrated development' under section 4.46 of the *Environmental Planning and Assessment Act 1979* (the Act) as the Bushfire Prone Land Map identifies the entirety of the site as Bushfire Zone Category 1. Therefore concurrent approval for the proposed development is required from the NSW Rural Fire Service under section 4.14 of the Act.

5 The proposal

- 5.1 This integrated DA has been lodged by Rudolfsson Alliker Associates Architects for staged alterations and additions to the existing Adventist Aged Care Seniors Housing development under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.
- 5.2 The proposal includes the consolidation of the lots, demolition of some structures, removal of trees, the retention of the hostel and nursing home at the rear of the site, the construction of 65 Independent Living Units within 2 buildings which are 3 and 4 storeys in height, a 3 storey RACF with 135 beds, a single storey reception building, a chapel ('place of public worship'), support facilities, 204 car parking spaces at the basement and at-grade levels, associated services, driveways, outdoor recreational areas, landscaping and associated stormwater works.
- 5.3 Other details about the proposal are at **attachment 4**, including staging, operational matters, removal of trees and ecological impacts, landscaping, stormwater management, acoustic, traffic and parking matters. A copy of the development plans is included at **attachment 5**.

6 Assessment against planning controls

- 6.1 A full assessment of the DA against relevant planning controls is provided in **attachment 6**, including:
 - a. Environmental Planning and Assessment Act 1979 (as amended 2018)
 - b. Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River
 - c. State Environmental Planning Policy (State and Regional Development) 2011
 - d. State Environmental Planning Policy (Infrastructure) 2007
 - e. State Environmental Planning Policy No. 19 – Bushland in Urban Areas
 - f. State Environmental Planning Policy No. 55 – Remediation of Land
 - g. State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
 - h. State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004
 - i. Central City District Plan 2018
 - j. Blacktown Local Environmental Plan 2015

- k. Blacktown Development Control Plan 2015.

7 Key planning issues assessment

7.1 Variation to the development standards for building height

- a. Seniors Housing SEPP 2004 applies to this site and the maximum permitted building height under the SEPP is 8 m (to the roofline) and a maximum of 2 storeys. The proposal exceeds these (maximum building height of 13.55 m, being a variation of 5.25 m, and a maximum of 4 storeys, being a variation of 2 storeys) and the Applicant has submitted a request under clause 4.6 exceptions to development standards, seeking a variation to the maximum permitted building height applicable under the SEPP (**attachment 8**).
- b. An assessment of the justification for the variation, including the 5-part test established by the NSW Land and Environment Court, is provided at **attachment 10**.
- c. The maximum permitted building height is 9 m pursuant to BLEP 2015. The proposal exceeds this development control (maximum building height of 13.53 m, being a variation of 4.53 m), and the Applicant has submitted a request under clause 4.6 exceptions to development standards, seeking a variation to the maximum permitted building height (**attachment 9**).
- d. An assessment of the justification for the variation, including the 5-part test established by the NSW Land and Environment Court, is provided at **attachment 11**.
- e. The variation to the height of building standards will not have an adverse impact on neighbouring properties or the character of the area, given the unique characteristics of this site being surrounded on 2 and a half sides by bushland and given that it already features buildings which are above the height limit with a scale of up to 3 storeys. The proposal is also consistent with the objectives of the development standard and the R2 Low Density Residential zone.
- f. We also consider the breach to the building height control to be appropriate to compensate for the significant portion of the site which is impacted on by the 30 metre wide electricity easement, which does not permit any development and is not controlled by the Applicant.
- g. Based on this assessment, the requested variations under clause 4.6 to both BLEP 2015 and the Seniors Housing SEPP are considered acceptable in the circumstances. The additional height adds to the architectural merit of the building, will result in a better planning outcome and is recommended for support.

7.2 Consideration of stormwater, contamination and ecological impacts

- a. The western portion of the site currently discharges stormwater via an existing headwall located within the adjoining Harpers Bush Reserve. The proposal seeks to maintain this arrangement and replace this headwall. This approach is supported as the Applicant has demonstrated that the proposed works will not result in an increase to the existing level of the stormwater drainage flows via the existing headwall within Harpers Bush. This approach also results in minimal disturbance to the soil, trees, woody debris and leaves within our Reserve which is zoned E2 Environmental Conservation.

- b. Furthermore, given that stormwater flows are not increased as a result of this application, this does not result in an adverse impact with regard to the lead contamination recorded within the Reserve, as the contaminated areas are not located in the vicinity of the stormwater headwall and resulting dispersal of stormwater.
- c. The proposed stormwater management measures are supported given that this is an existing arrangement which does not pose adverse impacts with regard to contamination on the adjoining site and causes minimal disturbance to trees and vegetation.

7.3 Removal of 3 trees in Council's Reserve and ecological impacts

- a. The proposal includes the replacement of the existing driveway along the southern boundary adjoining Harpers Bush Reserve. The levels of the proposed driveway are lower than the existing levels in order to accommodate access to the new basement levels. This will impact on 3 trees located within the adjoining reserve. The excavation required to achieve this has been assessed by our Civil and Open Space Infrastructure section and Natural Areas section, and they do not object to the removal of these trees subject to a monetary contribution in compensation for the loss, to be paid by the Applicant for the replacement of these trees. The proposed climber planting along the retaining wall on the southern boundary is required to be a Cumberland Plain Woodland species. These requirements will be managed via conditions of consent.

7.4 Removal of trees within the site

- a. The proposal seeks to remove 96 existing trees and shrubs, including 3 trees within Harpers Bush Reserve which is discussed in 7.3 above. The proposal to remove these trees was assessed by our Civil and Open Space Infrastructure section and is supported, subject to the retention of 3 trees within the street setback area to Reservoir Road. This requirement is reflected on the current plans. There are no other major existing trees that warrant retention, in particular given that the transmission line easement portion of the site limits the height of trees to 3 m. A total of 129 new replacement trees and shrubs are proposed to be planted, which is considered appropriate to create long term tree and landscaping opportunities.

7.5 The number of storeys of the RACF exceeds 1 storey

- a. Clause 7.2.2 Height of Buildings of BDCP 2015 states that depending on the level of disability involved, buildings for aged or disabled persons should be 1 storey in height.
- b. The proposed RACF is 3 storeys in height, which is replacing the existing 3 storey RACF building, and is anticipated to accommodate residents with restricted physical mobility. However, these multiple levels do not restrict the movement of residents, given that a high level of access is provided by the floor plan layout and suitably placed lifts. Each wing or component of the building also has direct access to dining rooms and living rooms for the use of residents. The provision of 3 storeys is considered satisfactory in this instance.

7.6 The residential site to the south

- a. The proposal will result in additional overshadowing of the adjoining residential property to the south, 144 Reservoir Road. In midwinter the additional overshadowing will overshadow approximately half of this residential property's rear private open space as shown on Shadow Diagram (June) Drawing No. 1508-11, provided at **attachment 5**.

- b. The Applicant has demonstrated that there is no overshadowing impact on this adjoining residential property during other periods of the year, as shown on Shadow Diagrams (March & September) and (December) Drawing Nos. 1508-12 and 1508-13, provided at **attachment 5**.
- c. The Applicant has demonstrated that their community consultation process included direct contact with the owners and occupiers of 144 Reservoir Road, and they did not raise any objection. This property was also notified during our exhibition period and no submission was received. In fact, the Applicant has spoken directly with the property owner of 144 Reservoir Road, the outcome of which was that he did not raise any objection to the development and would like to see his elderly mother and sibling placed within St Hedwig Village in due course when the time is right.
- d. The extent of additional overshadowing on the neighbour's property is considered acceptable as it maintains solar access to at least 50 % of the rear private open space area of the neighbouring property for at least of 3 hours in midwinter.

7.7 Section 7.11 development contributions

- a. Section 7.11 contributions are required to be paid in relation to this DA. These contributions are levied when an organisation develops land, as it creates additional demands for facilities that are funded from a Section 7.11 Contributions Plan. Seniors living, community organisations, churches and charitable institutions are not exempt from these contributions.
- b. We have not granted any exemptions from the payment of these contributions to any of these groups across the city, as each contribution is critical to ensuring that development pays for the required supporting public facilities and infrastructure. If we granted exemptions, the funding shortfall to deliver these facilities would need to come from other ratepayers, which is inequitable.
- c. The only legal exemption from this levy is to registered Community Housing Providers (CHPs), because State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 mandates that CHPs cannot be charged. We have checked the CHP register and St Hedwig Village is not listed.
- d. Although St Hedwig Village is a not-for-profit aged care housing provider, conditions of consent will be imposed on this DA requiring the applicable contributions to be paid. These contributions will be charged for the categories of open space and community facilities, and will be calculated using the standard assumed occupancy rates from the relevant Contributions Plan for unit development. The existing population on the site is not being charged a section 7.11 contribution levy.
- e. The Applicant must provide on-lot water quality treatment in accordance with the requirements of our Development Control Plan, or enter into a Voluntary Planning Agreement for a contribution to off-site regional water quality treatment. The applicant has been made aware of this requirement and has indicated that they will enter into a Voluntary Planning Agreement in accordance with our Voluntary Contribution Scheme) Contributions for stormwater quantity and major roads will not be applied as they were levied under previous DAs.

8 Issues raised by the public

- 8.1 The proposed development was notified to property owners and occupiers within the locality between 6 and 20 September 2016. The DA was also advertised in the local newspapers, including the Blacktown City Sun, and a sign was erected on the site.

8.2 During the notification period 1 submission was received raising concern with regard to traffic congestion along Reservoir Road. Our consideration of the public submission is provided at **attachment 12**.

8.3 This objection has been considered in the assessment of this DA and suitable conditions of consent are recommended to be imposed to manage traffic impacts during the construction of this development. Therefore this submission is not considered sufficient to warrant the refusal of this application.

9 External referrals

9.1 The DA was referred to the following external authorities for comment:

Section	Comments
NSW Rural Fire Service (RFS)	Acceptable, subject to General Terms of Approval
Roads & Maritime Services (RMS)	Acceptable, subject to conditions
Endeavour Energy	Acceptable, subject to conditions
NSW Local Police	Acceptable, subject to conditions

10 Internal referrals

10.1 The DA was referred to the internal sections of Council and it was assessed as acceptable subject to conditions.

11 Conclusion

11.1 The proposed development has been assessed against all matters for consideration and is considered to be satisfactory. It is considered that the likely impacts of the development have been satisfactorily addressed and that the proposal is in the public interest. The site is considered suitable for the proposed development subject to conditions.

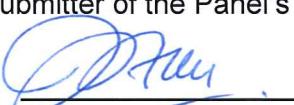
12 Recommendation

12.1 Approve development application JRPP-16-03319 for the reasons listed below, and subject to the conditions listed in attachment 13.

- The proposal is in the public interest.
- The site is considered suitable for the proposed development.
- The requested clause 4.6 variations are acceptable.

12.2 Council officers notify the Applicant and submitter of the Panel's decision.


Holly Palmer
Senior Project Planner


Judith Portelli
Manager Development Assessment


Glennys James
Director Design and Development