



# **62-82 Harrow Road, Bexley**

Statement of Support for Section 4.55(2) Modification

Contact Details:

SJB Planning  
Level 2, 490 Crown Street  
Surry Hills NSW 2010  
Australia

T: 61 2 9380 9911  
[planning@sjb.com.au](mailto:planning@sjb.com.au)  
[www.sjb.com.au](http://www.sjb.com.au)

SJB Planning (NSW) Pty Ltd  
ABN 47 927 618 527  
ACN 112 509 501

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# Executive Summary

This Statement of Support (SoS) has been prepared in support of a modification to Development Consent DA-2017/27 under Section 4.55(2) of the *Environmental Planning and Assessment (EP&A) Act 1979*, for the redevelopment of 62-82 Harrow Road, Bexley ("the site") for the purpose of a residential care facility (RCF).

The proposed S4.55(2) application seeks broadly to modify the approved development by:

- Reorganisation of basement levels and reducing the number of parking spaces from 120 to 119 plus a bus parking bay;
- Reconfiguring the accommodation rooms and reducing the total number of rooms from 198 to 172;
- Relocation of the chapel, communal facilities and office spaces at ground floor;
- Changes to the approved landscape design at ground floor level;
- Enlargement of the dining area and relocation of the sitting rooms at Levels 1 and 2;
- Introduction of a small balcony in the eastern corner of Level 2 and reconfiguration of the sitting areas and support services at this level;
- Enlargement of the dining/sitting area at Level 3;
- Relocation of lifts;
- Removal of the central deep soil zone;
- Relocation of the substation
- Addition of a secured residents bus parking area within the second basement level;
- Changes to the proposed external colours, materials and finishes; and
- Adjustment of floor levels throughout in order to provide the required 2.7m ceiling height (BCA compliant). Detailed design development has identified the fact that the approved heights proposed by the previous architect could not accommodate the required structural slab thicknesses and services, within the approved height.

The proposal also seeks to modify/delete the following conditions of consent:

- Modify Condition 2 relating to the approved plans;
- Modify Condition 11 relating to the height of the development approved by Sydney Airport Corporation Limited;
- Modify Condition 19 relating to the maximum number of persons working on the premises;
- Modify Condition 45 relating to the maximum number of beds/single patient rooms accommodated within the development;
- Modify Condition 50 relating to cooling towers on the rooftop;
- Delete Condition 54 relating to Section 94 contributions;
- Modify Condition 64 in relation to proposed landscaping; and
- Modify Condition 118 in relation to the allocation of staff and visitor car parking.

St Basil's is a locally based, not-for-profit charitable organisation, which is part of the Greek Orthodox Church, and provides care for financially disadvantaged persons and the elderly. Their mission is to care for

the elderly, including those in need, with 70% of residents and clients experiencing financial and/or social disadvantage. They seek to provide high quality facilities and care.

The proposed modifications are a result of design detailing and are aimed at improving the amenity of the facilities and services for future residents. Therefore, although the number of rooms/beds will be reduced as a result of the proposal, the communal facilities, such as dining, living, and health service areas have been incorporated and improved. The proposal will also result in an increase in the staff to resident ratio as well as improvements to the quality and functionality of proposed landscaped areas around the site.

This report has been prepared pursuant to the *EP&A Act 1979*, and the Environmental and Assessment (EP&A) Regulation 2000. It reviews the appropriate Environmental Planning Instruments (EPIs) and Development Control Plan (DCP) that apply to the site, as well as the potential natural and built environment impacts of the proposal, with particular reference to the relevant heads of consideration listed under Section 4.15 of the *EP&A Act 1979*.

An assessment of the potential impacts of the development concludes that the modification of the approved development is consistent with the objectives of the zone and the development will remain compatible with the existing and proposed land uses within the locality. Furthermore, and notwithstanding an increase in the gross floor area (GFA) and floor space ratio (FSR) related to the reconfiguration achieved through design efficiencies and the height increases proposed in order to achieve BCA compliance in relation to floor to ceiling heights, the proposed development remains an appropriate type and scale, that is generally consistent with the desired future character and urban design principles outlined in Rockdale Local Environmental Plan (RLEP) 2011 and Rockdale Development Control Plan (RDCP) 2011.

The proposal as modified remains substantially the same development and provides a RCF which delivers specialist aged care facilities for residents including those affected by dementia.

The proposal will provide a positive social impact to the area and as demonstrated within this report, will not result in any significant adverse impacts upon adjoining properties in terms of overshadowing, air circulation, privacy, views or visual bulk and scale impacts.

Based on the assessment undertaken, approval of the modification request is sought.

# 1.0 Introduction

## 1.1 Overview

This SoS has been prepared in support of an application to modify Development Consent DA-2017/27 for a RCF, constructed of a part three (3) and part four (4) storey building, comprising 198 sole occupancy rooms, car parking within a two (2) level basement, chapel, function room, rooftop communal open space, vegetable garden, putting green, and demolition of existing structures.

The development was approved by the Sydney Central Planning Panel on 18 May 2017.

The proposed S4.55(2) application seeks broadly to modify the approved development by:

- Reconfiguring the basement parking levels and deleting one (1) parking spaces (119 spaces provided);
- Reconfiguring the accommodation rooms and reducing the total number of rooms from 198 to 172;
- Relocation of the chapel, communal facilities and office spaces at ground floor;
- Changes to the approved landscape design at ground floor level;
- Enlargement of the dining area and relocation of the sitting rooms at Levels 1 and 2;
- Introduction of a small balcony in the eastern corner of Level 2 and reconfiguration of the sitting areas and support services at this level;
- Enlargement of the dining/sitting area at Level 3;
- Relocation of lifts;
- Relocation of the substation;
- Addition of a secured residents bus parking area within the second basement level;
- Removal of the central deep soil zone;
- Changes to the proposed external colours, materials and finishes; and
- Adjustment of floor levels throughout in order to provide the required 2.7m ceiling height (BCA compliant). Detailed design development has identified the fact that the approved heights proposed by the previous architect could not accommodate the required structural slab thicknesses and services, within the approved height.

The proposal also seeks to modify/delete the following conditions of consent:

- Modify Condition 2 relating to the approved plans;
- Modify Condition 11 relating to the height of the development approved by Sydney Airport Corporation Limited;
- Modify Condition 19 relating to the maximum number of persons working on the premises;
- Modify Condition 45 relating to the maximum number of beds/single patient rooms accommodated within the development;
- Modify Condition 50 relating to cooling towers on the rooftop;
- Delete Condition 54 relating to Section 94 contributions;
- Modify Condition 64 in relation to proposed landscaping; and
- Modify Condition 118 in relation to the allocation of staff and visitor car parking.

## 1.2 Scope and Format of Report

This SoS has been prepared in accordance with the provisions of the *EP&A Act 1979* and the EP&A Regulation 2000 and is set out as follows:

- Section 1 provides an overview of the project and report;
- Section 2 describes the site;
- Section 3 describes the proposed modifications;
- Section 4 provides an assessment of the proposed development pursuant to Section 4.55 of the *EP&A Act 1979*;
- Section 5 outlines the applicable statutory controls and policy and provides an assessment of the proposed development pursuant to Section 4.15 of the *EP&A Act 1979*; and
- Section 6 outlines the conclusion of the assessment.

## 1.3 Supporting Plans and Documentation

This SoS has been prepared with input from a number of technical and design documents which accompany this application. These documents are identified in Table 1 below.

Document Name	Prepared by
Architectural Drawings	PTW Architects
Acoustic Assessment	Acoustic Logic
Landscape Plan	Taylor Brammer
BCA Report	Blackett, Maguire and Goldsmith
Access Review	Morris Goding Accessibility Consulting
Section J	Wood & Grieve Engineers

Table 1: Plans and documents prepared to accompany this statement

## 2.0 Site Description and Context

### 2.1 Site Context and Locality

The site is located on Harrow Road, Bexley, within the Bayside Council local government area (LGA), between Forest Road and Watkin Street, and is approximately 500m from the Bexley village centre on Forest Road (refer to Figure 1 below).

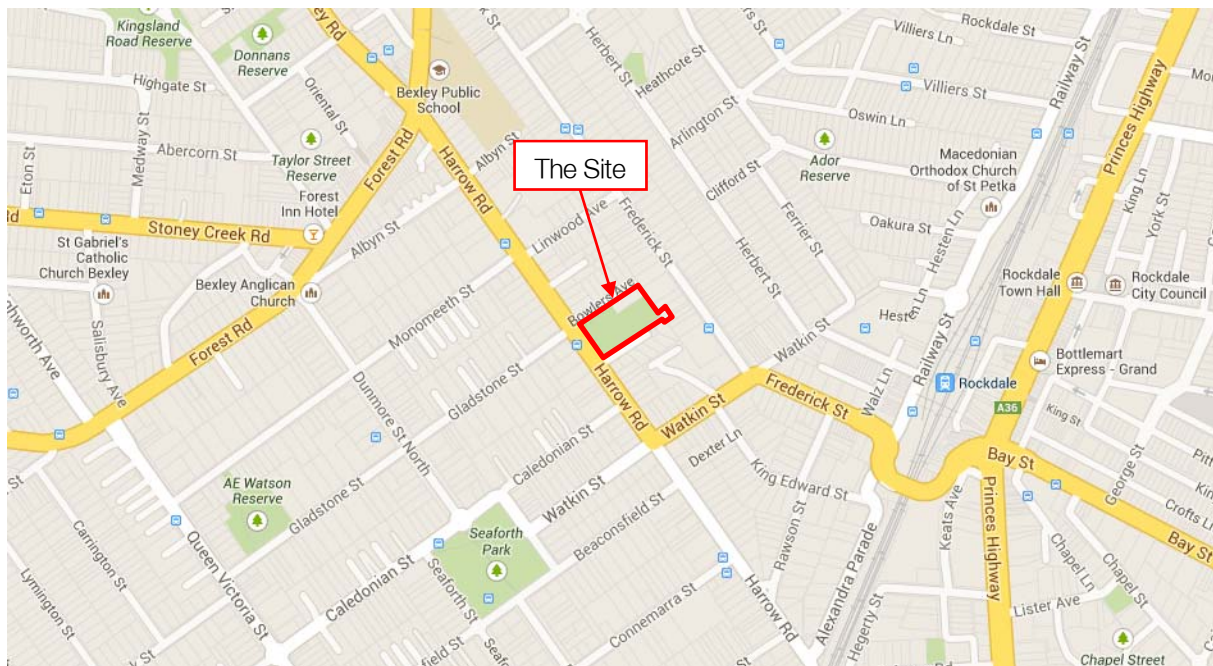


Figure 1: Location plan (Source: Google Maps)

Development surrounding the site comprises residential uses ranging from low density to high density, as described below:

- Opposite the site, to the west are two (2) and three (3) storey residential flat buildings with landscaped setbacks fronting Harrow Road;
- To the north, fronting Bowlers Avenue are single storey detached dwellings;
- To the south of the site, fronting Goyen Avenue are single storey detached dwellings which at the eastern end of the street, back onto three (3) to four (4) level residential flat buildings. 6 Goyen Avenue adjoins part of the southern boundary of the site; and
- To the east of the site is residential development fronting Frederick Street. This development includes one (1) and two (2) storey dwelling houses and two (2) to three (3) level residential flat buildings.

The site is situated within an existing residential area and has been determined to be an ideal location to develop a RCF by virtue of the approval of the DA this application seeks to modify.

### 2.2 Site Description

The site is known as 62-82 Harrow Road, Bexley, and is legally described as Lot 174 in DP 715467.



The site is bounded by Harrow Road to the south west, Goyen Avenue to the south east, Bowlers Avenue to the north west and residential development to the north east.

The site is rectangular in shape, and has a total area of 8,307.5m<sup>2</sup>, with the following frontages:

- 70.52m to Harrow Road;
- 114.88m to Bowlers Avenue;
- 95m to Goyen Avenue; and
- 57.58m to the rear of properties fronting Frederick Street.

Vehicle access to the site is provided from Goyen Avenue. Both Bowlers Avenue and Goyen Avenue are cul-de-sacs.

The topography of the site slopes in a north-south direction.

The site is occupied by the former St George Bowling Club (now demolished), bowling greens and car park. The former clubhouse was located in the northernmost corner of the site fronting Bowlers Avenue. The balance of the site was utilised for the bowling greens or car parking.

The site is largely clear of vegetation with the exception of trees adjacent to the former clubhouse.

## 3.0 Proposed Development

### 3.1 Overview

The application seeks to modify Development Consent DA-2017/27 for a part three (3) and part four (4) storey RCF, comprising 198 sole occupancy rooms, including amenity, services, and car parking within a two (2) level basement, chapel, function room, rooftop communal open space, vegetable garden, landscaped gardens and demolition of existing structures.

The proposed S4.55(2) application to modify the consent proposes a number of design modifications which have arisen largely as a result of design development and in order to provide additional amenity to the future occupants of the development.

St Basil's is a locally based, not-for-profit, charitable organisation which is part of the Greek Orthodox Church, and provides care for financially disadvantaged persons and the elderly. Their mission is to care for the elderly, including those in need, with 70% of residents and clients experiencing financial and/or social disadvantage.

Therefore, they seek to provide high quality facilities and care, which in this case will be realised through the proposed modifications by reducing the room numbers and increasing the extent of the communal and associated health and support service facilities.

The proposed modifications generally involve the following:

The proposed S4.55(2) application seeks broadly to modify the approved development by:

- Reorganisation of basement levels and reduction in car parking from 120 to 119 spaces and provision for a bus parking space;
- Addition of a secured residents bus parking area within the second basement level;
- Reconfiguring the accommodation rooms and reducing the total number of rooms from 198 to 172 in order to allow larger rooms with greater amenity for future occupants;
- Relocation of the chapel, communal facilities and office spaces at ground floor;
- Reorganisation of internal residential levels to deliver improved communal dining and sitting areas, additional medical facilities and additional treatment rooms to each residential level;
- Centralisation of the administration offices, with visual access to the central landscaped area and relocation of the theatre;
- Relocation of the lifts, provision of an additional lift (4 in total comprising 2 goods lifts and 2 passenger lift) and resizing of lifts to accommodate a bed;
- Changes to the approved landscape design at ground floor level;
- Enlargement of the dining area and relocation of the sitting rooms at Levels 1 and 2;
- Introduction of a small balcony in the eastern corner of Level 2 and reconfiguration of the sitting areas and support services at this level;
- Enlargement of the dining/sitting area at Level 3;
- Relocation of the substation;

- deletion of the approved footpath on the Goyen Road frontage to reduce risk to pedestrians due to the inclusion of several crossovers and traffic movement;
- Addition of a secured residents bus parking area within the second basement level;
- Deletion of the central deep soil zone through the basement to meet the recommendations of the structural engineer (NB: total provision of deep soil still exceeds that required by RDCP 2011);
- Changes to the proposed external colours, materials and finishes;
- Provision of photovoltaic panels on the roof over the four (4) storey element (having a maximum height of 150mm so as to sit below the parapet); and
- Adjustment of floor levels throughout in order to provide the required 2.7m ceiling height (BCA compliant). Detailed design development has identified the fact that the approved heights proposed by the previous architect could not accommodate the required structural slab thicknesses and services, within the approved height.

The full extent of the proposed modifications are identified in detail on the submitted plans prepared by PTW Architects.

The proposal also seeks to modify/delete the following conditions of consent:

- Modify Condition 2 relating to the approved plans;
- Modify Condition 11 relating to the height of the development approved by Sydney Airport Corporation Limited;
- Modify Condition 19 relating to the maximum number of persons working on the premises;
- Modify Condition 45 relating to the maximum number of beds/single patient rooms accommodated within the development;
- Modify Condition 50 relating to cooling towers on the rooftop;
- Delete Condition 54 relating to Section 94 contributions;
- Modify Condition 64 in relation to proposed landscaping; and
- Modify Condition 118 in relation to the allocation of staff and visitor car parking.

The proposal results in an increase to building height associated with the requirement to adjust the floor to ceiling heights to achieve compliance with the minimum 2.7m required under the BCA, and taking into account structural slab thickness, Section J insulation requirements and reticulation of services.

The proposal also results in an increase in GFA from 10,950.5m<sup>2</sup> to 12,186.43m<sup>2</sup> which represents a consequential increase of FSR from 1.318:1 to 1.467:1. It is noted that bulk of the increased GFA relates to surplus car parking spaces along with the enlargement of support services within Basement Level 2. Some additional GFA is also proposed above ground level associated with the reconfiguration of the central and southern wings and relocation of the approved chapel. Notwithstanding the increase in FSR, the above ground level FSR is generally as anticipated by the applicable development standard. Furthermore, the increases in height and FSR have no significant adverse overshadowing impacts in relation to nearby properties, and compliance with the solar access requirements of RDCP 2011 is still achieved.

PTW Architects have provided the following discussion in relation to the proposed changes to the approved ground floor level:

*"The aim of the re-design is to provide greater physical and visual connectivity between the internal and external spaces, noting the importance of community spaces to the well-being of the residents and their families. Further, the spaces open out to the courtyard. Under the north-south wing, the multipurpose room has been located to make effective use of the slab above. The chapel becomes a sculptural element in the courtyard. Opening walls to the multi-purpose room and the chapel will*

*allow both internal and external spaces to be used together for special occasions such as Easter and Christmas.”*

PTW Architects have also provided the following discussion in relation to the proposed changes to the approved external materials, colours and finishes:

*“The façade has been redesigned to better fit within the surrounding context. The outer face of brick along the street edge employs two lustre levels (matt and glazed) of face brickwork. Internally, a framed expression differentiates between the ‘outside’ and the ‘inside’ spaces around the courtyard. Articulation of the façade into vertical bays and articulation and modelling within the bays e.g. the matt and glazed brick planes step by 20mm assist in creating a play of light and shade across the length of the façade. Horizontal sunshading will add further definition.”*

The reduced number of care beds results in a consequential minor reduction of staffing numbers from 117 to 112. However, it is noted that the overall staff to resident ratio will be slightly higher than the approved, thereby ensuring additional amenity for future residents.

This Application also seeks modification/deletion of the following conditions:

- Amend Condition 2 with the following:

*“The development must be implemented substantially in accordance with the plans listed below, the applicant 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:*

<b>Plan Reference</b>	<b>Drawn by</b>	<b>Dated</b>	<b>Received by Council</b>
<del>DA-000 Rev D Cover Sheet</del>	<del>GD Architects PTY LTD</del>	<del>14/03/2017</del>	<del>11/04/2017</del>
A-DA-01 Rev. 01 Cover Sheet	PTW Architects	19/09/18	September 2018
<del>DA-001 Rev B Site Plan</del>	<del>GD Architects PTY LTD</del>	<del>05/12/2016</del>	<del>11/04/2017</del>
A-DA-03 Rev. 01 Site Plan	PTW Architects	18/09/18	September 2018
<del>DA-100 Rev D Basement 2 Plan</del>	<del>GD Architects PTY LTD</del>	<del>11/04/2017</del>	<del>11/04/2017</del>
A-DA-04 Rev. 01 Basement Plan 2	PTW Architects	18/09/18	September 2018
<del>DA-101 Rev C Basement 1 plan</del>	<del>GD Architects PTY LTD</del>	<del>28/03/2017</del>	<del>11/04/2017</del>
A-DA-05 Rev. 1 Basement Plan 1	PTW Architects	18/09/18	September 2018
<del>DA-102 Rev F Ground Floor Plan</del>	<del>GD Architects PTY LTD</del>	<del>10/04/2017</del>	<del>11/04/2017</del>
A-DA-06 Rev. 02 Ground Floor Plan	PTW Architects	24/09/18	September 2018
<del>DA-103 Rev B Level 1 Plan</del>	<del>GD Architects PTY LTD</del>	<del>05/12/2016</del>	<del>11/04/2017</del>
A-DA-07 Rev. 02 Level 1 Floor Plan	PTW Architects	24/09/18	September 2018
<del>DA-104 Rev B Level 2 Plan</del>	<del>GD Architects PTY LTD</del>	<del>05/12/2016</del>	<del>11/04/2017</del>
A-DA-08 Rev. 02 Level 2 Floor Plan	PTW Architects	24/09/18	September 2018
<del>DA-105 Rev B Level 3 Plan</del>	<del>GD Architects PTY LTD</del>	<del>05/12/2016</del>	<del>11/04/2017</del>
A-DA-09 Rev. 01 Level 3 Floor Plan	PTW Architects	18/09/18	September 2018
<del>DA-106 Rev B Roof Level Plan</del>	<del>GD Architects PTY LTD</del>	<del>05/12/2016</del>	<del>11/04/2017</del>
A-DA-10 Rev. 01 Level Roof Plan	PTW Architects	18/09/18	September 2018
DA735 Rev A Goyen Avenue Concept Public Domain Plan	CD Architects PTY LTD	10/04/2017	11/04/2017

<b>Plan Reference</b>	<b>Drawn by</b>	<b>Dated</b>	<b>Received by Council</b>
<del>DA-200 Rev F North/South Elevations</del>	<del>GD Architects PTY LTD</del>	<del>11/04/2017</del>	<del>11/04/2017</del>
A-DA-11 Rev. 01 North & South Elevations	PTW Architects	18/09/18	September 2018
<del>DA-201 Rev D East/West Elevations</del>	<del>GD Architects PTY LTD</del>	<del>14/03/2017</del>	<del>11/04/2017</del>
A-DA-12 Rev. 01 East & West Elevations	PTW Architects	18/09/18	September 2018
A-DA-13 Rev. 01 Internal North & South Elevation	PTW Architects	18/09/18	September 2018
<del>DA-300 Rev D Sections</del>	<del>GD Architects PTY LTD</del>	<del>11/04/2017</del>	<del>11/04/2017</del>
A-DA-14 Rev. 01 Site Sections A, B & C	PTW Architects	18/09/18	September 2018
<del>DA-301 Rev C Sections</del>	<del>GD Architects PTY LTD</del>	<del>11/04/2017</del>	<del>11/04/2017</del>
A-DA-15 Rev. 01 Site Sections D & E	PTW Architects	18/09/18	September 2018
<del>DA-310 Rev B Driveway Sections</del>	<del>GD Architects PTY LTD</del>	<del>05/12/2016</del>	<del>11/04/2017</del>
<del>DA-500 Rev A Accessible Room Floor Plans</del>	<del>GD Architects PTY LTD</del>	<del>17/05/2016</del>	<del>11/04/2017</del>
<del>DA-730 Rev D Finishes Schedule</del>	<del>GD Architects PTY LTD</del>	<del>14/03/2017</del>	<del>14/04/2017</del>
A-DA-19 Rev. 01 External Materials Palette	PTW Architects	18/09/18	September 2018
<del>DA-733 Rev A Pergola Plan and Details</del>	<del>GD Architects PTY LTD</del>	<del>05/12/2016</del>	<del>14/04/2017</del>
<del>DA-734 Rev B Boundary Fence Details</del>	<del>GD Architects PTY LTD</del>	<del>28/03/2017</del>	<del>11/04/2017</del>
<b>Landscape Plans</b>			
<del>Ground Level L01 Rev J</del>	<del>Habit8</del>	<del>20/03/2017</del>	<del>11/04/2017</del>
L00 Rev. C Landscape Cover Sheet	Taylor Brammer	14/9/2018	September 2018
L01 Rev C - Ground Floor Masterplan	Taylor Brammer	14/9/2018	September 2018
<del>Level 3 L02 Rev H</del>	<del>Habit8</del>	<del>21/12/2016</del>	<del>11/04/2017</del>
L02 Rev. C Level 3 Plan	Taylor Brammer	14/9/2018	September 2018
<del>Sections L03 Rev F</del>	<del>Habit8</del>	<del>15/12/2016</del>	<del>11/04/2017</del>
L04 Rev. C Section Elevations	Taylor Brammer	14/9/2018	September 2018
<del>Proposed Planting L04 Rev G</del>	<del>Habit8</del>	<del>15/12/2016</del>	<del>11/04/2017</del>
L05 Rev. C Details	Taylor Brammer	14/9/2018	September 2018
<del>Specification Notes and Details L05 Rev D</del>	<del>Habit8</del>	<del>15/12/2016</del>	<del>11/04/2017</del>

- Modify Condition 11, as it relates to Sydney Airport Corporation Limited (SACL) as follows:

**"SYDNEY AIRPORT CORPORATION LIMITED (SACL)"**

*SACL has approved the maximum height of the proposed building at ~~46.72metres~~ 48.628metres relative to Australian Height Datum (AHD). This height is inclusive of all vents, chimneys, aerials, TV antennae and*

construction cranes etc. No permanent or temporary structure is to exceed this height without further approval from Sydney Airport Corporation Limited.

*Note: Under Section 186 of the Airports Act 1996, it is an offence not to give information to the Airport Operator that is relevant to a proposed "controlled activity" and is punishable by a fine of up to 50 penalty units. For further information on Height Restrictions please contact SACL on 9667 9246."*

- Modify Condition 19 as follows:

*"The maximum number of persons working on the premises shall be limited to ~~417~~ 112."*

- Modify Condition 45 as follows:

*"A maximum of ~~498~~ 172 beds / single patient rooms are to be provided within the development for seniors and / or persons with a disability."*

- Modify Condition 50 which is as follows:

*"A maximum of two cooling tower units with a maximum height of 0.6m are permitted upon the rooftop level between the goods and passenger lift cores. ~~Photovoltaic cells with a maximum height of 150mm are permitted on the rooftop level at the western end of the site.~~ No other plant equipment is to be located at rooftop level."*

- Delete Condition 54 which is as follows:

~~"A section 94 contribution of \$1,029,176.28 shall be paid to Council. Such contribution are only used towards the provision or improvements of the amenities and services identified below. The amount to be paid is adjusted at the time of payment, in accordance with the contribution rates in Council's current Adopted Fees and Charges. The contribution is to be paid prior to the issue of any construction certificate for works above the floor level of the ground floor. (payment of the contribution is not required prior to any separate construction certificates issued only for development, site preparation works and the construction of basement levels). The contribution is calculated from Council's adopted Section 94 contributions plan in the following manner:~~

<del>Open Space</del>	<del>\$877,334.04</del>
<del>Community Services &amp; Facilities</del>	<del>\$51,135.48</del>
<del>Town Centre &amp; Streetscape Improvements</del>	<del>\$19,219.86</del>
<del>Pollution Control</del>	<del>\$75,834.00</del>
<del>Plan Administration &amp; Management</del>	<del>\$5,652.90</del>

~~Copies of Council's Section 94 Contribution Plans may be inspected at Council's Customer Service Centre, Administration Building, 2Bryand Street."~~

- Modify Condition 64 as follows:

*"Architectural and Landscape plans are to be amended as follows and approved by the Principal Certifying Authority prior to the issue of the construction certificate.*

- A maximum fence height of 1.2m shall be provided to the Bowlers Avenue frontage of the site and at the splayed corner of Bowlers Avenue and Harrow Road.*
- ~~*Balconies at levels 1 and 2 fronting Bowlers Avenue, off rooms 158 and 258 are to be provided with a fixed 1.8m high privacy screen comprising VTB Aluminium Timber look blades in a horizontal form, as noted upon approved elevations.*~~

- ~~e) Screen planting with a minimum height of 1.5m is to be provided within the 0.4m setback to Bowlers Avenue in front of the substation.~~
- ~~d) Fixed privacy screen comprising VTB Aluminium Timber look blades, as noted upon approved elevations shall be provided to the bedroom windows of rooms 159/160/161/162/163/164 at level 1 and rooms 211/212 and 259 at level 2.~~
- e) Details, location and placement of Heritage windows to be incorporated into the entry hall of the development are to be illustrated and notated upon plans.”

- Amend Condition 118 as follows:

~~“120 119~~ off-street car spaces, being ~~59 58~~ staff and 61 visitor spaces shall be provided in accordance with the submitted plan and shall be linemarked to Council's satisfaction. The pavement of all car parking spaces, manoeuvring areas and internal driveways shall comply with Australian Standard AS3727 – Guide to Residential Pavement.”

It is noted that the Plan of Management prepared by Monument Project Group, and submitted Council on 20 April 2017, will need to be revised to reflect these changes. This is already required by Condition 105 of the approved DA so modification of this document is not required as part of this Application.

### 3.2 Key Development Statistics

A summary of the key development statistics is provided in Table 2 below.

Development Statistics	Approved	Proposed
Site Area	8,307.5m <sup>2</sup>	8,307.5m <sup>2</sup>
Gross Floor Area (GFA)	10,950.5m <sup>2</sup> including 553.55m <sup>2</sup> of floor area in the basement (i.e. 41 surplus car parking spaces, kitchen, laundry and workshop)	11,553.93m <sup>2</sup> including 994.3m <sup>2</sup> in the basement (i.e. 46 surplus parking spaces, kitchen, workshop and laundry)
Floor Space Ratio (FSR)	1.318:1	1.467:1
Maximum building height:		
– 14.5m	9.45m (Goyen Ave parapet) – 12.32m (Bowlers Ave parapet)	13.32m (Bowlers Ave parapet - 14.4m (Goyen Ave parapet)
– 9.5m	8.05m (Bowlers Ave parapet) - 13.92m (passenger lift, lobby & toilet)	9.2m (Bowlers Avenue Parapet) – 14.9m (lift overrun)
Parking Spaces proposed	120	119 + 1 bus bay
Ambulance Parking Spaces	1	1
Aged Care Rooms	198	172
Landscaped area	2,820.2m <sup>2</sup> (33.9%)	2,118m <sup>2</sup> (25.5%) including 1,518m <sup>2</sup> (18%) of deep soil

Table 2: Development statistics

## 4.0 Section 4.15 Assessment

### 4.1 Section 4.55(2) of the EP&A Act 1979 – Other Modifications

Section 4.55 of the EP&A Act 1979 allows development consent to be modified if the development is substantially the same. Section 4.55(2) relates to modifications where they do not involve minimal environmental impact and are not modifications involving minor errors, misdescription, or miscalculation.

Set criteria identified in Section 4.55(2) of the Act are reproduced below:

*“(2) Other modifications*

*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*
- (b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) 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*
- (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*
- (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.*

*Subsections (1) and (1A) do not apply to such a modification.”*

In relation to Subclause (a), the proposed modifications are considered to result in substantially the same development as that for which consent was originally granted for the following reasons:

- The building footprint, scale and bulk are substantially the same as the approved development, with alterations to the layout of the ground floor, reduction of the number of overall rooms, reorganisation or the internal communal spaces and dining areas to the residential area and reorganisation of the basement parking, storage, and service areas;
- The proposal maintains the approved provision of car parking spaces and the location and design of the approved driveway. No additional traffic generation or demand for car parking will occur as a result of the proposed modifications;
- The proposed adjustment to the approved floor levels is required to meet the minimum permitted by the BCA. The proposed height adjustments do not result in additional adverse overshadowing impacts in relation to nearby residential properties; and
- The proposed modifications will not change the approved land uses or the categorisation of the approved development.



Accordingly, the proposed modifications satisfy Section 4.55(2) of the *EP&A Act 1979*, as they result in a development that is substantially the same as the development originally approved by the Sydney Central Planning Panel.

In relation to Subclauses (c) and (d), Clause 119(3) of the *EP&A Regulation 2000* requires that the application be notified or advertised in accordance with the relevant DCP. The consent authority is required to consider any submissions made in accordance with that notification.

It is demonstrated above, and illustrated in the architectural drawings as modified, that the proposed modified development is substantially the same as the approved development and therefore subject to the procedures provided by Subclauses (c) and (d), and may be considered by the consent authority under Section 4.55(2) of the *EP&A Act 1979*.

#### **4.2 Section 4.55(3) of the *EP&A Act 1979***

In accordance with Section 4.55(3) of the *EP&A Act 1979*:

*"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 4.15 (1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified."*

An assessment of the proposed modifications with regard to relevant matters referred to in Section 4.15(1) is outlined in Section 5 of this document.

## 5.0 Section 4.15 Assessment

The assessment of the proposal outlined below addresses matters listed under Section 4.15 of the *EP&A Act 1979*. The assessment set out in this section is provided to assist Council in its consideration of the application.

### 5.1 Overview of Statutory and Policy Controls

The legislation, statutory controls and policies relevant to the assessment of the proposed development are assessed below.

#### 5.1.1 State Environmental Planning Policies

- State Environmental Planning Policy (State and Regional Development) (SRD SEPP) 2011;
- State Environmental Planning Policy No. 55 – Site Remediation (SEPP 55); and
- State Environmental Planning Policy (Building Sustainability Index: BASIX) (BASIX SEPP) 2004.

#### 5.1.2 Relevant Local Environmental Plans

- Rockdale Local Environmental Plan (RLEP) 2011.

#### 5.1.3 Relevant Development Control Plans

- Rockdale Development Control Plan (RDCP) 2011.

#### 5.1.4 Policies

- Rockdale Section 94A Contributions Plan 2004.

### 5.2 State Environmental Planning Policy (State and Regional Development) (SRD SEPP) 2011

The development as originally proposed had a CIV exceeding \$20 million, and in accordance with the provisions of Part 4 of the SRD SEPP, and Schedule 4A of the *EP&A Act 1979*, was deemed to be regional development. The DA was determined by the Sydney Central Planning Panel (SCPP) which is now known as the Sydney Eastern City Planning Panel (SECPP).

The application to modify the development consent is made in accordance with Section 4.55(2) of the *EP&A Act 1979* and the application will be determined by SECPP as required by Clause 2.15 of the *EP&A Act 1979*.

### 5.3 State Environmental Planning Policy No. 55 – Site Remediation (SEPP 55)

The site was found to be suitable for use as a residential care facility under the consent issued. The requested modifications do not alter the suitability of the site for the purposes of a RCF in regards to site contamination.

5.4 Rockdale Local Environmental Plan (RLEP) 2012

5.4.1 Zoning and Permissibility

The proposal is subject to the provisions of RLEP 2011. The site is zoned R2 Low Density Residential (refer Figure 2). Seniors housing is permissible in the R2 zone with development consent.

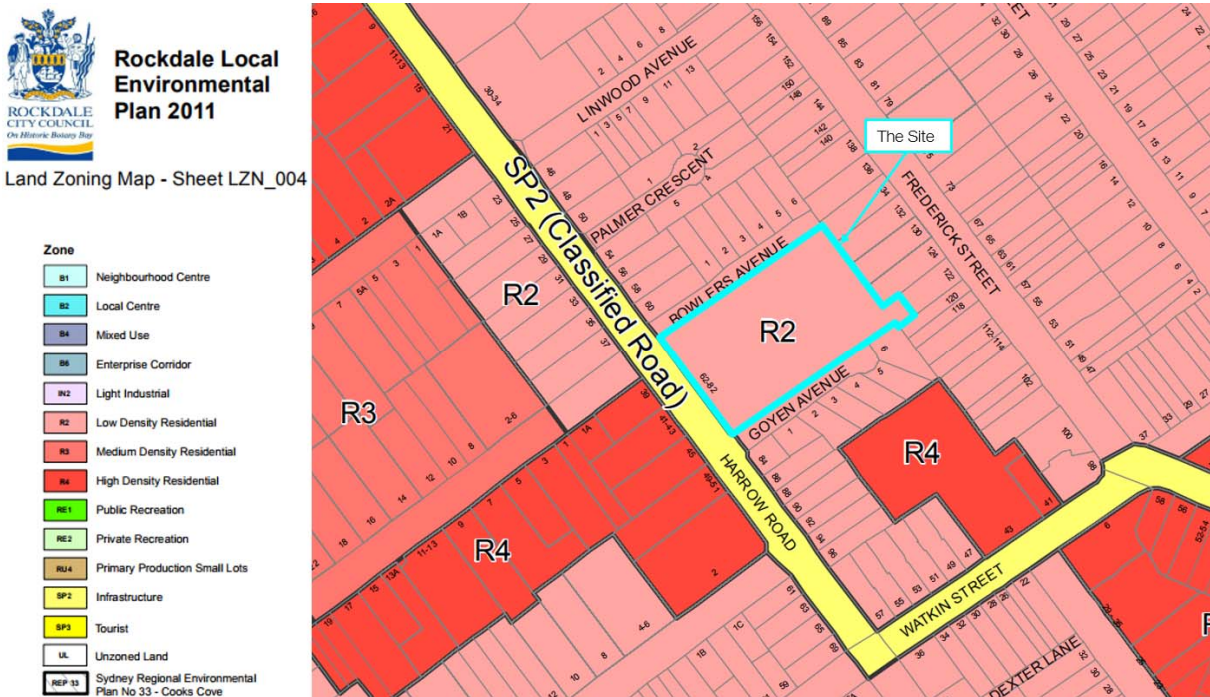


Figure 2: Extract from RLEP 2011 Zoning Map

The development for a residential care facility was determined to be consistent with the zone objectives at the time of approval. The proposal as modified remains consistent with the objectives of the R2 Low Density Residential zone as detailed in Table 3 below.

Objective	Comment
<i>To provide for the housing needs of the community within a low density residential environment.</i>	The RCF will provide for the needs of the aged population within the community, enabling them to remain in the community with which they have become part.
<i>To enable other land uses that provide facilities or services to meet the day to day needs of residents</i>	The RCF provides a service to the community in the form of care for elderly, infirm and disabled residents, enabling them to stay in the community with which they are part.
<i>To ensure that the land uses are carried out in a context and setting that minimises any impact on the character and amenity of the area.</i>	<p>The proposed land use has been deemed appropriate by the consent authority in its approval of the DA that this Application seeks to amend.</p> <p>The proposed changes to the appearance of the approved development are relatively minor and improve the relationship of the development with the character and amenity of the area by as a consequence of the revised external materials and finishes.</p> <p>The proposed increase to the height and FSR of the approved building do not result in any significant additional overshadowing impacts in relation to nearby residential properties. The proposal</p>

## Objective

## Comment

will not result in any additional traffic generation or demand for car parking.

Table 3: R2 Low Density Residential zone objectives assessment table

### 5.4.2 Height of Buildings (Clause 4.3)

Clause 4.3 of RLEP 2011 establishes a maximum height of buildings development standard. Ordinarily the site would be subject to a maximum height of 8.5m pursuant to Clause 4.3(2) of RLEP 1022, however it is identified within Area K on the Height of Buildings map (refer to Figure 3). To this end, Clause 4.3(2B) applies to the site, and states that:

*“Despite subclause (2), the maximum height of a building that is in Area K identified on the Height of Buildings Map and that is used only for the purpose of seniors housing is:*

- (a) 14.5 metres—if the building is within 38 metres of Harrow Road, and
- (b) 9.5 metres—if the building is not within 38 metres of Harrow Road.”

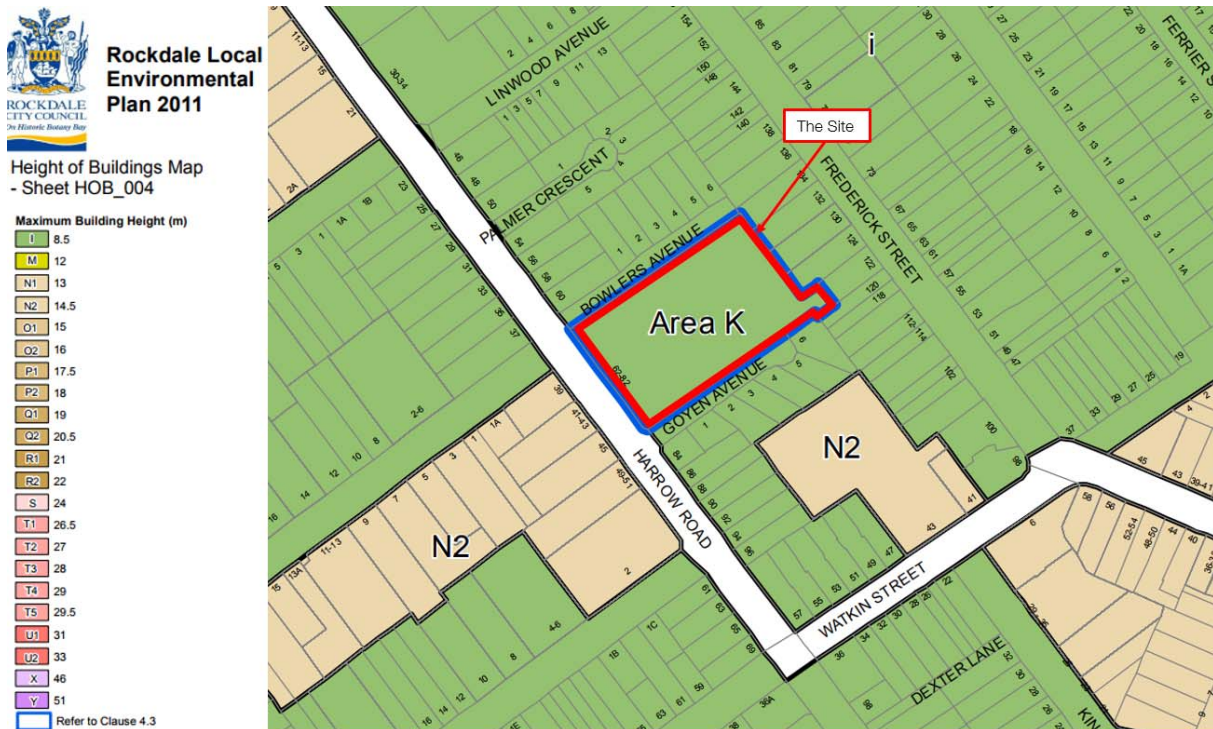


Figure 3: Extract from RLEP 2011 Height of Buildings Map

The approved development incorporated a variation of up to 4.42m to the maximum permitted 9.5m height limit development standard. This variation to height related to rooftop structures (including lift overrun and communal open space balustrade, a pergola, and some wall parapets).

The modifications proposed by this Application, seek to increase the heights of the approved development, including raising the approved floor levels to ensure compliance with the BCA, along with the provision of stair and lift access to the rooftops. The proposed modified development will have the following maximum building heights:

- Within the 14.5m height zone:
  - 13.32m (RL 47.864) to the Bowlers Avenue parapet;
  - 14.4m (RL 47.864) to the Goyen Avenue parapet;



- 14m to the services shaft on the northern side of the roof;
- Within the 9.5m height zone:
  - 14.3m (RL 48.628) to the northern lift overrun;
  - 14.9m (RL 48.628) to the southern lift overrun;
  - 11.5m to the roof terrace balustrade;
  - 13.1m to the roof terrace pergola;
  - 9.2m to 9.6m (RL 44.521) to the Bowlers Avenue parapet; and
  - 11m to 11.5m (RL 44.521) to the Bowlers Avenue parapet

Figure 4 below provides a 3D height plane diagram, showing the areas of compliance/non-compliance with the maximum height controls.

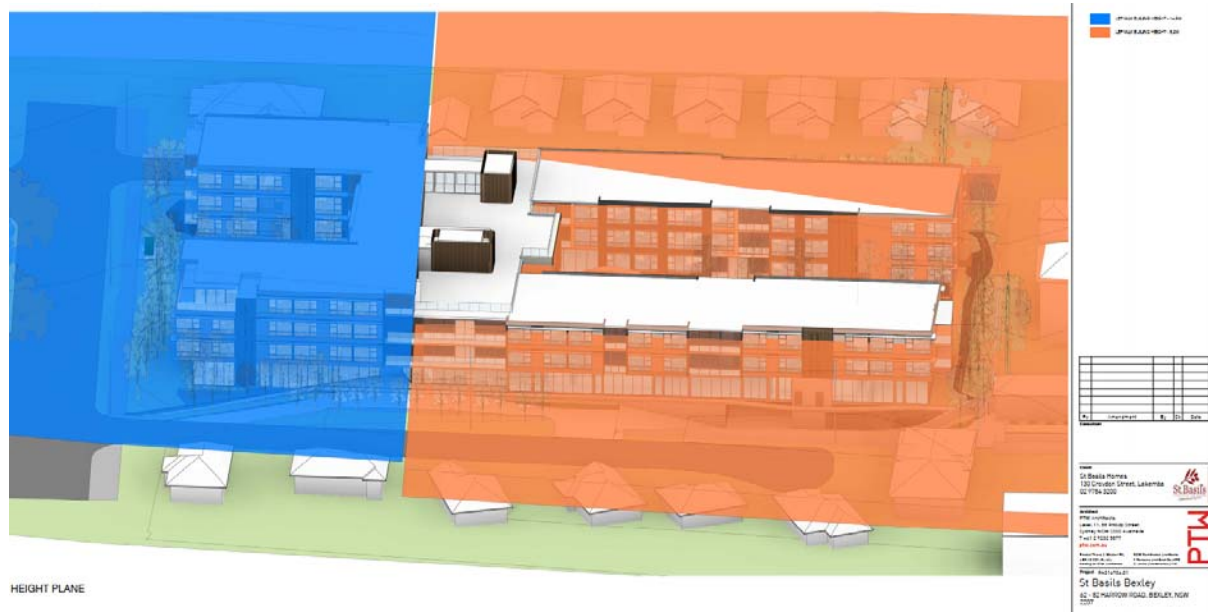


Figure 4: Height plane diagram (Source: PTW Architects)

Notwithstanding that the proposal increases the approved building heights and exceeds that permitted under RLEP 2011 for the rear 2/3 of the site, the proposal remains consistent with the objectives of the height standard outlined in Subclause 4.3(1) as detailed in Table 4 below.

Objective	Comment
To establish the maximum limit within which buildings can be designed and floor space can be achieved.	<p>The proposed modifications do not exceed the maximum 14.5m standard relating to the western part of the site and the extent of the non-compliance to the maximum 9.5m standard, while increasing from that approved, largely occurs as a result of:</p> <ul style="list-style-type: none"> <li>• the fact that existing ground level at the site has been artificially adjusted to accommodate the bowling greens, such that a 'sunken' pathway is located around one bowling green which is half a metre lower than the level of the adjacent bowling green;</li> <li>• the topography of the site falls away significantly along the southern edge which contributes to the degree of variation in the height control; and</li> </ul>

Objective	Comment
	<ul style="list-style-type: none"> <li>the site is subject to a flood planning level which means that the finished ground level is set higher than it otherwise would.</li> </ul>
<i>To permit building height that encourage high quality urban form</i>	<p>The approved building was considered to be of a high quality urban form that is acceptable within the locality by virtue of the issued approval. The proposed modifications maintain the character and essence of the approved development and the proposal maintains three (3) storeys in the non-compliant elements, consistent with the number of storeys anticipated by the LEP.</p> <p>The proposal continues to relate appropriately to adjoining properties, through the transition in height between the four (4) and three (3) storey elements. The landscaping around the perimeters and within the centre of the site contribute to the achievement of a landscaped setting which softens the visual impact of the development and relates to the landscaped character of other properties in the locality.</p>
<i>To provide building heights that maintain satisfactory sky exposure and daylight to buildings, key areas and the public domain.</i>	<p>The approved development was deemed to satisfy this objectives, and will continue to ensure satisfactory sky exposure and daylight is achieved by buildings and the public domain. The proposal maintains compliance with the solar access requirements of RDCP 2011 in relation to overshadowing of nearby residential properties.</p>
<i>To nominate heights that will provide an appropriate transition in built form and land use intensity.</i>	<p>The approved development provides a transition in height across the site. The minor increases in height to the parapet of the four (4) storey section of the building are within the approved overall maximum building height and the building steps down to the east, thereby maintaining a transition of height across the site.</p> <p>The intensity of the development will be marginally lessened, as a consequence of the reduction in rooms from 198 to 172. Having regard to the above, it is considered that the proposal continues to satisfy this objective.</p>

Table 4: Clause 4.3 Height of Buildings objectives assessment table

The height of the approved building has been increased as the approved development, designed by an earlier architect, did not make sufficient allowance for compliance with the BCA in relation to minimum floor to ceiling heights, having regard to the provision of services and structure. The approved design also did not make sufficient provision for the containment of rainwater to avoid surface water runoff over the edges of the roof during excessive rainfall periods.

Figure 4 shows that the building, as sought to be modified, remains compliant with the 14.5m height limit applying to the Harrow Road frontage and compliant in part, with the 9.5m height limit applying to the eastern 2/3 of the site. The approved non-compliance to the heights are increased in the part of the site subject to the 9.5m height limit.

The changes to the parapet heights are below the permitted maximum building height to the Harrow Road frontage, and do not substantially alter the appearance of the development. Detailed shadow analysis has

been undertaken in relation to the proposed modified development. The analysis demonstrates that the rear private open spaces of the Goyen Avenue properties maintain solar access between 9am and 2pm on 21 June. This equates to five (5) hours of solar access which is well beyond the test, of maintaining three (3) hours of solar access.

It is therefore considered that the proposed modification will not result in any adverse impacts as a result of the height of the development.

### 5.4.3 Floor Space Ratio (Clause 4.4)

The RLEP 2011 LEP map identifies the site as being within Area H, as can be seen in Figure 5 below. Clause 4.4(2E) states that:

*"Despite subclause (2), the maximum floor space ratio for a building on land identified as Area H (which this site is) on the Floor Space Ratio Map is, if the building is used only for the purpose of seniors housing (of which the approved DA is), 1.25:1."*

Therefore, for the purpose of seniors housing development on this site, the maximum permissible FSR is 1.25:1.

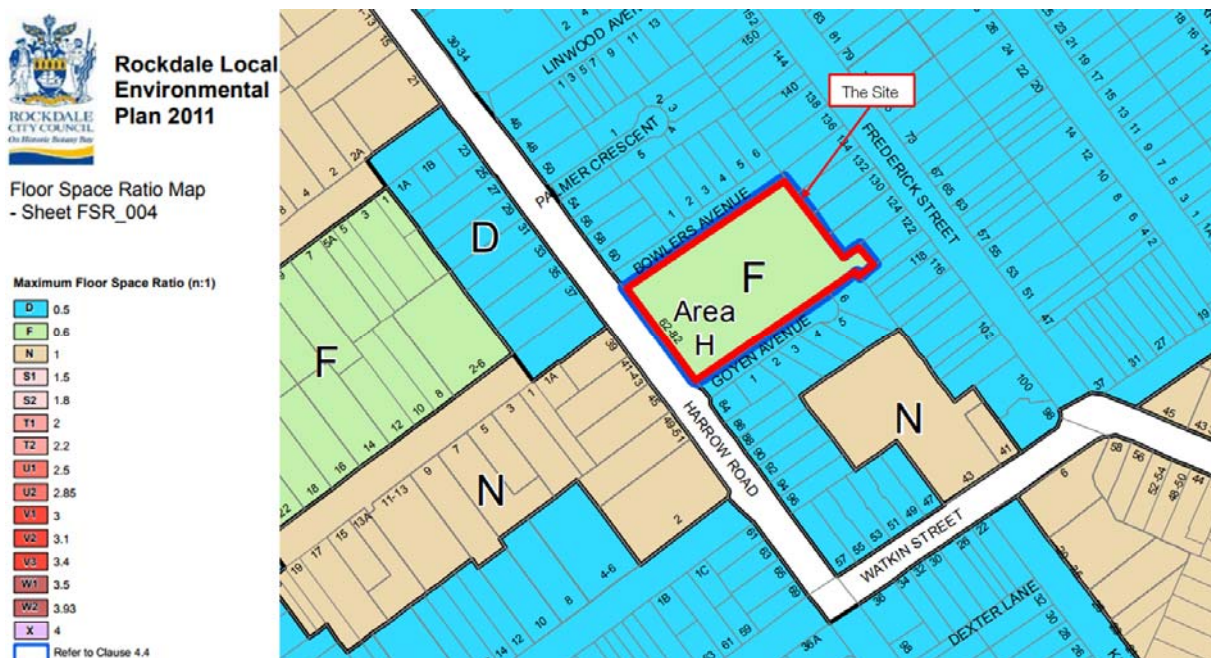


Figure 5: Extract of RLEP 2011 FSR Map

The approved DA permitted an FSR of 1.318:1 (10,950.5m<sup>2</sup>) a variation to the development standard of 1.25:1 of 0.068:1 (565.63m<sup>2</sup>) which generally related to the additional service accommodation and parking within the two (2) basement levels.

The alterations proposed by this S4.55(2) application increase the overall GFA of the approved development by 603.43m<sup>2</sup>, resulting in a total GFA of 11,553.93m<sup>2</sup> which represents an FSR of 1.39:1.

The additional GFA falls into two (2) parts, as follows:

- 440.75m<sup>2</sup> of additional GFA within Basement 2 which results from the deletion of the central deep soil area, enlargement of kitchen, laundry and workshop facilities and reorganisation of the service spaces. It also is a result of additional parking spaces (above the minimum requirement), resulting from the corresponding reduction in the number of care rooms from 198 to 172; and

- 162.8m<sup>2</sup> of additional GFA above ground level which results from the inclusion within the building envelope of the improved and reconfigured communal accommodation at ground floor level, and minor extensions to the building floor plates at first, second, and third floor levels, facilitating improved dining facilities, seating areas, and medical/treatment rooms on each level.

The modified proposal therefore exceeds the maximum permitted by 1,169.6m<sup>2</sup> or 11.26%. However importantly, it is noted that the above ground portion of the GFA constitutes 11,113.18m<sup>2</sup> which equates with an FSR of 1.34:1. Thus the extent of the above ground non-compliance equates with an area of 728.8m<sup>2</sup> or 7% in excess of the maximum 1.25:1 permitted under RLEP 2011.

The relatively minor nature of the proposed additional GFA which is located above ground level is depicted in Drawing Nos. A-DA-25 to 33 inclusive which accompany this Application. As can be seen, the bulk of the additional above ground GFA occurs at ground floor level, where its impacts are minimal as they do not add to the height, bulk or scale of the approved development. As a consequence, and for all intents and purposes, the changes resulting in increased GFA will not be readily perceivable from the public domain or adjoining sites.

The proposal remains consistent with the objectives of the FSR standard outlined in Subclause 4.4(1) as set out in Table 5 below.

Objective	Comment
<i>To establish the maximum development density and intensity of land use, accounting for the availability of infrastructure and generation of vehicular and pedestrian traffic, in order to achieve the desired future character of Rockdale.</i>	<p>The intensity of the land use is reduced from that of the approved DA by nature of the reduction in bed spaces, and whilst the overall GFA has increased, this is predominantly as a result of the provision of additional services within Basement 2 and improved communal facilities and services for residents of the RCF.</p> <p>In addition to this, reducing the number of required parking spaces through the bed reduction has increased the number of car spaces that are included within the GFA as surplus to the minimum required to be provided, which it is considered desirable to retain for the convenience of future staff and visitors to the facility. Notwithstanding, the proposed additional GFA will not result in additional vehicular/pedestrian traffic movements or trip generation above that already approved.</p>
<i>To minimise adverse environmental effects on the use or enjoyment of adjoining properties.</i>	<p>No additional overlooking will occur as a result of the additional GFA. A minor increase in overshadowing will result. This will, however, be indiscernible from the shadow cast by the approved DA, and generally falls within the adjoining roads between the hours of 9:00am and 1:00pm. Where it does fall within properties to the south after 1:00pm, it does not result in a reduction of solar access below that required by RDCP 2011 with these properties maintaining five (5) hours of solar access to their rear private open space areas.</p>
<i>To maintain an appropriate visual relationship between new development and the existing character of areas of location that are not undergoing or likely to undergo substantial transformation.</i>	<p>The building setbacks remain generally consistent with the approved development and provisions of RDCP 2011. Therefore, the visual relationship between the new development and existing character of the area will be consistent with that of the approved development.</p> <p>Minor alterations to the finishes are proposed as part of this modification, however, the overall appearance of the proposed development is not dissimilar to that of the approved development, and will therefore not be out of character with the existing surrounding development.</p>

Table 5: Clause 4.4 - FSR objectives assessment table



#### 5.4.4 Heritage conservation (Clause 5.10)

Clause 5.10 seeks to conserve the environmental heritage of heritage items, conservation areas, archaeological sites, and Aboriginal objects and places of heritage significance.

The site previously accommodated the St George Bowling Club (now demolished), and the clubhouse structures were identified as a heritage item in Schedule 5 of RLEP 2011.

The clubhouse was the subject of an arson attack, and was destroyed by fire prior the submission of the approved DA. It was determined that the site contained insufficient heritage value to justify maintaining its heritage status, and has subsequently been delisted, and removed from the Environmental Heritage Register contained at Schedule 5 of RLEP 2011. The proposed modifications raise no issues or concerns in relation to heritage.

#### 5.4.5 Acid Sulfate Soils (Clause 6.1)

Clause 6.1 seeks to minimise the impacts of acid sulfate soils on the environment. Classes of acid sulfate soils have been applied to land throughout the LGA, and mapped on the Acid Sulfate Soils Map.

In accordance with the Acid Sulfate Soils Map, the site and surrounds are mapped as Class 5 Acid Sulfate Soils land, which is the lowest classification.

For each class of Acid Sulfate Soil Land, Clause 6.1 identifies the type of works that require consent, and where preparation of an acid sulfate soils management plan is required. The requirements for Class 5 acid sulfate soils land are provided in Table 6.

Class of Land	Works Requiring Consent
Class 5 Acid Sulfate Soils Land	<i>"Works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the water table is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land."</i>

Table 6: Requirements for Class 5 Acid Sulfate Soils Land

Council's assessment report in relation to the DA noted that development consent was not required as the site is not within 400 metres of adjacent Class 1, 2, 3 or 4 land that is below 5AHD. The proposed modifications do not alter this situation and further consideration in relation to acid sulfate soils is not required.

#### 5.4.6 Earthworks (Clause 6.2)

Clause 6.2 seeks to ensure that earthworks will not have a detrimental impact on environmental functions and processes, neighbouring uses, or heritage items and features of surrounding land, and requires consideration of the following matters prior to granting consent:

- “ the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality,
- the effect of the proposed development on the likely future use or redevelopment of the land,
- the quality of the fill or of the soil to be excavated, or both,
- the effect of the proposed development on the existing and likely amenity of adjoining properties,
- the source of any fill material or the destination of any excavated material,
- the likelihood of disturbing Aboriginal objects or other relics,
- proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area.”

The removal of the central deep soil zone to accommodate the proposed relocated chapel will necessitate additional earthworks when compared to the approved development. However, this will not increase the external parameters or setbacks of the approved basement as the deep soil zone was located centrally within the footprint of the development. As such, the earthworks remain consistent with the approved DA and will not alter the approved Stormwater Management and Sensitive Urban Design Strategy.

#### **5.4.7 Development in areas subject to aircraft noise (Clause 6.3)**

Clause 6.3 applies to development on land that is near Sydney (Kingsford-Smith) Airport, and is located within an Australian Noise Exposure Forecast (ANEF) Contour of 20 or greater, and is likely to be adversely affected by aircraft noise.

The objectives of this clause are:

- “(a) to prevent certain noise sensitive developments from being located near the Sydney (Kingsford-Smith) Airport and its flight paths,*
- (b) to assist in minimising the impact of aircraft noise from that airport and its flight paths by requiring appropriate noise attenuation measures in noise sensitive buildings,*
- (c) to ensure that land use and development in the vicinity of that airport do not hinder or have any other adverse impacts on the ongoing, safe and efficient operation of that airport.”*

The site is located between ANEF 25 and 30 contours, based on the Sydney Airport 2029 ANEF plan. The approved development was considered acceptable, subject to the adoption of the measures outlined in the approved acoustic report prepared by Acoustic Logic. An Acoustic Report, prepared by Acoustic Logic accompanies this Application.

The report provides an assessment of aircraft noise intrusion into the property in accordance with AS 2021-2000 “Aircraft Noise Intrusion – Building Siting and Construction” and Council Requirements.

The report identifies acoustic treatments for the proposed development to ensure compliance with the indoor noise level recommendations given in AS2021-2000. Subject to the implementation of the recommended actions, it is considered that the impacts on the proposed RCF from aircraft noise will be minimised through appropriate noise attenuation measures. Appropriate conditions of consent can be imposed in relation to the recommendations of the report.

#### **5.4.8 Airspace operations (Clause 6.4)**

Clause 6.4 requires that Council not grant consent prior to consulting with the relevant Commonwealth body of Sydney Airport Corporation Limited (SACL) where a proposed development will penetrate the Limitation or Operations Surface.

An obstacle limitation surface level of 51m relative to Australian Height Datum (AHD) applies to the site. Further, the land is subject to the Commonwealth of Australia's Civil Aviation (Buildings Control) Regulations 1988, with no building or other structure to be constructed on this land having a height greater than 7.62m above ground level, except in accordance with an approval given under these Regulations.

Sydney Airport Corporation Ltd approved a maximum height of 46.72m AHD for the original DA. As noted previously, this Application proposes to increase the height of the approved development in order to achieve compliance with the BCA in relation to floor to ceiling heights. To this end, approval will be required from SACL and it is proposed to modify Condition No. 11 in order to specify the maximum permitted building height is not to exceed RL48.628AHD.

#### **5.4.9 Flood planning (Clause 6.6)**

Clause 6.6 applies to development on flood affected land. The objectives of this clause are as follows:

- “(a) to minimise the flood risk to life and property associated with the use of land,*
- (b) to allow development on land that is compatible with the land’s flood hazard, taking into account projected changes as a result of climate change,*
- (c) to avoid significant adverse impacts on flood behaviour and the environment.”*

The clause applies to land at or below the flood planning level (FPL), which means the level of a 1:100 ARI (average recurrent interval) flood event plus 0.5m freeboard.

The design proposed by this application has incorporated the flood risk management recommendations of the Stormwater Management and Water Sensitive Urban Design Strategy submitted with the DA and the Flood Impact Assessment prepared by BMT WBH subsequently submitted to and approved by Council. It is considered that the proposed development satisfies the objectives of Clause 6.6.

#### **5.4.10 Essential services (Clause 6.12)**

Clause 6.12 requires the consent authority to be satisfied that adequate services are available for the development, including water supply, disposal and management of sewage, stormwater drainage, electricity, and vehicle access.

The site is located within an established urban area with access to sewer and water connections provided by Sydney Water. The proposed development can be satisfactorily serviced by sewer and water. This Application proposes to relocate the approved substation to the western boundary where it is distant from nearby residential properties and access for service providers and maintenance is most efficiently provided.

By nature of the issued approval, the consent authority is satisfied that adequate services are available for the development, including water supply, disposal and management of sewage, stormwater drainage, electricity, and vehicle access.

#### **5.5 Rockdale Development Control Plan (RDCP) 2011**

The proposal has been assessed against the relevant provisions of the RDCP 2011.

Control	Compliance/Comment
Part 4.1 Site Planning	
4.1.1 Views and Vistas	
1. <i>Development must consider any significant views to, from and across the site.</i>	<p>The approved development has been found to have acceptable impacts on any views or vistas which may exist within the area.</p> <p>The proposed modifications will not have any additional impacts on any known significant views in the locality, particularly when compared to the impacts of the approved development.</p>
2. <i>Development must retain existing views to Botany Bay, and where possible enhance views through site planning and building design</i>	No views of Botany Bay exist from the site.
3. <i>Development on highly visible sites, such as ridgelines, must be carefully designed so that it complements the character of the area and its skyline.</i>	The site is not situated on a ridgeline and the height of the proposed modified development has been considered acceptable, as discussed above.

Control	Compliance/Comment
4. <i>View corridors to landmarks and significant heritage items must be protected where possible. Applicants may be required to prepare photo montages of the proposed development to illustrate the impact on views.</i>	The proposed amendments will not alter any view corridors associated with the approved development.
5. <i>Building forms and setbacks permit views from public streets and open spaces. In particular, views from public open spaces to the bay and district are preserved.</i>	The proposed amendments will materially not alter the impacts of the approved development.
6. <i>Roof forms on the low side of streets are well articulated to allow public views and add interest to the scenic outlook. Large, flat expansive roofs with vents, air conditioning units and similar structures are inappropriate.</i>	<p>The site is not significantly lower than the adjoining streets and properties, such that the roof form will not be a dominant visual element. The roof area has increased slightly, consistent with the minor increase to the building floorplates.</p> <p>The parapet to the four (4) storey section of the approved development has been raised from RL45.92 to RL 47.865, however it maintains compliance with the maximum 14.5m height control which applies to this part of the site. The flat roof form on the three (3) storey element remains and articulation of roof forms across the site is maintained.</p>
7. <i>Building forms enable a sharing of views with surrounding residences, particularly from the main habitable rooms of surrounding residences.</i>	The proposed amendments will not materially alter the view impacts which were considered acceptable by the approval of the approved development.

#### 4.1.3 Water Management

##### Stormwater Management

1. <i>Development must comply with Council's Technical Specification – Stormwater Management which provides detail of drainage requirements for different development types. Consultation with Council is recommended.</i>	The recommendations of the reports listed below forming part of the approved DA have been taken into consideration by this proposed S4,55(2) application:
2. <i>Water Sensitive Urban Design (WSUD) principles are to be incorporated into the design of stormwater drainage, on-site retention and detention and landscaping and in the design of development.</i>	<ul style="list-style-type: none"> <li>• Stormwater Management &amp; Water Sensitive Urban Design Strategy prepared by B G &amp; E;</li> <li>• Civil Design Drawings prepared by BG&amp;E;</li> <li>• Detailed Environmental Site Assessment, Aargus; and</li> <li>• Geotechnical Assessment prepared by JK Geotechnics.</li> </ul>

##### Flood Risk Management

3. <i>Development must comply with Council's – Flood Management Policy which provides guidelines of controlling developments in different flood risk areas. It should be read in conjunction with the</i>	The approved design has been assessed as being compliant with Council's Flood Management Policy.
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Control	Compliance/Comment
NSW Government's 'Floodplain Development Manual 2005'.	The proposed modifications, including the reduction of deep soil zone and changes to floor levels do not significantly alter the design in such a way that it would impact upon the approved Flood Risk Management strategy.
4. <i>The filling of land up to the 1:100 Average Recurrence Interval (ARI) flood level (or flood storage area if determined) is not permitted, unless specifically directed by Council in very special and limited locations. Filling of land above the 1:100 ARI up to the Probable Maximum Flood (PMF) (or in flood fringe) is discouraged however it will be considered providing it does not adversely impact upon flood behaviour.</i>	The proposed modifications do not significantly alter the design in such a way that it would impact upon the approved Flood Risk Management Strategy.
5. <i>Development should not adversely increase the potential flood affectation on other development or properties, either individually or in combination with the cumulative impact of similar developments likely to occur within the same catchment.</i>	
6. <i>The impact of flooding and flood liability is to be managed, to ensure the development does not divert the flood waters, nor interfere with flood water storage or the natural functions of waterways. It must not adversely impact upon flood behaviour.</i>	
7. <i>A flood refuge may be required to provide an area for occupants to escape to for developments where occupants require a higher standard of care. Flood refuges may also be required where there is a large difference between the PMF and the 1 in 100 year flood level that may place occupants at severe risk if they remain within the building during large flood events.</i>	
<u>Water Conservation</u>	
8. <i>Residential development is to demonstrate compliance with the Building Sustainability Index (BASIX).</i>	The proposed development is not BASIX affected development.
9. <i>All new commercial and industrial development is to demonstrate the measures proposed, using water sensitive urban design principles to reduce water consumption.</i>	The approved development incorporated a range of water saving and energy efficient appliances which comply with the Water Efficiency Labelling and Standards (WELS) Scheme. The proposed modifications do not change this.
a. <i>Development is to include provisions for the retention and reuse of stormwater for non-potable purposes, and consideration</i>	
b. <i>Water efficient appliances and devices must meet the minimum standards defined by the Water Efficiency Labelling and Standards (WELS) Scheme and be detailed on plans. The minimum standards are:</i>	

Control	Compliance/Comment
<ul style="list-style-type: none"> <li>4 star taps and 3 star shower head roses;</li> <li>4 star dual flush toilets; and</li> <li>3 star urinals.</li> </ul>	

#### Water Quality

- |                                                                                                                                                                                                                                                   |                                                                                                           |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------|
| 10. Measures to control pollutants in stormwater discharge from development sites are to be included in any development. Refer to Council's Technical Specification - Stormwater Management for details of design criteria for pollutant control. | The proposed modifications will not affect the approved stormwater Management Scheme for the development. |
| 11. Runoff entering directly to waterways or bushland is to be treated to reduce erosion and sedimentation, nutrient and seed dispersal.                                                                                                          |                                                                                                           |

#### 4.1.4 Soil Management

- |                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. Development must minimise any soil loss from the site to reduce impacts of sedimentation on waterways.                                                                                                                                                                                                      | <p>The approved development responded to the controls for soil management contained in Section 4.1.4 of the RDCP 2011 as detailed in the following:</p> <ul style="list-style-type: none"> <li>The Erosion and Erosion Control Plan prepared by BG&amp;E;</li> <li>Section 5.1.4 of this SEE relating to the assessment of Clause 6.2 Earthworks of the RLEP 2011; and</li> <li>Geotechnical Assessment prepared by JK Geotechnics.</li> </ul> <p>These approved documents remain relevant to the development as modified.</p> |
| 2. Development that involves site disturbance is to provide an erosion and sediment control plan which details the proposed method of soil management and its implementation. Such details are to be in accordance with <i>The Blue Book - Managing Urban Stormwater: Soils &amp; Construction</i> by Landcom. | No modifications are proposed that alter the approved Erosion Control Plan.                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 3. Development is to minimise site disturbance, including impacts on vegetation and significant trees and the need for cut and fill.                                                                                                                                                                           | <p>The impact of the approved development on the site and its surrounding was considered acceptable.</p> <p>The proposed modification does not alter this approved level of site disturbance.</p>                                                                                                                                                                                                                                                                                                                              |

#### 4.1.5 Contaminated Land

- |                                                                                                                                                                                                                                                      |                                                                                                                                                                         |
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| 1. Development on land that is or has previously been used for a purpose which is likely to have contaminated the site is to follow the procedures and guidelines contained in <i>State Environmental Planning Policy 55 – Remediation of Land</i> . | By nature of approving the DA the Consent Authority is satisfied that the site is suitable or can be made suitable for the proposed development as required by SEPP 55. |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Control	Compliance/Comment
	The proposed S4.55(2) modifications do not alter the site's suitability.

#### 4.1.7 Tree Preservation

1. Council consent is required to undertake tree work including removing, pruning, cutting down, lopping, and ringbarking of any tree if the tree: <ul style="list-style-type: none"> <li>· is more than 3 metres tall, or</li> <li>· has a circumference in excess of 300mm at a height of 1 metre above the ground.</li> </ul>	Tree removal remains consistent with the approved DA.
2. Council consent can be granted either by way of development consent or by a permit.	Approval has already been granted.
3. You do not need Council's consent to cut down or prune a tree if: <ul style="list-style-type: none"> <li>a. The tree is no higher than 3 metres and has a girth of no more than 300 mm at a height of 1 metre above the ground</li> <li>b. The tree is, in Council's opinion, dying or dead or has become dangerous. (If such a tree is cut down or pruned without Council's consent, you may have to satisfy Council that the tree was dying or dead or had become dangerous).</li> <li>c. The tree is a species declared to be a noxious weed under the Noxious Weeds Act 1993</li> <li>d. The tree is one of the following non-native trees: Angel's trumpet (<i>Datura suaveolens</i>), Coral tree (<i>Erythrina indica</i>), Lombardy poplar (<i>Populus nigra italica</i>), Rubber tree (<i>Ficus elastica</i>), Tree of heaven (<i>Ailanthus altissima</i>).</li> <li>e. The tree is a fruit tree which may be affected by fruit fly, as identified in the Plant Diseases Act 1924.</li> </ul>	Tree removal remains consistent with the approved DA.
4. Existing significant trees and vegetation are incorporated into proposed landscape treatment. An arborist report may be required for a development that impacts on the health of significant trees.	
5. Building setbacks preserve existing significant trees and vegetation and allow for new planting. Where significant mature trees and vegetation are to be retained, buildings are located at least 3.0m from the base of the tree to minimise root damage.	

#### 4.2 Streetscape and Site Context

##### Site Context

1. Development is to respond and sensitively relate to the broader urban context including topography,	The proposed modifications are consistent with the approved DA and maintain the
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Control	Compliance/Comment
<i>block patterns and subdivision, street alignments, landscape, views and the patterns of development within the area.</i>	relationship with the wider urban context and patterns of development.
2. <i>Development adjoining land use zone boundaries should provide a transition in form, considering elements such as height, scale, appearance and setbacks.</i>	<p>The proposed modifications are consistent with the character and form of the approved development, incorporating a higher element towards Harrow Road and lower elements towards the rear of the site, so as to create a transition to nearby residential properties.</p> <p>The proposed modifications to the approved materials and finishes continue to relate appropriately to the local context and the setbacks remain generally as approved. To this end, the proposed modified development remains generally consistent with the requirements of RDCP 2011.</p>
<u>Streetscape character</u>	
4. <i>The building design and use of materials, roof pitch and architectural features and styles must have regard to those of surrounding buildings to ensure a cohesive streetscape.</i>	<p>The proposed revised external colours, materials and finishes continue to respond to the mixed character and scale of the surrounding streetscape.</p> <p>The facades continue to be well articulated using a range of colours, texture and screening. The design approach gives a level of detail and residential character to the buildings.</p>
5. <i>Building setbacks from the street boundary are to be consistent with prevailing setbacks of adjoining and nearby buildings.</i>	The minor modifications to the setbacks remain consistent with the requirements of RDCP 2011.
6. <i>Buildings on corner sites are to be articulated to address each street frontage and are to define prominent corners.</i>	The way the building addresses the street frontages remains consistent with the approved development.
<u>Pedestrian Environment</u>	
10. <i>Residential buildings adjacent to the street must address the street by having a front door and/or living room or kitchen window addressing the street. The frontage of buildings and their entries are to be readily apparent from the street.</i>	The way the building addresses the street frontages remains consistent with the approved development.
11. <i>Buildings are designed to overlook streets and other public areas to provide casual surveillance. Buildings adjacent to a public area must have at least one habitable room window with an outlook to that area.</i>	The outlook of the modified development remains consistent with that of the approved development and continues to provide excellent passive surveillance over the public domain.
13. <i>Site planning, buildings, fences, landscaping and other features clearly define public, common, semi-private and private space.</i>	The modified landscaping continues to incorporate site fencing and landscaping that clearly defines the public domain along each of



Control	Compliance/Comment
	the three (3) streets and the private domain of the RCF.
14. <i>Vehicle entries are discrete and minimise conflicts with pedestrians</i>	No change to the vehicle entry point from the approved development is proposed by this modification. The proposed deletion of the pedestrian path on the Goyen Avenue frontage improves pedestrian safety.

#### Fencing

17. <i>Front fences and walls are to enable surveillance of the street from the dwelling.</i>	The proposed boundary fencing remains consistent with the approved DA and a condition of consent is contained in the approval documentation confirming the maximum permitted height.
18. <i>Front fences are to be a maximum height of 1.2m above footpath level.</i>	
19. <i>Open construction front fences (with minimum 30% transparency) to a maximum height of 1.8 m may be considered, such consideration will have regard to the circumstances of the case. The solid portion in open construction fences is to be no higher than 600mm.</i>	
20. <i>New fences and walls are to be constructed of robust and durable materials which reduce the possibility of graffiti.</i>	
21. <i>For sloping streets, the height of fences and walls may be regularly stepped, such that there is an average height above footpath level of 1.2m.</i>	
22. <i>Fences should not be constructed in floodways. Where this is unavoidable fences are to be of open construction that will not restrict the flow of floodwaters.</i>	
24. <i>Side and rear fences are to have a maximum height of 1.8m on level sites or 1.8m measured from the low side where there is a difference in level either side of the boundary.</i>	
25. <i>Side fences between the street alignment and the front wall of the building are to be a maximum height of 1.2m or up to 1.8m if they are of open construction.</i>	

### 4.3 Landscape Planning and Design

#### Section 4.3.1 Open space and landscape design

1. <i>Development must comply with Council's Technical specification – Landscape</i>	The Landscape Plan prepared by Taylor Brammer Landscape Architects has taken Council Technical Specification – Landscape into consideration in preparation of the landscaping scheme proposed as part of this S4.55(2) application.
2. <i>Council requires a Landscape Plan prepared by a qualified Landscape Architect to be included with</i>	The Landscape Plan has been prepared by Taylor Brammer Landscape Architects.

Control	Compliance/Comment
<i>development application for all developments except single dwelling houses and secondary dwellings.</i>	
3. <i>Significant existing trees and natural features such as rock formations should be retained and incorporated into the design of the development wherever possible.</i>	The removal of landscaping features remains unchanged from the approved DA.
4. <i>The amount of hard surface area is to be minimised to reduce run-off by</i> a. <i>Directing run-off from the overland flow of rainwater to pervious surfaces such as garden beds, and</i> b. <i>Utilising semi-pervious paving materials wherever possible</i>	<p>The proposed reduction in the amount of deep soil zone proposed by this modification will not adversely increase the rate of surface run off as the proposal provides 1,518m<sup>2</sup> or 18.27% of the site as deep soil, along with substantial areas of landscaping over the slab, around the site.</p> <p>The overall provision of landscaping is 2,118m<sup>2</sup> or 25.5% of the site and the approved stormwater detention system remains as approved.</p>
5. <i>Landscape must relate to building scale and assist integration of the development with the existing street character.</i>	The proposed modifications maintain significant areas of landscaping on the site at both ground level and Level 3. The proposed development maintains substantial perimeter screen planting as well as a variety of formal landscaped areas within the site for the amenity of residents, visitors and staff of the RCF.
6. <i>Planting solutions are to:</i> a. <i>Provide shaded area in summer, especially to west facing windows and open car parking areas;</i> b. <i>Provide screening for visually obtrusive land uses or building elements;</i> c. <i>Provide vegetation and tree cover within large expanses of car parking area;</i> d. <i>Provide privacy between dwellings;</i> e. <i>Not cause overshadowing of solar collectors on rooftops;</i> f. <i>Incorporate plant species in locations and in densities appropriate for their expected size and maturity;</i> g. <i>Rely primarily on plants that have a low water demand and nil or low fertilizer requirements; and</i> h. <i>Use appropriate indigenous plant species wherever possible.</i>	The proposed landscaping scheme prepared by Taylor Brammer Landscape Architects has been prepared to comply with RDCP 2011.
7. <i>Trees must be planted within properties to maximise tree cover.</i>	The amended Landscape Plan prepared by Taylor Brammer makes provision for tree planting around the site.

Control	Compliance/Comment
<p>8. <i>Landscape areas, as defined in Rockdale LEP, must be provided at the following rates:</i></p> <p><i>Low and medium density residential – 25%</i></p>	<p>This control is not applicable to the proposal. Notwithstanding, the proposal is consistent with the 25% requirement, incorporating 2,118m<sup>2</sup> of landscaped area, which equates with 25.5% of the site. As such, the proposed modified development will achieve consistency with the landscaped character of the locality.</p>
<p>9. <i>At least 20% of the front setback area of a residential development is to be provided as landscaped area. If it is provided between driveways/pathways and side boundaries, it must have minimum width of 1m.</i></p>	<p>The modified landscape scheme exceeds the requirement applying to residential development for more than 20% of the front setback to be landscaped.</p>
<p>10. <i>Landscape areas should adjoin the landscape area of neighbouring properties so as to provide for a contiguous corridor of landscape and vegetation.</i></p>	<p>The modified and approved landscaping schemes join the landscaped area of the properties to the west fronting Harrow Street and the rear of the properties to the east.</p>
<p>11. <i>Where a basement car park protrudes above ground level and is not wrapped in residential or retail uses, the walls are to be screened with appropriate treatments, such as planting.</i></p>	<p>The proposed basement does not protrude above ground level.</p>
<p>12. <i>Within the exception of development application for single dwellings, street trees are to be provided in accordance with Council's Street Tree Masterplan.</i></p>	<p>Landscaping within the public domain is provided consistent with the approved DA.</p>
<p>13. <i>Council requires the footpath area adjacent to the site to be restored at the time of the development. This included grading, trimming and the planting of suitable turf and trees.</i></p>	<p>The footpaths surrounding the development will be restored in accordance with the conditions of the approved DA.</p>
<p>14. <i>Development must comply with the streetscape requirements in relevant public domain plan, such as Wolli Creek and Bonar Street Precinct Public Domain Plan and Technical Manual.</i></p>	<p>The approved development has been assessed as complying with the streetscape requirements of the relevant public domain plan. No alterations to the suitability of the building in the streetscape are proposed by this Modification Application.</p>

#### 4.4 Sustainable Building Design

##### 4.4.3 Natural light and ventilation

<p>1. <i>Buildings must comply with minimum ceiling heights to facilitate adequate natural lighting and ventilation</i></p>	<p>The approved development incorporated 3m floor to floor heights to all habitable levels. Following detailed design, it became apparent that the approved development was not able to comply with the 2.7m minimum floor to ceiling height requirement, taking into account structural slab thickness, Section J insulation requirements and reticulation of services.</p> <p>To this end, this Application proposes to modify the approved floor levels in order to ensure compliance is achieved. Additional height is also provided at ground floor level in order to maximise opportunities for natural</p>
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Control	Compliance/Comment
	solar access and ventilation, and to accommodate the support service infrastructure which is now proposed.
2. <i>Buildings must be designed to maximise opportunities for cross flow ventilation by providing clear breeze paths and shallow building depths. The maximum internal plan depth of a residential apartment should be 18m from glass line to glass line. Developments that propose greater than 18m must demonstrate how satisfactory daylight and natural ventilation is achieved.</i>	Cross ventilation of rooms remains consistent with the approved DA.
3. <i>Windows that can open and which are designed to provide controlled air flow must be installed.</i>	Each room is provided with access to natural ventilation via opening windows consistent with the approved DA.
<b>4.4.5 Visual and Acoustic privacy</b>	
1. <i>The windows of a habitable room with a direct sightline to the window of a habitable room of an adjacent dwelling and located within 9.0m:</i> a) <i>Are sufficiently off-set to preclude views into the windows of the adjacent building; or</i> b) <i>Have sill heights of 1.7m above floor level; or</i> c) <i>Have fixed obscure glazing in any part of the window below 1.7m above floor level.</i>	The approved visual separation measures are generally maintained by this Application. Should it be deemed necessary, a privacy screen could be provided to the balconies at the eastern end of the building in the south eastern corner of the site at Levels 1 and 2.
2. <i>Balconies, terraces, rooftop recreation areas and the like should be located to minimise overlooking of an adjoining property's open space or windows. Techniques such as recessing, screens or landscaping may be used to prevent direct views into habitable rooms or private open space of adjacent dwellings.</i>	The revised landscaping scheme to the communal areas has been designed to avoid any access to the edge of the building and in turn avoids any overlooking.
3. <i>The use of the roof top area for recreational purposes is permissible subject to the following:</i> a. <i>Internal stair access must be provided to the roof top area from within the building, and</i> b. <i>The useable area of roof must be set back at least 1500mm from the edge of the building, other devices such as privacy screens and planter boxes should be incorporated to protect the visual and acoustic amenity of neighbouring properties.</i>	The proposal provides additional landscaping to the approved roof terrace to provide for improved amenity compared to the approved DA.
4. <i>The location of driveways, open space and recreation areas and ancillary facilities external to the dwelling must be carefully planned to ensure minimal noise impact on adjoining residential properties.</i>	The location of the driveway, communal open space and external recreation areas were considered acceptable by the approval of the DA.  The revised landscaping scheme does not materially alter the overall impact of the landscaping scheme and the landscaped

Control	Compliance/Comment																
	areas remain broadly consistent with the approved DA.																
5. Bedrooms of one dwelling should not share wall with living rooms or garages of adjacent dwellings. Bedrooms of one dwelling may share walls with living rooms of adjacent dwellings provided appropriate acoustic measures are documented.	The care rooms are divided into wings with differing levels of care provided. Whilst residents' rooms are located adjacent to the communal dining and lounge space, these spaces will only be utilised during the day when all residents are up and about and during the evening and night time they will be empty meaning those rooms adjacent to these spaces will not be impacted upon.																
6. Where party walls are provided they must be carried to the underside of the roof.	N/A																
7. All residential development except dwelling houses are to be insulated and to have an Impact Isolation between floors to achieve an Acoustical Star Rating of 5 in accordance with the standards prescribed by the Association of Australian acoustical Consultants (AAAC).	The RCF will be constructed in accordance with the conditions placed on the existing notice of determination.																
8. In attached dwellings multi-unit development the internal layout should consider acoustic privacy, by locating circulation spaces and non-habitable rooms adjacent to party walls.	N/A																
9. For residential flat buildings and shop top housing, the building separation for internal courtyards and between adjoining sites increases in proportion to the building height in accordance with the following minimum dimensions:	Building separation is consistent with the approved DA.																
<table><tr><th>Height</th><th>Between habitable rooms and balconies</th><th>Between habitable rooms/ balconies and non-habitable rooms</th><th>Between non-habitable rooms</th></tr><tr><td>Three to four storeys (12m)</td><td>12m</td><td>9m</td><td>6m</td></tr><tr><td>Five to eight storeys (25m)</td><td>18m</td><td>13m</td><td>9m</td></tr><tr><td>Nine storeys and above (over 25m)</td><td>24m</td><td>18m</td><td>12m</td></tr></table>		Height	Between habitable rooms and balconies	Between habitable rooms/ balconies and non-habitable rooms	Between non-habitable rooms	Three to four storeys (12m)	12m	9m	6m	Five to eight storeys (25m)	18m	13m	9m	Nine storeys and above (over 25m)	24m	18m	12m
Height	Between habitable rooms and balconies	Between habitable rooms/ balconies and non-habitable rooms	Between non-habitable rooms														
Three to four storeys (12m)	12m	9m	6m														
Five to eight storeys (25m)	18m	13m	9m														
Nine storeys and above (over 25m)	24m	18m	12m														
10. Zero building separation is permitted for residential flat buildings in mixed use areas where the development is a street wall building type with party walls.	N/A																

#### Noise Impact

- |                                                                                                                                                       |                                                                                                                            |
|-------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------|
| 1. <i>Where development must comply with the Australian Standard 2021 – 2000 Acoustic – Aircraft Noise, in relation to interior noise levels, the</i> | As outlined previously, an Acoustic Report has been prepared by Acoustic Logic, which relates to the modified development. |
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Control	Compliance/Comment
<i>applicant is to provide an Acoustic report prepared by a suitably qualified Noise Consultant to advise on appropriate measures to be incorporated into the design of the building so it will meet this standard.</i>	It identifies acoustic treatments for the proposed development (which will be adopted) to ensure compliance with the indoor noise level recommendations given in AS2021-2000.

#### 4.5 Social Equity

##### Section 4.5.2 Equitable access

1. <i>The siting, design and construction of premises available to the public are to ensure an appropriate level of accessibility, so that all people can enter and use the premises. Access is to meet the requirements of the Disability Discrimination Act, the relevant Australian standards and the Building Code of Australia.</i>	<p>As outlined in the Access Review of the proposed modification prepared by Morris Goding Accessibility Consulting, compliance with statutory requirements, pertaining to site access, common area access, accessible parking and accessible sanitary facilities, can be achieved.</p> <p>The report demonstrates that the proposal complies with, or is capable of, complying with the accessibility requirements upon resolution of detailed design issues.</p>
2. <i>An Access Report may be required to be submitted with a development application for development other than single dwellings and dual occupancies.</i>	An Access report is included with this S4.55(2) application.

#### 4.6 Car Parking, Access and Movement

1. <i>Development is to provide on-site parking in accordance with the following rates.</i>	The RDCP 2011 and RTA Guide to Traffic Generating Development do not stipulate a car parking rate for a Residential Care Facility.
<i>Where a parking rate has not been specified in the table, the RTA Guide to Traffic Generating Developments shall be used to calculate the parking requirements for the proposed development. Alternatively, a parking study may be used to determine the parking, subject to prior approval by Council.</i>	<p>Parking requirements for Residential Care Facilities are contained in the Seniors SEPP at Clause 48(d) which is a standard which cannot be used to refuse development consent is at least the following is provided:</p> <ul style="list-style-type: none"> <li>• One (1) parking space for each 10 beds in the RCF, and</li> <li>• One (1) space for each two (2) persons to be employed in connection with the development and on duty at any one time, and</li> <li>• One (1) parking space suitable for an ambulance.</li> </ul> <p>Application of the above parking rates generates the following minimum parking requirements:</p> <ul style="list-style-type: none"> <li>• 172 x Beds – 17.2 (17) spaces;</li> <li>• 112 employees - 56 spaces;</li> <li>• Total 73 car parking spaces</li> <li>• Ambulance - 1 space</li> </ul>



Control	Compliance/Comment
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The proposal provides 119 parking spaces, including 58 staff and 61 visitor spaces as well as an ambulance bay and bus parking space, which meets the minimum requirement of the Seniors SEPP.

It is the experience at RCFs that:

- There is a confluence of parking activity in the afternoon when the afternoon staff arrive to handover to the daytime staff and there are numerous visitors present at the same time;
- There are numerous special days which result in high levels of visitors (e.g. Mother's day, Father's day, Christmas, Easter, special entertainment/event days);
- Most staff drive due to the start finish shift times when public transport services are minimal; and
- There is also parking demand for the staff and operators of the associated facilities such as the Allied Health Care, hair salon, etc.

On this basis, the proposal to provide 119 parking spaces, 1 ambulance bay as well as a loading bay within the basement car park will ensure that the proposal is able to meet the demand of staff and visitors on a day-to-day basis, as well as during times when demand is greater. This will ensure that there will be no demand for parking in the streets around the site as all demand can be met onsite.

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#### Car Park Location and Design

*Vehicle access points and parking areas are to be:*

- *Easily accessible and recognisable to motorists*
- *Located to minimise traffic hazards and the potential for vehicles to queue on public roads*
- *Not located off the primary frontage of a development where a secondary frontage exists*
- *Located to minimise the loss of on-street car parking and to minimise the number of access points. Multiple driveway crossings are not permitted.*
- *Designed to minimise conflict with pedestrians, particularly in locations with heavy pedestrian traffic such as shopping centres.*

Complies – no changes are proposed to the approved driveway location.

Control	Compliance/Comment
<i>Car parking and service/delivery areas are to be located so that they do not visually dominate either the development or the public domain</i>	Complies with the provision of basement car parking, including loading and ambulance bays, as approved.
<i>Car parking areas must be well lit, well laid out and facilitate convenient manoeuvring into and out of spaces and should have a legible circulation pattern with adequate signage.</i>	Complies.
<i>Developments shall be designed with internal manoeuvring areas so that vehicles can enter and exit the site in a forward direction.</i>	Complies
<i>Basement car parking is to be:</i>	
• <i>Adequately ventilated, preferably through natural ventilation;</i>	Complies
• <i>Located within the building footprint. Construction must be carried out in a way to enable deep soil planting to be provided on the site;</i>	Complies
• <i>Located fully below natural ground level. Where site conditions mean that this is unachievable, the maximum basement projection above natural ground level is to be 1m at any point on the site, or in flood prone areas, to the minimum floor level required by council;</i>	The proposed basement levels are consistent with the levels approved in the DA.
• <i>Designed for safe and convenient pedestrian movement and to include separate pedestrian access points to the building that are clearly defined and easily negotiated; and</i>	Complies
• <i>Provided with daylight where feasible.</i>	Complies
<i>The widths of access driveways shall comply with Council's Technical Specifications</i>	Complies
<i>For development on land fronting a Classified Road, the applicant must demonstrate that the development would not conflict with the traffic flow by reason of vehicles entering or leaving the site, or from parking congestion. Where available, all vehicular access to the land must be by way of a service lane or road other than the Classified Road.</i>	Complies
<i>All visitor car parking must be clearly marked, and must not be behind a security shutter unless an intercom system is provided for access.</i>	Complies
<i>Parking spaces for people with a disability are to be provided in close proximity to lifts or access points.</i>	Complies
<i>Where building uses will require the provision of loading facilities they are to be designed in such a way as to permit all loading and unloading to take place wholly within the site and prevent conflict with pedestrian and vehicular movement within or surrounding the site.</i>	Complies



Control	Compliance/Comment
<u>Pedestrian Access and Sustainable Transport</u>	
<i>Pedestrian access within a development must be legible and separated from vehicular access wherever possible.</i>	Complies
<i>Provide safe and convenient pedestrian access from car parking and other public areas, with well coordinated signage, lighting, security, direct paths of travel with stairs and disabled access ramps.</i>	Complies
<i>Design of bicycle parking is to cater to the various users of the development and their differing modes of bicycle parking required, such as:</i> <ul style="list-style-type: none"> <li><i>• Parking for employees or residents, and</i></li> <li><i>• Visitor parking, which is conveniently located preferably in areas which provide passive surveillance at ground level.</i></li> </ul>	Complies – a bicycle parking area is proposed at Basement 2.

#### 4.7 Site Facilities

Section 4.7 of the RDCP outlines the requirements for the design and location of waste storage and recycling facilities, which requires compliance with Council's Technical Specification –Waste Minimisation and Management for construction waste and on-going management of waste facilities.

Garbage rooms are provided at Basement 2 and remain generally consistent with the approved DA and meet the requirements of RDCP 2011.

Table 7: RDCP 2011 compliance assessment table

## 5.6 Section 94 Contributions

This modification seeks to delete Condition 54 (Section 94 contributions). Section 7.11(1) and (2) of the *EP&A Act 1979* states:

- 1) *"If a consent authority is satisfied that development for which development consent is sought will or is likely to require the provision of or increase the demand for public amenities and public services within the area, the consent authority may grant the development consent subject to a condition requiring:*
  - (a) the dedication of land free of cost, or*
  - (b) the payment of a monetary contribution,**or both.*
- 2) *A condition referred to in subsection (1) may be imposed only to require a reasonable dedication or contribution for the provision, extension or augmentation of the public amenities and public services concerned."*

The development is not for an aged care facility where self-care, or an element of self-care is involved. The proposed aged care facility is for the infirm who require a level of nursing which prevents them from leaving

the facility unaided. Almost all the services and facilities that residents of the care facility will require are provided on-site (i.e. open space, medical, dental, hairdressing, food and beverages and the like).

The facility and its residents will not result in an increase in the demand for local public amenities or local public services given the nature of the residents' health, age and mobility and having regard to the facilities and services provided onsite. Specifically, there is no nexus between the development and the need for or provision of increased local public services and facilities that are governed by Council's S94 plan.

Future residents will not benefit from the provision of, and will not increase demand for, open space, "Community Services & Facilities", "Town Centre & Streetscape Improvements", "Pollution Control and Plan Administration and Management". Indeed, the facility itself will result in a considerable public benefit by providing much needed aged care facilities for the community.

It is therefore not reasonable for the Consent Authority to apply a condition requiring the payment of contributions through Section 4.11 of the *EP&A Act 1979*.

It is also noted that the facility will constructed and operated by St. Basil's, which is a not-for-profit, charitable organisation. On this basis, deletion of Condition 54 from DA/2017/27 is proposed by this Application.

## **5.7 Other Council Policies**

No other Council's policies are applicable to this S4.55(2) Modification Application.

## **5.8 The Likely Impacts of the Development**

This report has demonstrated that the proposed modifications are unlikely to result in any unacceptable impacts on existing neighbouring development or the surrounding environment, as outlined in the sections below.

### **5.8.1 Onsite Accommodation**

The additional GFA proposed part of this S4.55(2), along with the reduction in the number of rooms, will allow for larger rooms and the provision of improved communal and health facilities for residents. The proposal to provide less (but larger) rooms enables the rooms to accommodate support equipment such as lifts, shower chairs and pod bathrooms, which improves the amenity and functionality of the rooms, to the benefit of future occupants and staff.

The proposed modifications to support services and amenities will also result in significant amenity and functionality improvements. The proposal now incorporates increased dining, lounge, and sitting accommodation on all levels, providing residents with facilities close to their rooms, ensuring longer travel distances within the facility are avoided. In addition to this, expanded and improved medical and treatment rooms have been provided to each wing on each level. The ground floor has been better arranged to accommodate an improved day room facility for those receiving respite care, and the foyer and office spaces have been reconfigured to improve circulation space.

The improved facilities will enable more efficient operation of the facility for residents, and improve the quality of life offered. The minor impacts resulting from the increased GFA are considered acceptable given the vastly improved facilities and services provided within the development and the benefits these will bring to future residents.

### **5.8.2 Parking, Access and Traffic**

The proposed modification deletes one (1) parking space, resulting in the provision of a total of 119 parking spaces plus a bus bay. The spaces have been reorganised to provide 61 visitor spaces and 58 staff spaces,

so as to accommodate all demands for parking, both on a day-to-day basis as well as during busy times when demand for car parking is greater (i.e. Fathers'/Mothers' Day, Easter, Christmas and the like).

#### **5.8.3 Solar Access and Overshadowing**

A minor increase in overshadowing is created by the modifications proposed by this Application. The impact of the increased overshadowing is indiscernible, and falls on the surrounding roads between 9:00am and 1:00pm. When it does fall on the adjoining properties after 1:00pm, the area of impact is to the front yards. Solar access to the rear private open spaces of the impacted dwellings is five (5) hours, which is well in excess of the minimum required by RDCP 2011.

Therefore, the proposed modifications will not create an unacceptable solar access or overshadowing impact, and are considered acceptable in this regard.

#### **5.8.4 Landscaping and Deep Soil**

The landscaping scheme has been modified with an updated design prepared by Taylor Brammer Landscape Architects. The new scheme reflects the revised building layout and adds improved landscaping to both ground floor level and Level 3.

The proposed modifications remove the deep soil zone approved in the centre of the site so as to accommodate the proposed relocated chapel. Notwithstanding, deep soil zones are retained around the perimeters of the site, and particularly within the setback to Harrow Road, so as to ensure substantial planting is accommodated.

The proposed adjustments to landscaped area result in the provision of 2,118m<sup>2</sup> or 25.5% of the site as landscaped area, in excess of the minimum 25% required by RDCP 2011 for low and medium residential building forms (which is not applicable to the proposal). The proposed revisions to the approved landscaping achieve substantial perimeter planting and areas of formal planting within the site, to ensure excellent visual amenity as well as opportunities for passive recreation. The proposal will also improve the quality and functionality of landscaping associated with the common terrace at Level 3.

#### **5.8.5 Privacy**

The proposed modifications will not result in any significant impact on privacy. Balconies to rooms fronting Bowlers and Goyen Avenues have been reconfigured and the status quo in terms of privacy is achieved. New balconies are proposed in the south eastern corner of the building at Levels 1 and 2, adjacent to perimeter planting and existing trees within the rear yard of the neighbouring property to minimise potential overlooking impacts. Notwithstanding, privacy screens can be provided to these balconies by condition of consent, if considered necessary.

#### **5.8.6 Noise Impacts**

The proposal is principally a residential development, with the exception of some onsite support facilities to service the daily needs of future residents. These are located internally within the site will not generate noise levels that would unreasonably impact on the amenity of the adjoining residents.

Servicing areas, including waste collection and delivery/loading areas, and laundry and workshop facilities, are located within the basement to mitigate potential noise impacts on adjoining and nearby neighbours.

Furthermore, as detailed in the Acoustic Report prepared by Acoustic Logic, the proposal as modified will not be adversely impacted by aircraft noise or traffic noise on Harrow Road.

### **5.8.7 Bulk and Scale**

Whilst the GFA has increased as a result of the proposed modifications, the majority of the new floor space provided within the basement levels and as a result of reconfiguring the approved southern wing at ground floor level. At Levels 1, 2 and 3, the proposed modifications reduce the approved building envelope in some areas and increase it in others, so that on the whole, the status quo is generally maintained when compared to the approved development.

The proposal seeks to adjust the floor levels within the building, so as to achieve compliance with the minimum 2.7m floor to ceiling height, while also taking into account structural slab thickness, Section J insulation requirements and reticulation of services. To this end, the overall height of the proposed development will increase. The proposal maintains compliance with the maximum permitted 14.5m towards Harrow Road. However, the proposal will exceed the maximum permitted 9.5m height standard (as did the approved development).

The proposed height increases do not materially alter the appearance of the building on the skyline maintaining roof articulation across the development. A minor increase in overshadowing will occur as a result of the change, however it does not significantly alter the existing impact on surrounding properties and the development continues to comply with the solar access controls, with the rear private open spaces of affected dwelling houses achieving five (5) hours of solar access on 21 June.

### **5.8.8 Views and Vistas**

No material impacts in relation to views or vistas achieved from the adjacent residential building are anticipated to occur as part of the proposed modifications.

### **5.8.9 Stormwater**

No alterations to the approved stormwater drainage scheme are proposed as part of this modification.

### **5.8.10 Construction Impacts**

Construction impacts will be managed through the implementation of a Site Management Plan, to be prepared and submitted to the Principal Certifying Authority prior to the commencement of works, as per DA condition 13.

Hours of construction will be undertaken in accordance with Council's requirements, and adjoining properties will be notified prior to commencement of works on-site.

### **5.8.11 Social Impacts**

The proposal will not give rise to any adverse social impacts. The proposal will have a positive social impact as it will increase the supply of residential accommodation for aged and disabled persons to meet the demands of a growing aging population. The proposal provides sole occupancy rooms within a well-designed setting with quality services and facilities to meet the day to day needs of the future residents.

## **5.9 The Suitability of the Site for the Development**

The preceding sections of this report demonstrate that the site is suitable for the proposed development, with minimal adverse impacts on neighbourhood amenity. There are no significant natural or environmental constraints that would hinder the proposed modifications and, accordingly, the site is considered suitable for the proposed modified development.

### **5.10 The Public Interest**

As demonstrated by this report, the development as modified will not result in any significant adverse impacts upon adjoining properties or the locality, and will provide a high standard of accommodation, and a range of services and facilities to meet the complex needs of an increasing aging population. On this basis, the proposal is in the public interest.

## 6.0 Conclusion

The proposal to modify DA/2017/27 will result in improvements to the functionality and amenity of the approved RCF through the provision of less but larger rooms, additional onsite support services, enlarged dining and sitting facilities and improved landscaped areas around the site.

The development was approved having regard to the provisions of RLEP 2011 and RDCP 2011 and the modifications proposed maintain consistency with these controls.

For the reasons set out in this report, the development as modified will remain substantially the same as the approved development, and will not materially alter the impacts of the development on the locality.

The proposed modifications are consistent with the provisions of s4.55(2) of the *EP&A Act 1979* and it is therefore requested that the scope of amendments described in this Statement and in the attached architectural plans be approved, including the following amendment to Conditions of Consent:

- Modify Condition 2 relating to the approved plans;
- Modify Condition 11 relating to the height of the development approved by Sydney Airport Corporation Limited;
- Modify Condition 19 relating to the maximum number of persons working on the premises;
- Modify Condition 45 relating to the maximum number of beds/single patient rooms accommodated within the development;
- Modify Condition 50 relating to cooling towers on the rooftop;
- Delete Condition 54 relating to Section 94 contributions;
- Modify Condition 64 in relation to proposed landscaping; and
- Modify Condition 118 in relation to the allocation of staff and visitor car parking.

The modified proposal continues to provide a well-designed RCF that will accommodate the diverse and complex needs of aged and disabled persons. It is suitably located and will provide future residents with high quality accommodation with appropriate access to facilities on-site.

Based on the assessment undertaken, the SECPP's approval of the proposed development is sought.