

JRPP No:	2010SYE092
DA No:	DA-2011/158
PROPOSED DEVELOPMENT:	INTEGRATED DEVELOPMENT - DEMOLITION OF EXISTING STRUCTURES AND CONSTRUCTION OF A MIXED USE DEVELOPMENT COMPRISING FOUR (4) BUILDINGS CONTAINING 225 RESIDENTIAL UNITS AND ONE(1) COMMERCIAL UNIT OVER A BASEMENT CARPARK, ASSOCIATED LANDSCAPING, NEW ROAD, INFRASTRUCTURE WORKS, DEDICATED OPEN SPACE AND SUBDIVISION - 45 BONAR STREET, ARNCLIFFE
APPLICANT:	ARCHITECTURE AND BUILDING WORKS/PHEONIX CORPORATION PTY LTD AND LOUCAS HOLDINGS (ARNCLIFFE) PTY LTD AND OTHERS
REPORT BY:	Senior Development Assessment Planner - Marta Sadek

Assessment Report and Recommendation

Council is in receipt of a development application for the demolition of existing structures and the construction of four residential flat buildings over two basement levels at 45 Bonar Street, Arncliffe. The application was lodged on 26 October 2010. The site is within the Bonar Street Precinct. The Bonar Street Precinct extends to land in Bonar Street, Wollongong Road, Martin Avenue, Hirst Street, Loftus Street and Edward Street within the suburbs of Arncliffe and Turrella. The site at 45 Bonar Street, Arncliffe (the subject of this development application) is located on the eastern side of Bonar Street and has a site area of 10,151 sq.m. The Masterplan for the development of the Bonar Street Precinct is established under DCP 80.

The Bonar Street Precinct was subject to Draft Rockdale Local Environmental Plan (Amendment 29) involving the re-zoning of the sites within the Bonar Street Precinct from light industrial to high density residential. The amended RLEP was gazetted on Friday 31 October 2008. The site is zoned 2(d) - High Density Residential, 7(d) - Local Road Reservation and 7(a) - Open Space Reservation under the provisions of Rockdale Local Environmental Plan 2000 (RLEP 2000). The proposal for a mixed use development is permissible with development consent.

Prior to lodgement of the application, the applicant had extensive consultation with Council officers regarding the flooding issues affecting the site and negotiating a Voluntary Planning Agreement (VPA). A Pre-DA meeting was held on 22 October 2009.

Two other developments have been approved within the Bonar Street Precinct (currently under construction) at 12 Bonar Street ('Meriton site') and 9-11 Wollongong Road comprising a total of 489 residential units.

The proposal includes 225 residential units and 1 commercial unit. The basement carparking has a capacity for approximately 312 vehicles. The development includes the dedication of the northern side of the site for a Community Park and the dedication of land for a new road and road widening purposes. The subdivision to facilitate the road dedication, open space dedication and four Torrens Title lots is also part of the application. The proposal has a capital investment value of \$49, 994 291. As such the proposal is defined as Regional Development under State Environmental Planning Policy (Major Development) 2005 and must be determined by the Joint Regional Planning Panel (JRPP).

The proposal is also classified as Integrated Development pursuant Clause 91 of the Environmental Planning and Assessment Act, 1979 (EP&A Act) as it requires a permit under the Water Act 1912. The Office of Water has issued the General Terms of Approval.

An assessment of the development application has been carried out under S79C of the EP&A Act. The proposal is generally consistent with the objectives and requirements of the relevant planning policies (except for minor variations addressed in the body of this report). However the proposal does not comply with the height control under clause 35A(2A)(b) and 2D of RLEP2000. This clause restricts the height of the buildings to 27 metres. The proposal exceeds this requirement by up to 4.1m in part of the building located on the lower grounds of the site (southern side). The applicant has submitted a SEPP 1 objection. The SEPP 1 objection has been assessed having regards to the objectives of the policy and is considered well founded. As such the SEPP 1 objection is supported.

The site is subject to a Voluntary Planning Agreement (VPA), which facilitates the dedication of 2,424 sq.m. of the site as a Community Park and the remainder of the site for a high density residential development with an increased FSR of 3.1:1 to compensate for the land lost for the public open space. The applicant is required under the terms of the VPA to construct the widening of Bonar Street adjacent to the community park. The applicant is also entitled to S94 contributions offsets for certain infrastructure works where those works are required to be carried out as conditions of consent and where the applicant offers to provide those as works-in-kind.

The application has been notified in accordance with Council's Development Control Plan No. 50 - Community Engagement in Development Decisions on two occasions. Two submissions have been received. The issues raised in the submissions have been addressed in this report.

The recommendation is for approval.

Committee Recommendation

Officer Recommendation

1 That DA 2010/158 for the demolition of existing structures and construction of a mixed use development comprising four(4) buildings containing 225 residential units and one(1) commercial unit over a basement carpark, associated landscaping, new road, infrastructure works, dedicated open space and subdivision at 45 Bonar Street Arncliffe be approved pursuant to Section 80(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report.

2 That the Joint Regional Planning Panel support the variation to the height requirement contained in Clause 35A(2A)(b) and 2B of Rockdale Local Environmental Plan (RLEP) 2000 in accordance with the SEPP 1 objection submitted by the applicant.

3 That the Department of Planning (DoP) be advised of the variation to the height

requirement under clause 35A(2A)(b) and 2B of Rockdale Local Environmental Plan 2000 (RLEP 2000) in accordance with their instructions.

4 That objectors be notified of the Joint Regional Planning Panel's decision.

Report Background

PROPOSAL

The proposal consists on the demolition and removal of existing improvements and the construction of a mixed use development containing 225 residential units and one commercial unit. Features of the proposal include:

- A total of 89 residential units on the northern side of New Road West and 136 residential units on the southern side of New Road West.
- One commercial unit located on the western corner of Building A with frontage to the Community Park and Bonar Street.
- Dedication of 2,424 sq.m. of land on the northern side of the site to a Community Park. Design of the Community Park.
- Dedication of 986 sq.m. of land and construction of New Road West towards the centre of the site (east-west oriented). Streetscaping including street lighting, street trees and pavements.
- Infrastructure works and creation of a drainage easement along the southern boundary of the site (approximately 161 sq.m. of land).
- Dedication of 1.4m of land along the Bonar Street frontage for road widening purposes.
- Construction of four buildings over a two level basement carpark containing approximately 312 carparking spaces including loading bays, carwash bays, bicycle and motorcycle parking. Vehicular access to the basement levels is provided via New Road West.
- Subdivision of the land to allow the dedications listed above and four Torrens title subdivisions within the developer's land.

The location of the buildings and the breakdown of units is below.

Northern side of New Road West:

<i>Building</i>					<i>A</i>
One		bedroom	9		Units
Two		bedrooms	26		Units
Three		bedrooms	9		Units
Commercial			1		Unit
Total	44	units	plus	1	commercial

<i>Building</i>					<i>B</i>
One		bedroom	9		Units
Two		bedrooms	27		Units
Three		bedrooms	9		Units

Total					45		units
Southern	side	of	New	Road	West:		
<i>Building</i>							<i>C</i>
One	bedroom			0			Units
Two	bedrooms			61			Units
Three	bedrooms			7			Units
Total					68		units
<i>Building</i>							<i>D</i>
One	bedroom			0			Units
Two	bedrooms			61			Units
Two	bedroom	plus	study		7		Units
Total					68		units

The proposal provides a total of 18 x one bedroom units (8%), 175 x two bedroom units (78%) and 32 x three bedroom units (14%).

EXISTING AND SURROUNDING DEVELOPMENT

The site is legally identified as Lot 1 in DP 1122564, Lot 4 in DP 574248 and Lot 2 in DP 568839. The site is known as 45 Bonar Street, Arncliffe. The site is an irregular shape having a boundary to Bonar Street of 185.37m. The total site area is 10,151 sq.m.

On the site is a brick and metal roofed building in a derelict condition. The natural topography of the site has been altered by the bowling greens and areas associated with the former use of the site as the Arncliffe Scotts Bowling Club. There is a slope of approximately 1.4 metres from the northern end of the site towards the south.

The site contains a mix of native trees such as Acacia, Erythrina and several Callistemon, as well as exotic trees, i.e Jacaranda, English Oak, Camellia Oleander and four Conifers. Most trees on site are no more than 20 years old. As the site has been vacant for several years, much of the site and many of the trees are covered with the environmental weed 'Madeira Vine'.

The site is affected by flooding, underground water protection and the 15.24m building height Civil Aviation Regulations restriction.

The site is part of the Bonar Street Precinct, which is undergoing transition from an industrial area to a high density residential area as a result of the gazettal of Rockdale Local Environmental Plan (Amendment 29) on Friday 31 October 2008. Part of the eastern boundary is adjoined with the site at 9-11 Wollongong Road, Arncliffe. The development at 9-11 Wollongong Road is under construction and consists of two residential towers containing 182 units.

Opposite the site at 12 - 40 Bonar Street is the 'Meriton development' approved by the Minister for Planning under Part 3A of the EP&A Act. This development is under construction and consists of four(4) residential flat buildings, 6/7 storey high comprising 307 apartments.

Adjoining the site to the east and south are industrial buildings (also future high density residential sites). The Masterplan for the Bonar Street precinct, reflected in DCP 80 and RLEP 2000 envisages the site being bounded by new roads along the eastern side.

The northern side of Bonar Street is characterised by single dwellings and is zoned low

density residential. The site is within walking distance to Arncliffe shopping centre in Belmore and Firth Street, Arncliffe.

PLANNING

CONSIDERATION

The proposed development has been assessed under the provisions of the Environmental and Planning Assessment Act, 1979. The matters below are those requiring the consideration of the Joint Regional Planning Panel.

Section 91A - Development that is Integrated Development Water Management Act

The development application is classified as Integrated Development. Pursuant Section 91(3) of the Water Management Act, the proposal requires a Licence under Part V of the Water Act 1912 for dewatering the ground water. As such the application was referred to the Office of Water (OW) in accordance with the Environmental Planning and Assessment Regulations. The OW has provided Council with the General Terms of Approval (GTA). Furthermore the OW indicates that a proposal that requires permanent or semi-permanent pumping of the groundwater to protect the building will not be allowed. These requirements have been incorporated into the draft notice of determination attached to this report.

Section 79C (1) Matters for Consideration - General Provisions of Environmental Planning Instruments (S.79C(1)(a)(i))

State Environmental Planning Policy No.1 - Development Standards

This policy provides flexibility in the application of development standards when in the circumstances of a case, the strict compliance with the standard is considered unreasonable or unnecessary. The proposal fails to comply with the maximum height prescribed under clause 35A(2A)(b) and (2D) of RLEP 2000. Clause 35A(2D) restricts the height of the building to 27metres (3 metres more than the minimum specified in clause 35A(2A)(b)). The proposed variation to the height control has been determined as between 1.6m to 3.4m in Buildings A and B and between 800mm to 4.1m in Buildings C and D. Please note, these heights are based on existing ground levels. It is noted that the level of Bonar Street closer to the intersection with New Road West and the ground levels in the area of the Community Park will be increased. As such the height of the building on those frontages will vary from 26.48m to 29.45m. Therefore the height variation will be a maximum of 2.4m for Buildings A and B fronting the park. The height variation however is more evident in buildings B and C towards the eastern boundary, in the area of the site that will be exposed to future roads not being part of this application. It is noted that the most critical height variation (3.4m-4.1m above the height control) does not apply to the whole perimeter of the buildings and it only occurs in specific parts of the buildings where the top units have been provided with a mezzanine level.

The application has been accompanied by a SEPP 1 Objection. In the submission the applicant argues that the strict application of the height standard is unreasonable and unnecessary in this case for the following reasons:

- The height is exacerbated by flooding issues which has resulted in the height of the building being raised above natural ground level by up to 1.3-metres.*
- The street presentation of Buildings A and C which face Bonar Street present to the public domain as having a compliant street wall height of 27-metres while the non compliant components are recessed and would not appreciably add to the visible bulk*

from the public domain. The additional height also has no amenity impacts which flow from the variation given the recessed nature of the additional level.

- The upper level of Buildings A and B which face the park are light-weight in nature, consisting predominantly of glazed elements with projecting roof overhangs. The projections further conceal and shadow the elements which depart from the height limit..'*
- Building D in the south-east corner of the site is concealed from the public domain whereby the height variation will not be discernible. The recessed nature of the additional height further negates any potential visual or amenity impacts.*
- The upper level of Buildings A and B which exceed the height limit are also recessed from the southern side which ensures that these elements do not overshadow the southern buildings on the site (Buildings C and D). Therefore, there are no additional shadows attributed to the upper level.*
- The street-width to height ratio is well below 1:1 for the buildings which face to the dedicated park (Buildings A and B) while the street width to height ratio is also 1:1 for Buildings C and D which face west to Bonar Street. This is a recognised urban principle and demonstrates that the building height represents an appropriate massing and scale to the public domain.*
- The provision of the FSR in accordance with that contemplated by the DCP is provided in thinner/taller buildings which allows for better solar, daylight and ventilation performance, thereby achieving greater internal amenity. Such principle is consistent with the Residential Flat Design Code...'*
- The purpose of adding the additional levels to the buildings relates to the floor space that can be achieved in the envelope control of 3.1:1. Amendments have resulted in a reduction in the FSR to 3.06:1 (a reduction in bulk of 329sq.m.).*
- A significant amount of landscaping has been incorporated as part of the proposal, well above the landscaping controls.*
- The proposal is fully compliant with the density, articulation, landscaping, unit sizes, solar access, privacy and amenity controls and does not create any adverse overshadowing impacts.*
- The height variation is limited to the recessed mezzanine level. The remainder of the building is generally beneath the 27m height line.*
- A part 6/7 storey residential flat development was recently approved under Part 3 of the EP& A Act 1979 at No. 12-38 Bonar Street, west of the subject site. Level 6 and 7 of Building A of the proposal was approved at 1.4m and 1m respectively above the maximum height control for the site.*
- 3,571m² of the site will be dedicated to Council including 2,424m² of land in the northern portion of the site being dedicated as a park, the New Road West being constructed (986m²) and the drainage easement running along the southern boundary of the site (161m²). Such dedication has compromised the ability to achieve the density within the height and envelope controls. It is considered that a lesser density not in accordance with that envisaged for the site would be inconsistent with the principles of orderly and economic use of land under the Act.*

The planning principles regarding the assessment of SEPP 1 objections have been established in *Winten Property Group v North Sydney Council* [2001] NSWLEC 46 and

Wehbe v Pittwater [2007] NSWLEC 827. An application under SEPP 1, is subject to the following test:

Is the planning control in question a development standard?

Comment: The height control as established in clause 35A(2D) of RLEP 2000 is a development standard as defined in the EPA Act clause 4(1).

What is the underlying purpose of the standard?

Comment: The objectives of the height control are not specifically stated in RLEP 2000. However the underlying objectives of the height control are considered to be:

To encourage high quality urban form. (from Draft RLEP2011)
To ensure development does not have an unreasonable impact on adjacent residential properties in terms of building size and scale, sunlight access and visual privacy. (from DCP80)

To provide for building forms that are coherent in scale, bulk, height and massing within each block and for the streetscape. (from DCP80)

To ensure the scale, bulk, height, form and architectural character of the development is compatible with the building type as well as adjacent residential properties. (from DCP80)

To graduate the scale and height of buildings from medium rise in the western and north-eastern parts of the Precinct adjacent to the existing residential properties to higher rise in the eastern part of the Precinct on lower lying land next to the elevated railway line. (from DCP80)

It is noted that the predominant building height in most of the perimeter of the building does not exceed 1.6m above the maximum height specified in RLEP 2000. This height will further be reduced along Bonar Street as the level of the road will be raised by approximately 1.53m at a location close to the intersection of Bonar Street and New Road West. The natural ground level on the northern side will also be increased as part of the design of the Community Park. Given the scale of the development the additional 1.6m height will be hardly perceived. The additional height (beyond the 1.6m) relates to specific elements in the facade designed to achieve articulation and architectural interest. The additional height is also partly the result of the flooding affecting the site. It is noted that the ground floor levels of Buildings B and D are raised up to 2 metres from the existing natural ground level. The part of the site where the height of the buildings has been increased most (eastern side) is surrounded by roads in the long term and industrial buildings in the short term. The additional height is not considered to exacerbate impacts to adjacent properties in regards to visual, overshadowing and amenity. Overall, the impacts of the proposed development are not considered unreasonable. The design has taken into account the future relationship of Buildings B and D with future roads and is considered to be satisfactory from an urban design perspective. It is noted that this site has been identified in DCP 80 as one with the highest density and height. The scale of the development has been supported by the design principles under SEPP 65 and the proposal is consistent with the objectives of the height control and the zone objectives.

Is compliance with the development standard consistent with the aims of the policy, and in particular, does the development standard tend to hinder the attainment of the objects specified in s.5 (a)(i) and (ii) of the EPA Act?
The specified objects of the EPA Act are:
5(a)(i).....the proper management, development and conservation of natural and artificial resources,.....for the purpose of promoting the social and economic welfare of the community and a better environment.
5(a)(ii) the promotion and co-ordination of the orderly and economic use and development of

land.

Comment: The site is subject to a Voluntary Planning Agreement (VPA) to facilitate the dedication of the Community Park for public ownership. The VPA allows a compensation of an increased FSR on the site of 3.1:1 (up to 23,950 sq.m. GFA on the balance of the site area 7,726 sq.m.). The proviso for the increased FSR was that the additional GFA was to be absorbed within the building height limits set by RLEP2000 and the design principles of SEPP 65 were to be met. However the site is subject to flooding and underwater protection. There is a conflict in trying to meet the envelope controls in the DCP and the FSR requirements with the limitations imposed by the severe flooding and underground water conditions affecting the property. The proposal has not achieved the maximum GFA as an attempt to minimise building bulk and scale. By increasing the height of the buildings, the proposal has also achieved a smaller building footprint, which allows better separation between the buildings and greater communal and landscaped areas. The proposal is supported by the design principles in SEPP 65. The elements of non compliance are not considered to create additional impacts to surrounding properties. The development provides a benefit to the community by dedicating 2,424sq.m. of land to open space. The proposal still achieves the underlying objectives of the control. It is considered that the strict application of the standard would prevent an economic use and development of the land, which would hinder the achievement of the objects of the Act as specified above.

Is compliance with the standard unreasonable or unnecessary in the circumstances of the case?

Comment: For the reasons outlined above, it is considered that in this case, the strict application of the height requirement is unreasonable and unnecessary. In particular it has been demonstrated that the proposal still complies with the underlying objectives of the height control and as such it would be unreasonable to strictly apply the development standard specified in RLEP2000.

Is the objection well founded?

Comment: The SEPP 1 objection relates to a variation to the height requirement. In the submission the applicant argues that the proposal achieves an appropriate relationship with the surrounding development, meets all other planning requirements and provides a significant planning benefit to the community by dedicating part of the land as open space and public roads. It has also been pointed out that there is a precedent to a variation to the height control in the development on the western side of Bonar Street. For the reasons outlined above, it is considered that in this instance the SEPP 1 objection is well founded.

State Environmental Planning Policy No.55 - Contaminated Land (SEPP 55)

The proposal has been accompanied by a preliminary environmental site assessment report prepared by Pheonix Corporation Pty Ltd. The consultant concluded that 'Based on the information collected during this investigation the site is considered suitable, with regard to contamination, for the proposed development'. Conditions of consent are proposed to ensure that the recommendations of the report are implemented on site. Subject to compliance with the conditions of consent, the proposal is considered to satisfy SEPP55.

State Environmental Planning Policy No.65 - Design Quality of Residential Flat Development (SEPP 65)

In accordance with clause 30(2) of SEPP 65, the consent authority must take into consideration the following:

30(2)(a). The advice of the Design Review Panel (DRP)

The proposal has been referred to the Design Review Panel on two occasions. In the latest response (meeting held on 3 February 2011), the panel commented as follows:

- Context: The proposal is complementary to the development under construction in Bonar Street in terms of height and setbacks.
- Scale: Better differentiation of the lower levels was recommended (more defined podium).
- Built Form: The variation to the height control was considered acceptable. Some measures were suggested to minimise the impacts of the 'narrow 10-storey high slot between the two southern blocks'. Those measures include setback and articulation of the upper levels, bridging between floors, provide canopy for pedestrians at ground level, cutting off corners at the top and ends of the buildings etc.
- Density: Compliance with RLEP 2000 has been achieved. Density acceptable provided that amenity and scale issues are resolved.
- Resource, Energy and Water Efficiency: Given the scale of the development, the panel recommends innovative measures such as extensive greening of rooftops, solar protection of glazed areas etc.
- Landscape: Plans from a qualified landscape architect to be submitted. The landscape design to be in accordance with Council's draft Public Domain Plan. Garbage areas to be screened by planting. Provide more light to the courtyard areas facing south in southern buildings.
- Amenity: The percentage of units receiving solar access has not been provided. The connecting routes for lift cores at roof top level should be clearly legible and attractive. Roof lighting and ventilation to the carpark has not been indicated on plans. Further documentation to be provided. Some balconies and large areas of glazing exposed to strong winds and sun would require adequate protection.
- Safety and Security: Satisfactory.
- Social dimensions: More detail on small communal areas next to elevators. 'The ground floor entry lobbies should be designed as comfortable spaces, desirable with some comfortable seating.'
- Aesthetics: 'The architectural character is not sufficiently cohesive. This may be in part due to the excessive colour and tonal contrasts between components, and in part insufficient strength and consistency in the 'podium' and base forms.' 'The splayed blade wall in the centre of the northern elevation is an inconsistent element.' 'The upper levels should be lighter in their construction and be a contrast to the solid forms of the lower levels.'

In conclusion the DRP recommended:

'The application is supported in principle, and the various refinements and improvements since the previous review are welcomed. A number of issues remain to be addressed, particularly those discussed above under Built Form, Amenity and Aesthetics. In view of the size of the development there would be value in referring the application to the Panel when the design is developed in response to these comments.'

As stated above, the Panel supports the amended proposal subject to various

recommendations. To address these recommendations the applicant has further amended the design by reducing the number of units by two and other minor changes in response to issues under built form, amenity and aesthetics. Conditions of consent are also proposed to attend to some of the issues raised. The proposal is supported by Council's Urban Strategy team. As such the comments from the DRP have been satisfactorily addressed.

30(2)(b) The design quality of the residential flat building when evaluated in accordance with the ten design quality principles

The 10 design quality principles have been considered in the assessment of the proposal and are found to be satisfactory.

Principle 1 - Context

The area is undergoing transition from industrial to high density residential. The proposal responds to the future context envisaged for the Bonar Street Precinct.

Principle 2 - Scale

The scale of the proposal is in accordance with the envelopes specified in DCP 80. The design incorporates elements such as setbacks, facade articulation and architectural features which minimise the bulk and scale of the buildings. Whilst the proposal exceeds the maximum height requirement under RLEP2000, the proposal is consistent with the scale envisaged in DCP 80, which identifies this area within the precinct with the higher buildings as it is the area with less interface with surrounding low density residential development.

Principle 3 - Built Form

The built form is in response to the envelopes and density prescribed by RLEP2000 and DCP 80. The proposal is considered satisfactory having regard to the built form.

Principle 4 - Density

The proposal complies with the maximum FSR allowed on the site, which is 3.1:1.

Principle 5 - Resource, energy and water efficiency

The proposal meets the targets set by BASIX. Water sensitive urban design (WSUD) measures have been incorporated in the development such as the provision of a rain garden within the Community Park. Additional conditions of consent are proposed consistent with WSUD principles.

Principle 6 - Landscape

The landscape design has been approved 'in principle' by Council's Landscape architect. The landscape design will be further revised as required by the draft conditions of consent attached to this report.

Principle 7 - Amenity

The amenity within the units and communal areas is considered satisfactory. More than 60% of the units receive solar access. A high percentage of units within the development are cross ventilated (69%). The proposal meets the amenity controls under the RFDC.

Principle 8 - Safety and Security

The proposal has taken into account safer by design principles in the design of communal areas and landscaping. Additional conditions of consent are proposed to enhance security as recommended by the NSW Police.

Principle 9 - Social Dimensions & Housing Affordability

The proposal provides an adequate unit mix. The ground floor units have direct access to the street and there is a variety of unit types and sizes, which will encourage a balanced social mix within the site. A communal open space area is provided at podium level in Buildings B and C. Additionally the ground floor levels of Buildings A and B have direct access to the Community Park on the northern side. The proposal is considered satisfactory having regard to social dimensions.

Principle 10 - Aesthetics

The proposal is considered to be satisfactory in regards to its architectural qualities. The proposal will complement the character and style of other approved developments (currently under construction) within the Bonar Street Precinct.

30(2)(c) The Residential Flat Design Code (RFDC)

A detailed assessment of the proposal under the requirements of the RFDC has been carried out. In particular the Building Design requirements under Part 3. The proposal is considered to comply with the requirements under Part 3 in terms of internal/external unit sizes, ceiling heights, ground floor apartments, storage areas, acoustic privacy etc.

State Environmental Planning Policy - Building Sustainability Index (BASIX) 2004

The application has been accompanied by a BASIX Certificate which shows that the proposal achieves the specified targets. As such, the proposal is considered satisfactory having regards to this policy.

State Environmental Planning Policy (Infrastructure) 2007

The proposal meets the criteria of Column 2 Schedule 3 under the SEPP. As such the application has been referred to the Sydney Regional Development Advisory Committee (SRDAC) and Rockdale Traffic Development Advisory Committee (RTDAC). The recommendations of these committees have been incorporated into the design for the development and/or conditions of consent. The proposal is considered to be satisfactory on traffic, parking and vehicular access grounds.

Rockdale Local Environmental Plan 2000 (RLEP 2000)

The site is zoned 2(d) - High Density Residential, 7(d) - Local Road Reservation and 7(a) - Open Space Reservation under the provisions of RLEP 2000. Development for the purpose of a mixed use building is permissible with consent. The relevant clauses that apply to the proposal are below.

Clause 10 - Adoption of Model Provisions

The relevant adopted clause of the Model Provisions requires the consent authority to consider the aesthetic appearance of a building when viewed from a main road, railway, public reserve or land zoned as open space. The proposal will be adjacent to the Community Park and central square, which form part of the main open space areas within the precinct.

The proposal is supported by SEPP 65 principles. As such the proposal is considered to meet this requirement of the Model Provisions as adopted by clause 10 of RLEP 2000.

The Model Provisions also require consideration of the increase to road traffic in the surrounding street network. The parking and traffic provisions have been considered under SEPP Infrastructure and are satisfactory.

Clause 12 - Zone Objectives and Controls

This clause requires that the proposal be consistent with at least one of the objectives of the zone. The objectives of the 2(d) - High Density Residential zone are set out in clause 28 of RLEP 2000. The proposal is considered to meet the relevant objectives of the zone.

Clause 18 - Noise and Vibration

The site is located within a 400m radius to the Illawarra Railway line. Clause 18(3) in RLEP 2000 requires the development to incorporate mitigation measures which are in accordance with the noise control guidelines contained in the Environment Protection Authority's Environmental Noise Control Manual and the State Rail publication titled "Rail Related Noise and Vibration; Issues to Consider in Local Government Planning – Development Applications and Building Applications (1995)".

The application was accompanied by an Acoustic Report. The report recommends mitigation measures to address rail and internal noise. Those recommendations have been included as conditions of consent. As such the proposal is considered to have satisfactorily addressed clause 18 of RLEP 2000.

Clause 20 - Development on flood prone land

The site is affected by flooding. The proposal involves substantial flood mitigation and stormwater works to allow the flow of water through the site and minimise any safety risks to any person on site and properties in the vicinity. The flooding issue has been assessed in detail by Council's Flooding and Stormwater engineer and is considered satisfactory subject to compliance with the proposed conditions of consent.

Clause 21 - Land filling and excavation

Excavation is required on site for the proposed basement carpark. The objectives and requirements of Clause 21 of RLEP 2000 have been considered in the assessment of this application. The proposed excavation is close to the neighbouring boundaries. Relevant conditions are proposed to ensure that the environmental amenity and structural integrity of adjoining properties is maintained and soil erosion, sedimentation, and drainage impacts are minimised.

Clause 23 - Ecologically sustainable development

Ecological sustainability has been considered as part of this application and is consistent with the requirements contained in RLEP 2000. The proposal meets the targets set by BASIX and additional initiatives are in place in line with ecological sustainable principles.

Clause 35A - Development in Zone 2(d)

35A(2A)(a) The maximum FSR permitted is 3.1:1

The proposal has a gross floor area of 23580 sq.m., which represents a FSR of 3.06:1. As

such the proposal satisfies this clause.

35A(2A)(b) The maximum building height shall not exceed the building height specified in Diagram 1 Division 1 of Part 1 of Schedule 2, which is 15m along Wollongong Road (only within approximately 10m front setback), 27m in the centre of the site and 24m at the rear of the site. Please note, clause 2D allows an increase to the height specified under clause (2A)(b) to a maximum of 3 metres, only if the consent authority is satisfied that the variation to the height specified in the diagram will not have a material adverse effect on the amenity of the occupants of nearby land.

The proposal does not comply with the height control set out by this clause. The applicant has submitted a SEPP 1 objection for a variation to this clause. The SEPP 1 objection is supported for the reasons previously explained in this report.

35A(2F) The consent authority must not consent to the erection of a dwelling or a building to be used as a shop or commercial premises on the Bonar Street Precinct unless it is satisfied that:

- (a) any works necessary to adequately protect the land from flooding have been, or will be provided, and*
- (b) satisfactory vehicular access to the land has been, or will be provided.*
- (c) any public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when it is required*

The application involves extensive stormwater and road works to ensure that the flooding issues are addressed and that adequate vehicular access is provided on site. As stated previously in this report, the proposal is considered to satisfy the traffic and vehicular access requirements under SEPP Infrastructure. Similarly the proposal satisfies clause 20 of RLEP2000 regarding the development of flood prone land. Furthermore the site is subject to a VPA and S94 Contributions plans, which will ensure the delivery of infrastructure. A further contribution is required to ensure that road works are completed in accordance with the Bonar Street Masterplan. Conditions of consent are proposed requiring all stormwater and road works finalised in accordance with Council's requirements and relevant standards.

35A(2G) The consent authority shall consider whether the residents of the proposed development will be affected by the use of adjacent land for industrial purposes and whether the use of the industrial premises nearby will be affected by their proximity to the residents.

The site adjoins the industrial developments at 13-15 Wollongong Road (on rear boundary), 11-37 Wollongong Road (on rear boundary), 43 Bonar Street (on side boundary) and 47 Bonar Street (side boundary). In particular the existing developments in Wollongong Road are established industrial/commercial uses likely to remain active in the medium to long term. The proposal provides balconies fronting the site at 13-15 Wollongong Road, which is considered appropriate once this site is redeveloped as the balconies will be fronting a road. Balconies are also proposed on the side boundary of Building D fronting 17-37 Wollongong Road. As this side of the building will be fronting a future building on the adjoining site, it is recommended that the balconies be removed. A condition of consent is proposed to this effect.

The requirements of clause 35A(2G) are also reflected in DCP 80 (clause 6.3.2 (c)). An acoustic report has been submitted with the application. The report recommends acoustic measures to minimise noise impacts and concludes that subject to the implementation of these measures, the proposal 'will meet the required noise measures as required by DCP 80'. However it is considered that the report has not specifically addressed the industrial noise issue. It is noted that the existing industrial buildings are setback from the boundaries

and the walls fronting the subject site contain no windows. Therefore unreasonable noise impacts are not anticipated. As such a condition of consent is recommended requesting an amendment to the acoustic report to determine whether additional measures (other than the ones already recommended) are necessary to address industrial noise. Subject to compliance with this condition of consent, the proposal is considered to be satisfactory in regards to this clause.

35A(3) Concerns developments proposed on part of the development site only.

The proposal involves the development of the whole 'development site' as identified in RLEP 2000 and DCP 80 and as such satisfies this clause.

Part 7 - Reservations

A portion of the development site frontage on Bonar Street is zoned 7(d) - Local Road Reservation under RLEP 2000. The applicant is required to dedicate 1.4m of the land along Bonar St between Hirst Street and the right hand bend and 2.7 metres of the land from the right hand bend and beyond for road widening purposes. The documentation submitted with the application identifies this road dedication and additional conditions of consent are proposed to achieve this. As such the proposal complies with this requirement.

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

Draft Rockdale Local Environmental Plan 2011 (Draft LEP) was on exhibition until 17 December 2011. The proposal has been assessed against the controls and objectives of the Draft LEP. The site is proposed to be zoned R4 - High Density Residential and RE1 - Public Recreation. The proposed FSR is 3.1:1, which is consistent with the current permissible FSR. The Draft LEP allows a building with a maximum height of 24m. As advised by Council's strategic team, the additional height of 3 metres allowed by clause 35A(2D) of RLEP2000 was omitted in the Draft LEP as clause 4.6 allows exceptions to development standards. The variation to the height control has been previously addressed in this report under SEPP 1. The proposed controls are generally consistent with the existing controls. As such the proposal is considered to satisfy the objectives and controls under the Draft LEP 2011.

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

Development Control Plan No. 80 - Bonar Street Precinct (DCP 80)

The proposal is considered to comply with the objectives of DCP 80 and controls in regards to land use, floor space, built form, landscaping and open space, access and parking, environmental management, the provisions of infrastructure and staging. Some non compliant issues are discussed below.

Clause 2.3 - Mix of dwelling types

The proposal provides 8% one bedroom units, 78% two bedroom units and 14% three bedroom units. The percentage of three bedroom units is slightly lower than the recommended in this clause (14% rather than 15%). The difference is one unit. This variation is considered negligible and is supported.

A minimum of 10% of the units should be provided with a study. In an attempt to address this issue, the applicant has amended the plans and converted some bedrooms into studies. However, this approach is not satisfactory. Considering that most units provide a reasonably sized storage area and that this requirement does not apply to any other residential development in the city, the variation is supported in this instance.

Clause 3.2 - Building location and height provision

The proposal is part of Stage 1 developments within the precinct. The maximum number of storeys specified in this clause is 7. The proposal is nine storeys plus mezzanine level in the higher part of the site (northern side) and 10 storeys plus mezzanine level on the southern side where the basement protrudes above the ground. The variation to the height requirement has been addressed previously in this report under SEPP 1.

This clause also requires that new buildings should not cause overshadowing impacts to low density residential development within the precinct. The closest low density residential properties to the site are on the corner of Bonar Street and Hirst Street and Bonar Street and Knoll Avenue. The proposal is surrounded by industrial buildings and roads. As such the proposal is not considered to have an unreasonable overshadowing impact on low density residential properties in the vicinity.

Clause 3.3 - Building setbacks provisions

(i) This subclause establishes suggested separation distances between buildings. It also indicates that when the suggested separation distances are not met, the development must demonstrate that building massing and space between buildings are appropriate in the context, and internal amenity is satisfactory in terms of visual and acoustic privacy and daylight access. This clause also encourages additional separation from industrial sites provided that FSR, height, street setbacks and residential separation distances are met. Furthermore it is a requirement of this clause that the building setbacks with roads should be deep soil zones.

The proposal generally complies with the building separation and setback requirements except for the side setback of building D from the southern boundary. The proposed setback varies from 4.6m to 8m. Balconies encroach upon this setback up to 1.5m. Given the proximity of the building to the boundary with the industrial site at 13-37 Wollongong Road, a condition of consent is proposed requiring the deletion of the balconies to ensure a reasonable degree of amenity for both uses in the short term and to minimise any potential restrictions to future developments on the adjoining site as a result of the proximity of the balconies. The proposal is satisfactory in regards to internal amenity, acoustic privacy and daylight access. As such the variation to the setback requirement is supported in this instance.

Except from the encroachment of the basement level into the front setback on the western boundary of building A (north of New Road West), all other setbacks on Bonar Street comply with the deep soil requirement. This is the boundary north of New Road West containing for most part the Community Park. As such this variation is supported in this instance.

Part 4 - Landscaping and Open Space

The proposal includes the design of the Community Park and Central Square. The proposed design has been approved in principle by Council's landscape architect. Further details are to be provided prior to the issue of the Construction Certificate in accordance with the requirements of the VPA and draft conditions of consent.

25% of the site's open space area should be provided as deep soil zone. The land dedicated to a Community Park is 24% of the site. Additional deep soil planting is provided along the boundaries and within the communal open space area in Buildings B and C. The proposal is considered satisfactory having regard to open space requirements.

DCP 80 envisages a quasi natural channel running along the southern boundary (overland flow path) integrated to the landscaping of the site (clause 4.7.3). The proposal does not provide this riparian zone, instead a box culvert 4 m wide x approx. 2 m deep is to be

constructed. This solution was discussed in detail and agreed by Council's engineers. It was noted that after calculating the capacity of water that was required to run through the channel, it was realised that the top width of the channel was excessive and would extent beyond the required building setbacks. As such it was determined that a variation to this aspect of the DCP was warranted in this instance.

Clause 5.3.2 - Carparking Provisions
The proposal meets the parking requirements under Draft DCP 2011. It is noted that the parking requirements of DCP 80 are slightly different. However given the constraints of the site, the applicant was advised to use the rates under the Draft DCP, which is consistent with Council's recent parking strategy for Rockdale. As such the proposal is considered satisfactory having regard to onsite parking.

Residential Amenity Improvement Strategy (RAIS)

The proposal complies with the requirements under RAIS including the provision of storage areas within the units. RAIS requires storage areas with dimensions 2x2x2.7m. Some of the units (approximately 15%) have the storage area shared with the laundry. The size of this room is consistent with the storage area required under RAIS. As such this variation is considered negligible and is supported.

Development Control Plan No. 28 – Requirement for Access (DCP 28)

The proposed development has been designed to allow disabled access to and within the site. In accordance with DCP 28, the proposal provides six(6) adaptable units within the development. Disabled parking is also provided at basement level. The proposed development therefore satisfies the requirements of Council's DCP No.28.

Development Control Plan No. 67 – Crime Prevention Through Environmental Design (DCP 67)

Consideration has been given to the requirements and objectives of DCP 67 in the assessment of this proposal. The application has been referred to the NSW Police in accordance with the requirements of DCP 67 and conditions of consent are proposed in line with the NSW Police recommendations. As such, the proposed development is considered to satisfy the objectives of DCP No.67.

Development Control Plan No. 53 – Construction Site and Waste Management Plan (DCP 53)

The applicant has submitted a waste management plan in accordance with DCP No.53. A condition of consent is proposed requiring the submission of a Construction Management Plan in accordance with the requirements of clause 6.7 of DCP 80.

Development Control Plan No. 78 - Stormwater Management (DCP 78)

The application includes a stormwater concept plan. Conditions of consent are proposed to ensure that the Final Stormwater Plans are in accordance with the requirements of DCP 78 and DCP 80.

Any Planning Agreement that has been entered into under section 93F, or any draft planning agreement that the developer has offered to enter into under section 93F (S.79C(1)(a)(iia))

The proposal is subject to a Voluntary Planning Agreement (VPA). Under the terms of the

VPA, the owners are required to:

- Dedicate to Council at no cost the land within the site zoned public open space and required for a new Community Park (to be dedicated prior to issue of the first Occupation Certificate (OC))
- Dedicate to Council at no cost land adjacent to the Community Park for road widening purposes (prior to first OC)
- Prepare a detailed design for the proposed Community Park and adjacent Public Square, including those parts of the park and square that are not within the site (prior to issue of the first Construction Certificate (CC))
- Demolish existing buildings on the site within the area required for the park and remediate that land suitable for its use as public open space (prior to first OC)
- Construct that portion of the proposed Community Park within the subject site (prior to first OC)
- Maintain this portion of the park for 7 years after Practical Completion
- Design and construct road widening of Bonar Street around the perimeter of the park (prior to first OC)

The VPA specifies that, in addition to their obligations to provide the facilities and services above, the developer will also be required, pursuant to conditions of development consent, to:

- Provide additional public works and dedicate additional land for other public purposes specified in the Bonar Street DCP and Council's section 94 plan.
- Pay section 94 contributions towards public facilities and services, as specified in Council's section 94 plan (although deductions or offsets to the cash contributions will be made for the works required by the VPA and for certain other works required by the Bonar Street DCP and Council's s.94 plan).

The VPA also provides for:

- A reduction in the section 94 contributions payable by the development to reflect the reduced cost to Council in acquiring the land for the Community Park. The current contribution rates factor in the cost of purchasing the land whereas the VPA provides for its dedication at no cost. (Similarly the increased FSR on the site delivered by the relevant LEP results in increased population forecasts for the Bonar Street Precinct and the City generally, further reducing the contributions payable by this development.)
- The offset of the cost of works required to be undertaken under the VPA against the section 94 contributions payable by the development towards local open space facilities. The total cost of these works, as identified in the VPA, is \$890,000 (\$909,360, adjusted to 2010/11 values) (As indicated above, the VPA requires the land for the park and the adjacent road widening to be dedicated free of cost, so there is no section 94 offset for these dedications.)

The Section 94 plan identifies components of public infrastructure work that developers must undertake, which are to be imposed under Section 80A conditions. This work generally includes the widening of Bonar Street and streetscaping of Bonar Street. The Section 94 plan sought to oblige the developers of each adjacent development site to undertake road

widening on Bonar Street over an area that was half of the road. However, the PAC determination for the Meriton development permitted Meriton to make a contribution to Council for design and construction of the road widening and streetscaping, and only required minimal works on Bonar Street to the effect of removing redundant vehicle access driveways and reconstructing sections of footpath to present a suitable short term appearance before Council undertook to design and construct the road widening and streetscaping.

In December 2010 Council called for tenders for the design of the Bonar Street road widening and streetscaping, as well as design of additional stormwater and flood mitigation works in Bonar Street, which are the subject of S94 plan contributions. In February 2011, Council awarded a tender for the design services. The design services package is based on design for the full road width between future boundaries, including all road widening and streetscaping, despite the originally intended obligation under the S94 plan for developers to design and construct road widening and streetscaping of the Bonar Street frontage. This arose from Council decisions made during the planning stage for the design consultancy, as it was determined that a considerable risk existed if the road widening and streetscaping components of the design project of Council focused only on the road frontage on the Meriton side (i.e. western side) of Bonar Street. Such risk is primarily a coordination risk, both in terms of coordinating a design between each frontage and also designing a tender document for construction that minimises construction coordination risk.

Council is proceeding with obtaining the full width design for Bonar Street, and, in accordance with Section 223 of the Roads Act 1993, recovering from the developer of 45 Bonar Street a fee equivalent to the cost of design services for the design of the road widening and streetscaping works that the developer of 45 Bonar Street will be required to undertake under Section 80A conditions (Refer to draft condition 11(vii)).

Construction works undertaken by the developer of 45 Bonar Street within Bonar Street (a public road) will be subject to the provisions of Section 138 of the Roads Act 1993. The developer, or their contractor, must not commence works until such time as a permit is obtained from Council for construction of the works. In accordance with Section 139 of the Roads Act 1993, Council may impose conditions as appropriate by Council, and in accordance with Section 223 of the Roads Act 1993, Council may impose fees associated with the processing of the application, determination of the application, and inspection and monitoring of the works. It should be noted that Council's management plan sets the required fees and charges for processing the application and monitoring construction.

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

Clauses 92-94 of the Regulations outline the matters to be considered in the assessment of a development application. Clause 92 requires the consent authority to consider the provisions of AS 2601:1991 - *Demolition of Structures* when demolition of a building is involved. In this regard a condition of consent is proposed to ensure compliance with the standard.

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

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

Context and Setting

The proposal is in response to the desired future character of the locality as anticipated by

DCP 80. Similarly the proposal achieves a satisfactory relationship with existing adjoining industrial buildings and developments already approved within the precinct. Overall the proposal is considered to set a good standard for the future developments in the Bonar Street precinct.

Views

and

Vistas

The Masterplan for the Bonar Street Precinct identifies this site as one with the highest building envelopes. The proposal is consistent with the height in the part of the site where the topography is most elevated except for the top mezzanine level, which does not cover the whole of the building footprint and as such allows view corridors at this level. The proposal is not considered to create unreasonable impacts to surrounding properties in terms of views and vistas.

Solar

Access/Overshadowing

The proposal minimises the number of single aspect apartments with a southern orientation to ensure that solar access is maximised within the units. The layout of the buildings is in response to the envelope approved under RLEP2000 and DCP 80, except for the variation to the height requirement. However the additional height has been setback and articulated. As such the overshadowing impacts are not considered to be unreasonable. The proposal meets the overshadowing controls under DCP 80 as there is no impact to adjacent residential properties. As such it is considered that the proposal is satisfactory having regard to solar access and overshadowing.

Parking

and

Traffic

A Traffic Report accompanies the development application. The report has been considered by the SRDAC and RTDAC. Subject to Council adopting the recommendations of the RTDAC and the imposition of conditions to satisfy RTA requirements, the proposal is considered satisfactory having regards to traffic impacts. Furthermore, the proposal complies with the parking requirements under Council's controls.

Amenity

and

Privacy

As the site is surrounded by industrial properties, amenity and privacy impacts on existing residential properties in the vicinity are not anticipated. Similarly the proposal has considered its relationship with existing industrial neighbours and future high density residential developments. As such the proposal is considered satisfactory regarding amenity and privacy.

Noise

A detailed noise report has been submitted with the application. The report recommends measures to minimise noise impacts. The recommendations of the noise report are proposed as conditions of consent. Additional conditions are proposed to ensure that the industrial noise from the adjacent industrial/commercial properties is mitigated. Subject to compliance with the recommendations of the report, the proposal is considered to have minimal affectation from the noise sources surrounding the site.

Wind

Impact

A Wind Assessment report has been submitted. The report concludes that 'the maximum annual gust wind speeds in walk ways, open spaces, public & private courtyards complies with AS 1170.2 (Wind Actions).'

Soil *and* *Water*

A Soil and Water Management Plan has been prepared. Additional conditions of consent are proposed to minimise environmental impacts during construction of the development.

Acid Sulfate Soils (ASS)

Council's records indicate that the site has a low risk of ASS. However the geotechnical report submitted with the application suggests that soils may have an acid sulfate potential. As such a condition of consent is proposed to ensure that an ASS Management Plan is prepared for the site.

Heritage

The site is not located in the vicinity of a heritage item. However clause 3.4.9 - Heritage considerations, subclause (c) of DCP 80 requires a photographic record to be made of the precinct prior to demolition in accordance with the specifications of Council's Local History Librarian. A condition of consent is proposed to ensure compliance with this clause. As such the proposal is considered satisfactory having regard to heritage provisions.

Rockdale Section 94 Contribution Plan 2004

Refer to comments under VPA above.

Building Height Civil Aviation Regulation

The site lies within an area defined in schedules of the Civil Aviation (Buildings Control) Regulations, which limits the height of structures to 15.24m above natural ground level. The proposal was referred to Sydney Airports and a condition of consent has been proposed in line with the recommendations of Sydney Airports.

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

The relevant matters pertaining to the suitability of the site for the proposed development have been considered in the assessment of the proposal such as site contamination, flooding issues, access, amenity, etc. The application is considered to satisfactorily address these issues. There are no other known attributes to the site that would hinder its suitability for the proposed development.

Public Submissions (S.79C(1)(d))

The application has been notified in accordance with Council's Development Control Plan No. 50 - Community Engagement in Development Decisions on two occasions. One submission was received in each occasion. The issues raised are addressed below.

Issue - The existing use rights of adjacent industrial development must be recognised. 'Any issues that may arise from future residents must take into account our existing usage rights...'

Comment: These comments have been addressed under clause 35A(2G) of RLEP 2000 above.

Issue - Overdevelopment of the site. The height is excessive and 'oppressive to us living in single storey dwellings, within 50-100 metres of the development'.

Comment: The proposal complies with the envelopes and floor space ratio prescribed for

the site. The additional height allows reduced building footprints, which improves the internal amenity and landscaped areas. There is a separation of approximately 45m to the nearest residential boundary in Knoll Avenue. Furthermore the proposal on the northern side complies with the height requirement except for the top mezzanine level, which allows articulation in the facade. The scale of the development is supported by SEPP 65 principles and does not create additional impacts.

Issue - There is no mention of how many carparking spaces are provided on site. There is no carparking available on the surrounding streets given the construction works taking place at 40 Bonar Street. This problem will exacerbate during construction of this development and after the buildings are occupied.

Comment: The proposal meets Council's parking requirements.

Issue - There are mature, native and exotic trees on site that are beneficial as habitat of a community of small mammals, reptiles (including blue tongue lizards) and small hedgerow birds. This area is 'unique in the entire urbanised areas bounded by Turrella Reserve, Bardwell Valley and Cooks River in its degree of habitat protection and opportunity for species diversity.' Clearing existing vegetation will result in environmental impacts.

Comment: The environmental issues raised have been discussed with Council's tree management officer and environmental officer. The comments are below.

All site trees are of an age where they will be sensitive to any disturbance and will therefore require substantial clearance from any excavation, site works and paving to survive, thereby severely restricting the space available for construction. Furthermore the existing site trees are not of sufficiently high value to warrant severely altering and reducing the footprint of the proposed development, and their retention is neither practical nor viable. Rather than retention of existing trees, it is considered that appropriate deep soil planting in the landscaping of the site will provide compensation and a longer term environmental and aesthetic benefit.

In regards to the environmental impacts the following comments have been provided:

The area in question is not on environmentally sensitive land, nor is the area in the vicinity of an Endangered Ecological Community (EEC). Therefore, the area is not an EEC Affected Area. The subject area does not have any threatened flora and fauna species formally identified or mapped. The area has never been identified as potential or likely habitat for migratory birds. Given these factors, a Threatened Species Assessment of Significance is not warranted.

The proliferation of weeds also leads to a deterioration of native vegetation as seeds from weeds spread easily to bushland areas in prevailing winds. Council has a Weed Management Policy that clearly requires the removal of weeds because their adverse impacts on the natural environment clearly outweigh any positive benefits they may have. This is especially the case where weeds have been identified as noxious weeds through Council's Noxious Weeds Register. Therefore, the environmentally responsible action for the land parcel would be to clear the weeds, regardless of future use of the land.

It is concluded that the site has no environmental significant that would warrant the retention of existing trees. Furthermore the proposal provides sufficient landscaping within the site to compensate for the loss of those trees.

Issue 5 - The proposed community park is 'treeless and provides no shelter from the full midmorning to late afternoon sun. Additionally, the sun's rays would be reflected directly back from the walls of the 9 storey monolith immediately behind such a 'park'.

Comment: The proposal does not present a monolithic appearance when viewed from the

park. The buildings are articulated and offer a variety of architectural elements and finishes. Whilst it is unlikely that reflectivity occurs, a condition of consent is proposed to ensure that any reflectivity does not exceed the recommended levels.

Public	Interest	(S.79C(1)(e))
---------------	-----------------	----------------------

The proposal has been assessed against the relevant state and local planning policies and is considered to be in compliance with the objectives and requirements of such policies, except for the non compliances outlined in this report. The variation to the height requirement has been supported. Overall the proposal is a satisfactory response to the site and is generally consistent with the vision for the Bonar Street Precinct. Conditions of consent are proposed to ensure that the proposal is consistent with the intent of the Masterplan, the VPA and Council S94 contribution plan in regards to the provision of road access, stormwater infrastructure and public open space. The application has been notified and two objections have been received. The issues raised have been addressed. It is considered that the development application is in the public interest.

CONCLUSION

The proposed development has been considered under the relevant sections of the Environmental Planning and Assessment Act, 1979. The application involves the demolition of existing structures and the construction of a mixed use development containing 225 residential units and one commercial unit. The site is subject to a VPA to facilitate the dedication to Council of the Community Park. The proposal is consistent with the objectives of the controls under RLEP 2000 and DCP 80. The proposal is subject to a SEPP 1 objection to the height requirement under RLEP 2000. The SEPP 1 objection is considered to be well founded. The proposal is considered to be in the public interest. As such, the application DA-2011/158 is recommended for approval.

Financial Implications

The redevelopment of the Bonar Street Precinct, in which the proposed development will be situated, will require the provision by Council of substantial public infrastructure to facilitate its transformation from an industrial area to a high quality, high density residential precinct. To this end, Council has adopted a section 94 contributions plan that will require new development within the precinct to make monetary contributions to Council towards providing this new or upgraded public infrastructure within the precinct. (This will be in addition to Council's requirements for new developments to undertake certain improvements to public facilities adjacent to their sites as a condition of development consent.)

Furthermore, the proposed development will substantially increase the future population within this part of the City, creating demand for additional public amenities and services, such as open space and community facilities. Hence the development will also be required to contribute towards the provision of such facilities within the City.

Based on the PAC determination for the Meriton development where Meriton was allowed to make a contribution to Council for design and construction of the road widening and streetscaping, Council initiated the design of the Bonar Street for the full road width, including

road widening and streetscaping. Council awarded the tender for the design services in February 2011. Council is now intending to recover the cost for the design services under Section 223 of the Roads Act 1993.
