

# Joint Regional Planning Panel

(Sydney East Region)

*Meeting Date: 12 July 2012*

<b>JRPP Number:</b>	2012SYE027
<b>DA Number:</b>	DA2012/263
<b>Local Government Area:</b>	ROCKDALE
<b>Proposed Development:</b>	Demolition of existing buildings, construction of a mixed use development containing five (5) retail tenancies, 92 residential units and associated parking«Description»
<b>Street Address:</b>	Nos. 23, 24, 26 Station Street & No. 2 Victoria Way, Kogarah«All_Locations»
<b>Applicant/Owner:</b>	Morris Bray Martin Ollman
<b>Number of Submissions:</b>	Six (6)
<b>Recommendation:</b>	Approval – Deferred Commencement
<b>Report by:</b>	Andrew Robinson – Consultant Planner

## Precis

The proposed development involves demolition of all existing structures and construction of a part 9 storey and part 4 storey mixed use development comprising 5 x retail tenancies at ground level and fronting Station Street, 92 x residential units (15 x 1 bedroom, 9 x 1 bedroom + study, 59 x 2 bedroom & 9 x 3 bedroom) and basement parking for 121 cars, 12 bicycles and 7 motorcycles. Vehicular access to the site is direct from Station Street (pre-DA proposed access via Victoria Way) and the car parking is provided in 4 basement levels.

The site is zoned B4 Mixed Use under Rockdale Local Environmental Plan 2011 and is defined under the LEP as “Shop-top Housing”, permissible with consent in this zone.

Prior to lodgement of the application, the applicant sought preliminary advice from Council through the formal Pre-DA meeting procedure. The Pre-DA advice raised issues in regards to the inappropriate bulk and scale, insufficient setbacks, extent of overshadowing, lack of articulation and poor connectivity to Victoria Way. The proposal has been amended to

address the issues raised at the Pre-DA meeting, as well as further issues raised during the assessment of the development application.

The applicant also sought Pre-DA advice from the Design Review Panel. The Panel commented that it could not support the proposal in its current form. In order to reduce the impact on the surrounding area, as well as improve the amenity for the residents, the Panel recommended that the applicant modify the design to achieve the following:

- A reduced built form expressed as two linear north-south buildings connected by the basement.
- A lower height building to the west.
- A linear courtyard extending to the north and south of the site for visual and sunlight permeability.
- Basement car park utilising Station Street for access with reduced (or no) access from Victoria Way.
- Reconsider the landscape approach to more accurately reflect the architecture and resident needs.

The design has been amended in order to address the concerns raised by the Panel.

The proposed development seeks a variation to the maximum building height development standard under Clause 4.3 of Rockdale LEP 2011. However, it is considered that the applicant has provided sufficient justification to demonstrate that in the circumstances of the case, a variation to the maximum building height development standard is warranted.

The development has been assessed against the relevant controls under Rockdale Development Control Plan 2011. Despite some minor non-compliance, the proposed development performs satisfactorily against the DCP provisions.

Six (6) letters of objection were received following public exhibition of the application. The issues raised in these submissions are discussed in the body of the report.

The proposed development has a Capital Investment Value greater than \$20 million (i.e. \$21 million) and as such the development application is referred to the Joint Regional Planning Panel (JRPP) for determination.

The recommendation is for approval as a Deferred Commencement consent.

### **Officer Recommendation**

1. That DA2012/263 for the demolition of existing buildings, construction of a mixed use development containing five (5) retail tenancies, 92 residential units and carparking at Nos. 23, 24 & 26 Station Street & No. 2 Victoria Way, Kogarah be approved as a deferred commencement consent subject to the following:

### RailCorp

- 1) The consent is not to operate until the applicant has satisfied Council that it has obtained approval/certification from RailCorp as to the following matters and the approval/certification has been forwarded to the Council:

The applicant shall prepare and provide to RailCorp for approval/certification the following items:

- a. Final Geotechnical and Structural report/drawings that meet RailCorp's requirements. The Geotechnical Report must be based on actual borehole testing conducted on-site , closest to the rail corridor.
- b. Final Construction methodology with construction details pertaining to structural support during excavation.
- c. Final cross sectional drawings showing ground surface, rail racks, sub soil profile, proposed basement excavation and structural design of sub ground support adjacent to the rail corridor. All measurements are to be verified by a Registered Surveyor.
- d. Detailed Survey Plan showing the relationship of the proposed development with respect to RailCorp's land and infrastructure.
- e. If required by RailCorp, an FE analysis which assesses the different stages of loading-unloading of the site and its effect on the rock mass surrounding the rail corridor.

### Road Upgrade

- 2) A roundabout is to be provided in Station Street at the expense of the applicant. The roundabout is to be located north of the driveway to the property and a concrete island (median) is to be installed in Station Street to ensure that vehicles can access the property in a left-in / left-out movement only. Plans indicating all engineering details relevant to construction of the roundabout are to be submitted to Council for assessment and written approval.
- 3) Further details are to be provided to demonstrate to Council's satisfaction that service vehicle operations, such as waste and recycling collection and removalist vehicles will not conflict with pedestrian and vehicle movements in Victoria Way and can be accommodated given the physical constraints and pavement strength.

All design details are to be in accordance with Council's Technical Specifications and are to be certified by an appropriately qualified and practising Civil Engineer.

### Landscaping Design

- 4) An amended Landscape Plan is to be submitted to Council for assessment and written approval. The amended plan is to address the following matters:

- a. The inclusion of the proposed earth play mound and tunnel is to be reconsidered as it is considered that it offers limited play space and the turf in this location is likely to either fail or be subject to extensive wear and tear. If the earth mound is to be retained, details of the height of the mound are to be indicated on the plan. Council's preference would be to incorporate quality playground elements with appropriate softfall, as well as sand pits – catering for toddlers and younger children.
- b. Further details are to be provided in relation to the proposed materials and finishes, in particular, pavement treatments, walls, furniture, and lighting. It should be noted that the existing pattern of interlock red pavers dissected with orange coloured bands that extends along the existing shops is to be retained.

Pursuant to Clause 95(3) of the Environmental Planning and Assessment Regulation 2000, the period of the deferred commencement shall be twelve (12) months.

2. That the Joint Regional Planning Panel support the request for a variation to the maximum building height standard contained in Clause 4.3 of Rockdale Local Environmental Plan 2011, having regard to the justification provided in the Clause 4.6 Request for Variation made by the applicant.
3. That objectors be notified of the Joint Regional Planning Panel's decision.

## **Report Background**

### **PROPOSAL**

The proposed development involves demolition of all existing structures and construction of a part 9 storey and part 4 storey mixed use development comprising 5 x retail tenancies at ground level and fronting Station Street, 92 x residential units and basement parking for 121 cars, 12 bicycles and 7 motorcycles. Vehicular access to the site is direct from Station Street (pre-DA proposed access via Victoria Way) and the car parking is provided in 4 basement levels.

The 5 commercial/retail tenancies have a combined area of 335m<sup>2</sup> and each are provided with a full height glazed shop front to Station Street and bathroom facilities.

The residential unit mix comprises:

- 15 x 1 bedroom
- 9 x 1 bedroom + study
- 59 x 2 bedroom
- 9 x 3 bedroom

Of the 92 units, 10 (11%) are nominated as adaptable units and barrier free access is available to all 92 units. In addition, a further 5 unit layouts are similar to the adaptable unit design and could readily be adapted if necessary. Each adaptable unit is provided with an accessible car space.

Parking is allocated as follows:

- 101 resident spaces
- 26 shared visitor/retail spaces
- 7 motor cycle spaces
- 12 bicycle spaces

A total of 486m<sup>2</sup> of communal open space is provided throughout the development.

While vehicular access is proposed from Station Street, service vehicle (Waste & Recycling trucks etc) is still proposed via Victoria Way.

The site is zoned B4 Mixed Use under Rockdale Local Environmental Plan 2011 and is defined under the LEP as “Shop-top Housing”, permissible with consent in this zone.

### **EXISTING AND SURROUNDING DEVELOPMENT**

The site is located on the western side of the Illawarra Rail Line and is known as Nos. 23, 24 & 26 Station Street and No. 2 Victoria Way, Kogarah. The legal description of the site is Lot D, DP 28345, Lot 2, DP 219880, Lots 28, 29 & 30 Sec D DP 1562 and Lot 1 DP 219880. The site is L-shaped, having a total area of 2,254.9m<sup>2</sup>, a (primary) frontage of 41.22m to Station Street and a (secondary) frontage of 24.33m to Victoria Way.

The site falls away from Station Street towards the rear, with an approximate 8m change in levels. Victoria Way is a tree lined parcel of public open space that provides a pedestrian link between Paine Street and Station Street. It also provides vehicular access to No. 2 Victoria Way and the rear of Nos. 20, 21 & 22 Station Street, via a right-of-way that burdens the subject site.

The site is currently occupied by the 'Mecca Theatre', which extends over the majority of the Station Street frontage. Adjoining the Mecca, there are two (2) commercial buildings that occupy No. 23 & 24 Station Street. A four (4) storey residential flat building occupies No. 2 Victoria Way.

The site is almost directly opposite Kogarah Railway Station. Surrounding the site to the north and west are residential flat buildings up to four (4) storeys in height. Victoria Way is a heavily used pedestrian thoroughfare connecting Paine Street with Station Street. It also provides vehicular access to the residential units at No. 2 Victoria Way and the commercial buildings at Nos. 20, 21 & 22 Station Street.

The site is in the vicinity of two (2) heritage items listed under Rockdale LEP 2011, including the landscaping (row of mature trees) in Victoria Way and a two storey commercial building known as 'Peach Chambers' at Nos. 17-19 Station Street.

## **PLANNING CONSIDERATION**

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

### **Section 79C (1) Matters for Consideration - General**

#### **Provisions of Environmental Planning Instruments (S.79C(1)(a)(i))**

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

Under the provisions of Clause 7 of SEPP 55, a consent authority must not consent to the carrying out of development unless it has considered whether the land is contaminated and is satisfied that the land is suitable for the proposed use. There is no evidence to suggest that the site is contaminated, or is unsuitable for the proposed mixed use development. Accordingly, there is no need for remediation and/or validation of the site.

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

In accordance with Clause 30 of the SEPP, the consent authority must take into consideration the following:

#### **a. The Advice of the Design Review Panel (DRP)**

The proposal has been referred to the Design Review Panel on two occasions, once at Pre-DA stage and again following lodgement of the application. A number of design modifications were made to the proposal in response to issues raised by the Design Review Panel, prior to

lodgement of the application. In the latest response (meeting held on 5 April 2012), the Panel commented as follows:

### ***Generally***

*An earlier proposal to develop this site was seen by the Panel as a Pre-DA submission in November 2011. The proposal was prepared with regard to the controls under draft Rockdale Local Environment Plan 2011 which is now the principal planning instrument since its gazettal on 5 December 2011. The Applicant, in submitting this revised proposal, has had regard to many of the issues raised by the Panel with the earlier scheme, with consequent improvement to building form, design, amenity and fit within the urban context and resulting in an application of merit. There remain issues of excessive height beyond the controls, however, in the context of the project this non-compliance is only of a minor nature.*

*This Report will only comment upon issues previously raised by the Panel.*

### ***Scale***

- *The additional height provided to the pedestrian entranceway off Station Street gives a scale and quality to reflect the courtyard character and scale of the proposal as a whole.*
- *The facade modulation to Station Street is well considered to provide interest and reflect the unit types. Further consideration could be given to strengthening the lower two levels as a plinth form, although it is recognised that the Applicant has had regard to achieving this. The Panel acknowledges that there is some non-compliance in regard to height on the eastern tower however it considers this to not be a problem given the topography of the site.*

### ***Built Form***

- *The proposal has been modified to reduce its overall bulky appearance by placing emphasis upon two north-south linear buildings. This approach has successfully articulated the building form to sit more comfortably in the context of the site.*
- *The western building form has been lowered in height (nine storeys) and car parking on the lower levels, previously exposed to adjacent residential units, has been replaced with residential units. The articulation of the taller building on Station Street and the lower scale western building provides a successful resolution of built form on the site.*

### ***Landscape***

- *Although the revised building is an improvement on the previous proposal, the landscape plan has not responded accordingly. Consideration should be given to more 'inventive' ways of introducing greenery into the courtyard space to improve resident amenity and screening between the apartments. These could include the following:*

- *Small trees on mounds or in larger planter boxes to provide a filter and define the 'outdoor rooms' created in the courtyard.*
- *More sympathetic handling of the edge between the ground floor units and courtyard.*
- *Use of vertical elements such as sculptural frames with colourful climbers in key locations.*
- *Highlight the entry vista into the courtyard, which currently lacks impact.*
- *Reducing the impact of the blank north wall with climbers on wires.*
- *The placement of furniture to be less 'institutional' and instead encourage social interaction.*

*The upper landscape zone (Level 4) provides an appealing alternative quiet zone for resident amenity and interaction. Some shading devices could be incorporated.*

### ***Amenity***

- *The removal of vehicular access from Victoria Way to the Station Street frontage is a major improvement to the proposal, and allows Victoria Way to retain its predominant pedestrian character. The vehicular access, to the north on Station Street is well located and causes no disruption to the retail continuity of the Station Street frontage.*
- *The relocation of lifts to form a pair at the southern end of the courtyard provides options in the case of lift maintenance and allows good circulation.*
- *The Panel notes that the basement car park makes provision for access to future basements on the adjacent corner site (22-28 Victoria Way).*
- *In the western building careful consideration needs to be given to the incorporation of appropriate measures relating to balconies and rooms at the lower levels where there is an overlooking and privacy problem with adjacent buildings (Unit G.02 in particular). Given that the development is very close to the boundary for a building of 9 storeys in height, some re-orientation of rooms and balconies, as well as substantial screening devices and carefully considered planting, will be necessary to resolve adverse impacts.*
- *Also the masking of the car parking raises issues of cross ventilation to those lower level units on the western face, although it is noted that the width and balcony form may alleviate this concern to some degree. However it is suggested that alternative ways of cross ventilating these units be considered, perhaps via the carpark.*
- *Social dimensions: It is suggested that there be seating introduced into the courtyard in the vicinity of the entry.*



In conclusion the Panel recommended:

*This application is well considered. It has introduced modifications to address previous comments raised by the Panel, resulting in a proposal which is well resolved and should result in a significant architectural contribution. The Panel recommends this application for approval subject to incorporation of some minor details raised in this report.*

As stated above, the Panel supports the proposal subject to some minor modification as described in their comments above. Conditions of consent are proposed to address these recommendations, with details of the modification to be shown on the architectural drawings submitted with the Construction Certificate application.

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 controls for this site that are prescribed under Rockdale LEP 2011, when used to their fullest, allow a substantial building on this site, in contrast to the scale of development that may be achievable on surrounding sites where the controls restrict development to a smaller envelope. Nevertheless, the proposed development responds appropriately to the applicable controls and will make a significant contribution to the future built form of the locality.

Principle 2 -Scale

As described above, with the exception of two breaches to the building height limit, the scale of the proposed development is in accordance with the envelopes specified under Rockdale LEP 2011. The design incorporates appropriate setbacks, facade articulation and architectural features that assist in minimising the bulk and scale of the building. While the proposal exceeds the maximum building height prescribed under the LEP, the breaches are acceptable in the circumstances and do not contribute to making the proposal inconsistent with the scale of development for this site envisaged under the LEP.

Principle 3 -Built Form

The built form is generally in accordance with the envelopes and density prescribed by Rockdale LEP 2011. However, as discussed elsewhere in this report, there are two areas within the development where the maximum building height limit is breached. The applicant has provided adequate justification and notwithstanding these breaches, the built form of the proposed development is considered satisfactory having regard to the circumstances of the case.

Principle 4 -Density

The proposed development has a FSR of 3.39:1 and therefore complies with the maximum

permitted FSR of 3.4:1 prescribed for the site.

#### Principle 5 -Resource, energy and water efficiency

The proposal meets the water, energy and thermal comfort targets set under BASIX. Water sensitive urban design (WSUD) measures have been incorporated in the development such as water harvesting for irrigation and WC flushing.

#### Principle 6 - Landscape

The landscape design has been approved 'in principle' by Council's Landscape architect. However, some additional information is required. Accordingly, an amended landscape design is required and has been included as a matter of deferred commencement in the draft conditions of consent attached to this report.

#### Principle 7 -Amenity

The amenity within the units and communal areas is considered satisfactory. 70% of the units receive a minimum of 2 hours solar access in mid-winter. A high percentage of units within the development have provision for cross ventilation in various design approaches (>80%). The proposed development satisfies the relevant amenity controls under the Code.

#### Principle 8 -Safety and Security

The proposal has taken into account safer by design principles in the design of communal areas and landscaping. The NSW Police undertook a 'Safer by Design' analysis of the proposal and have recommended a number of conditions of consent aimed at enhancing the safety and security of the development.

#### c. The Residential Flat Design Code

The Residential Flat Design Code, published by the NSW Government, expands on the 10 design quality principles described in SEPP 65, providing detailed practical guidance for the design of residential flat buildings.

The proposed development has been assessed against the relevant criteria of the Code and is considered to perform adequately with respect to the design issues contained within the Code, such as cross flow ventilation, building separation, solar access and overall energy efficiency.

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

The application is accompanied by a BASIX Certificate that demonstrates that the proposed development achieves the specified Thermal Comfort and Water and Energy Reduction targets. Subject to the incorporation of all of the 'commitments' set out in the BASIX Certificate, the proposed development will satisfy the sustainability obligations under the SEPP. A condition has been included in the draft conditions of consent to ensure that the BASIX requirements are adhered to. As such, the proposal is considered satisfactory having regards to this policy.

### ***State Environmental Planning Policy (Infrastructure) 2007***

The proposed development has more than 75 dwellings and parking for more than 50 motor vehicles and therefore falls into Column 3 Schedule 3 under the ISEPP. Accordingly, the application was referred to the Rockdale Traffic Development Advisory Committee (RTDAC). The recommendations of the RTDAC have been incorporated into the proposal through minor design amendments and/or have been incorporated into recommended conditions of consent, such that the issues will be addressed prior to issue of a Construction Certificate. Accordingly, the proposal is considered to be satisfactory on traffic, parking and vehicular access grounds.

Further, due to the proposed excavation in the vicinity of the Illawarra Rail Line, the application required referral to RailCorp for concurrence, in accordance with Clause 86(1) of the ISEPP.

RailCorp has granted concurrence subject to the imposition of a number of conditions, including a condition of deferred commencement to require approval/certification to be obtained from RailCorp in relation to certain geotechnical and structural matters, in order to ensure that the proposed development does not compromise the structural integrity of the rail infrastructure.

The deferred commencement condition and other conditions have been included in the recommended conditions of consent.

Clause 87 of the ISEPP requires that the consent authority not grant consent to a residential development on land adjacent to a rail corridor unless it is satisfied that the development will be appropriately acoustically treated to minimise the potential adverse impacts associated with rail noise and vibration.

The application is accompanied by an Acoustic Assessment prepared by Vipac Engineers that addresses the potential rail noise and vibration impacts. The report concludes that provided the noise control measures outlined in the noise assessment report are incorporated into the development it will satisfy the relevant noise criteria and thereby satisfy the requirements of Clause 87 of the SEPP.

### ***Rockdale Local Environmental Plan 2011 (Rockdale LEP 2011)***

The site is zoned B4 – Mixed Use under the provisions of Rockdale LEP 2011. Development for the purpose of ‘shop-top housing’ is permissible with consent. The LEP clauses that are of relevance to the proposed development are discussed below.

#### **Clause 4.3 – Height of Buildings**

The Building Height Map referred to in Clause 4.3 prescribes a maximum building height of 31m for this site. However, the proposed development exceeds this height development standard in two locations near the middle of the site – by 4.8m on the lift core towards the south-western side and by 1.2m on the north-eastern side of the development.

A request for a variation to this standard has been made under the provisions of Clause 4.6 of the LEP, arguing that due to the topography of the site strict compliance with the height

standard is unreasonable and that despite the non-compliance, there will be no adverse impacts in terms of overshadowing as a consequence of the additional height.

This issue is discussed in more detail below.

#### Clause 4.4 – Floor Space Ratio

The Floor Space Ratio Map referred to in Clause 4.4 prescribes a maximum floor space ratio of 3.4:1 for this site. The proposed development has a floor space ratio of 3.39:1 and therefore complies with Clause 4.4.

#### Clause 4.6 – Exceptions to Development Standards

Clause 4.6 of the LEP is intended to provide a degree of flexibility in the application of development standards to development proposals. As indicated above, the proposed development exceeds the 31m maximum building height in two (2) locations. The first location is on the lift core towards the south-western side, where the height limit is exceeded by 4.8m. The second is on the north-eastern side of the development, where the height limit is exceeded by 1.2m.

In accordance with the requirements of Clause 4.6, the applicant has provided written justification as to the merits of allowing a variation to the height development standard. The justification is predicated on the opinion that as a consequence of the sloping topography of the site the non-compliance is necessary and reasonable due to the physical circumstances of the site and seeks to demonstrate:

- *That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case (in accordance with Clause 4.6(3)(a));*
- *That there are sufficient environmental planning grounds to justify contravening the development standard (in accordance with Clause 4.6(3)(b)); and*
- *That the proposed development will be in the public interest because it is consistent with the objectives of the development standard and the objectives for development in the zone (in accordance with Clause 4.6(4)(a)(ii));*

Clause 4.6(4)(b) requires the concurrence of the Director-General to be obtained prior to granting consent to a development that contravenes a development standard. However, as advised in Planning Circular PS 08-003, the Director-General's concurrence can be assumed in respect of any environmental planning instrument that adopts Clause 4.6 of the Standard Template LEP. Accordingly, concurrence can be assumed in this instance.

Having made an assessment of the justification provided by the applicant, it is considered that there are sufficient grounds to permit a variation to the maximum building height limit in this instance. In summary:

- The site has a fall of approximately 8m from east to west (Station Street to the rear of the site), equating to an effective difference of 3 storeys and a cross fall of approximately 5m from north to south. Due to this significant fall, compliance with the height development standard is difficult to achieve for the entire eastern tower.

Although the eastern side of the development complies at the Station Street frontage, the height limit is breached as the building moves across the site to the west, as height is the measurement from the topmost part of the building to the ground level immediately below.

- The 4.8m non-compliance relates to the western end of the lift core/fire stairs that runs between the two towers on the southern side of the site. However, due to the site topography the western tower is much lower than the eastern tower, such that the lift core/fire stairs element only services the eastern tower above level 5. As such, this element forms a narrow arm extending horizontally to the west, away from the eastern tower. As the 4.8m non-compliance relates solely to the lift core, there will be no advantage to any residents (in terms of views etc) and no privacy impacts to surrounding development as there are no windows in the lift core.
- The 1.2m non-compliance on the westernmost edge of the eastern tower is relatively minor and is a direct consequence of the steep fall of the site away from Station Street. This non-compliance will not have any overshadowing impacts and does not cause the building to be overly bulky or adversely affect any surrounding development. This element of the building is considered to be compatible with the scale of nearby development on the eastern side of the rail line.
- The non-compliant lift core is sufficiently setback from the site boundaries so that it does not have an adverse visual impact, or noticeably add bulk to the overall building when viewed from the public domain.
- The shadow diagrams indicate that the additional mid-winter shadows cast by the non-compliant lift core will substantially fall over the Victoria Way access road and existing right-of-way on the southern side of the site, so that despite the non-compliance, there will be no additional overshadowing impacts to adjoining and surrounding buildings.
- In order to address a concern raised by the Design Review Panel at Pre-DA stage, the development was modified to provide two linear north-south towers, so as to maximise opportunities for solar access to the central courtyard. Although the majority of the development is below the 31m height limit, the positioning of the towers and the slope of the site necessitated the partial height breach. However, the Design Review Panel was supportive of the height non-compliance, noting that in the context of the project, the non-compliance is only of a minor nature.
- The non-compliance is further exacerbated due to the need for the development to achieve a minimum habitable floor level 500mm above the 1% AEP flood event. This has raised the overall height of the development by approximately 1m above natural ground level.

Accordingly, it is recommended that the request for an exemption to the maximum building height development standard under Clause 4.6 of the LEP be supported in this instance.

#### Clause 5.10 – Heritage Conservation

The site is not listed as a heritage item. However, ‘Queens Avenue Landscaping’ (Victoria Way) on the south-western side of the site is listed as a heritage item under Schedule 5 of the LEP. In addition, ‘Peach Chambers’ on the southern side of Victoria Way at Nos. 17-19 Station Street, is also listed as a heritage item.

The application is accompanied by a Statement of Heritage Impact prepared by Rappaport Conservation Architects and Heritage Consultants that assesses the potential impact of the development on the heritage significance of both of these items. The heritage assessment comments on particular aspects of the design of the proposal that have been incorporated so as to reduce the potential impacts on the heritage items, including the modern interpretation of the 2 storey heritage facade through the articulation and modulation of the base of the building; appropriate building setbacks and landscaping along the southern and western boundaries that connects the development to the Victoria Way landscaping and reduces the bulk of the building when viewed from Victoria Way; and removal of the vehicular access from Victoria Way to Station Street etc.

The report concludes that the proposed development will have a ‘neutral’ impact on the heritage significance of either of these listed items. The report also concludes that due to the improvements to the local amenity that will be realised by the proposed development, it may have a positive impact by increasing opportunities for public appreciation of the heritage significance of Victoria Way and Peach Chambers.

The conclusions of the Statement of Heritage Impact are considered to be appropriate and it is agreed that the heritage significance of the adjoining heritage items will not be adversely affected by the proposal.

#### Clause 6.1 – Acid Sulfate Soils

The site is located within an area classified as Class 5 on Council’s Acid Sulfate Soils map. The site is not within 500m of any Class 1, 2, 3 or 4 land. As such, it is unlikely that the proposed development would have an impact on the water table of any Class 1, 2, 3 or 4 land. Accordingly, the proposal is consistent with the objectives and requirements of Clause 6.1.

#### Clause 6.2 – Earthworks

The proposal involves extensive excavation within the site to accommodate the basement levels. As such, there is the potential for these earthworks to have a detrimental impact on soil stability and/or drainage patterns in the locality. A series of conditions aimed at minimising and/or ameliorating any adverse impacts have been included in the recommended conditions of consent. Subject to compliance with these conditions, the proposed development is considered to be consistent with the objectives and requirements of this Clause.

#### Clause 6.4 – Airspace Operations

The site is affected by the 15.24m building height Civil Aviation Regulation. The proposed development also penetrates the 51m Obstacle Limitation Surface (OLS) by 0.2m due to the lift overrun. Although this is a minor breach, the proposal was referred to Sydney Airports

Corporation Limited (SACL) for comment. SACL has granted approval to the proposed building height subject to a number of conditions. The recommended conditions have been included in the draft conditions of consent provided with this report.

#### Clause 6.6 – Flood Planning

Three (3) of the six (6) allotments that comprise the site are within the flood planning area and as such a minimum floor level of 13.3m AHD is required. The proposed development has been designed with a minimum habitable floor level of 13.8m AHD and therefore complies with the flood planning level. Additional conditions of consent are proposed in line with the requirements of this Clause, particularly in relation to protection of the basement from inundation by 1 in 100 year street flows. Subject to compliance with these conditions, the proposal is satisfactory in regards to flooding and flood hazard protection.

#### Clause 6.7 – Stormwater

The proposed stormwater system has been approved by Council's Development Engineer and is consistent with the requirements of this clause.

#### Clause 6.11 – Active Street Frontages

The objective of this Clause is to promote uses that attract pedestrian traffic along certain ground floor street frontages in the B4 – Mixed Use zone. Station Street is identified as an 'active street frontage' under the LEP. The proposed development provides commercial/retail floor space with full height glazed shopfronts across the Station Street frontage. There is also a continuous awning over the Station Street footpath which aligns with the existing awning at Nos. 20-24 Station Street. This provides an integrated pedestrian experience along this section of Station Street, in compliance with this Clause.

#### Clause 6.12 – Essential Services

Utility Services are available on the site. Notwithstanding, conditions of consent are proposed that require consultation with relevant utility service providers to ensure the appropriate provision of utilities on the site.

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

There are no draft Environmental Planning Instruments currently applicable to the site.

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

##### ***Rockdale Development Control Plan 2011***

Rockdale Development Control Plan 2011 came into force in December 2011 and provides more detailed provisions and controls to supplement the statutory provisions of Rockdale LEP 2011. Part 3 of the DCP provides general controls applicable to all development types and Part 5 provides controls specific to residential flat and mixed use developments.

The proposal has been assessed against the relevant objectives and controls under Rockdale Development Control Plan 2011 and associated documents including the Technical

Specifications for Parking, the Technical Specifications for Stormwater, and requirements for Waste Minimisation and Management and Landscaping. The following areas of non-compliance the DCP have been identified in the assessment:

#### Private Open Space

Clause 4.3.2 of the DCP requires 3 bedroom units to be provided with a minimum private open space area of 24m<sup>2</sup>. The 3 bedroom unit at ground level (Lower Ground 3) in the north-western corner of the site has a private terrace of only 12m<sup>2</sup>. However, this unit has direct access from its living area onto the communal open space across the rear of the site. Due to its location, this area will effectively be utilised as private open space for the occupants of this unit. As such, it is considered that sufficient usable open space is available to this unit. The 7 x 3 bedroom units directly above the abovementioned unit also have private open space balconies of only 12m<sup>2</sup>. These are directly accessible from the living area and each of these units has access to the large communal open space areas at Ground Level and Level 4.

#### Solar Access

Clause 4.4.2 of the DCP requires 3 hours of direct sunlight to habitable rooms between 9am and 3pm during mid-winter for at least 70% of dwellings in shop-top housing.

The shadow diagrams submitted with the application indicate that 70% of the dwellings will receive 2 hours of solar access between 9am and 3pm in mid-winter. This complies with the Residential Flat Design Code requirement for a dense urban environment. However, slightly less than 70% of the dwellings will receive 3 hours of solar access in mid-winter. Based on an analysis of the shadow diagrams, it is considered that approximately 67% of dwellings will achieve the required 3 hours solar access.

The applicant argues that the north and west facing dwellings (52%) will receive approximately 6 hours solar access and the east facing units (27%) will receive slightly less than 3 hours. As such, approximately 79% of dwellings will achieve an average of 3 hours solar access between 9am and 3pm in mid-winter.

The proposed density could be reasonably considered as a dense urban environment and as such, would achieve the Residential Flat Design Code guide of at least 2 hours solar access. Given the substantial orientation of living areas and private open space of the dwellings towards the north, east and west, the degree of solar access achieved by the proposal is considered to be adequate.

#### Car Parking, Access & Movement

Clause 4.6 of the DCP suggests that where a secondary street frontage exists, vehicular access should not be from the primary frontage. Victoria Way provides a secondary frontage to the site. However, due to its heritage status and principal function as a pedestrian thoroughfare, it is considered that the additional traffic to be generated by the proposed development would have an unreasonable impact on Victoria Way. The Design Review Panel was also of this view. While the initial design showed all vehicular access via Victoria Way at Pre-DA stage, following consideration by Council officers and the Design Review Panel, the design has been amended to provide vehicular access direct from Station Street, at the northern end of the site. Service vehicle access is still proposed via Victoria Way. However, this will have



much less impact than would otherwise occur if all traffic was to access the site via Victoria Way. As such, a variation to this requirement is warranted in the circumstances.

### Side Boundary Setback

Due to the configuration of the subdivision pattern in this location, the site does not technically have a rear boundary. As such, the setback from the western boundary has been based on the 4.5m requirement for a side boundary under Clause 5.2 of the DCP. The dwellings along the western boundary are setback between 4.6m and 4.8m from this boundary. However, the living areas and private open space of these dwellings is oriented towards the western side boundary. As such, although compliant with the setback requirement, there is a privacy and amenity issue arising from the proximity of these west facing dwellings to the adjoining residential flat buildings. This has been addressed through the provision of dense screen landscaping along the western boundary and the provision of privacy screens to be fitted to the balconies of the west facing Lower Ground 1 floor level dwellings that have the greatest interface with the dwellings in the adjoining building.

### Building Uses

Clause 5.3 of the DCP prohibits residential uses on the ground floor of mixed use developments. However, the intention of this requirement is to ensure that street frontages are activated. In this instance, as a direct consequence of the site topography there are residential uses proposed below the ground floor level. Notwithstanding, the ground floor level uses across the Station Street frontage are commercial/retail and will therefore activate the primary street frontage. A variation to this requirement is considered warranted in the circumstances.

### Flexible Spaces

In mixed use developments where upper level commercial space is not provided, Clause 5.2 of the DCP also requires that the first floor level be designed as flexible space to allow for future adaptation, with a minimum floor to ceiling height of 3.3m. Although the first floor level of the eastern element of the building may have the potential to be adapted to commercial floor space, a floor to ceiling height of only 2.7m is proposed. The applicant argues that the proposal has been designed to respect the existing retail strip along Station Street and provides for a continuation of the existing 3.6m high awning across the frontage of the site. This is considered to be a reasonable outcome given the single storey retail strip is well established along Station Street on either side of Victoria Way.

### **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)(iiia))**

The application does not propose a Planning Agreement under Section 93F of the Act.

### **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 Regulations requires notification to relevant authorities that may have an interest in the application. The proposal has been notified to RailCorp, Sydney Airport Corporation Limited (SACL) and the NSW Police Service. The recommendations provided by these authorities are included in the draft Notice of Determination.

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

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

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.

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

### **Context and Setting**

The principal development standards under Rockdale LEP 2011 that apply to the site, utilised to their full extent, allow a built form of considerable bulk and scale, in contrast to the existing surrounding development and likely future development. Notwithstanding, it is acknowledged that in preparing Rockdale LEP 2011 and the subsequent adoption of these controls, Council was cognisant of the scale of development that was likely to be achieved on this site.

Due to these controls, there is the potential for any development on the site to be dominant in scale and have a significant impact on surrounding development, as well as a poor standard of amenity for future residents. However, having taken into consideration the design concerns raised by both Council officers and the Design Review Panel at Pre-DA stage, the resulting development proposal is considered to represent an acceptable design solution that will provide for a high standard of amenity, minimises potential impacts on surrounding development, respects the heritage significance of adjoining heritage items and will make a positive contribution to the streetscape and amenity of the locality.

### **Isolation of Adjoining Sites**

The single storey commercial buildings known as Nos. 20, 21 & 22 Station Street, located on the south eastern corner of the site have not been included in the development site. It is also acknowledged that these properties are subject to much lower building height and floor space ratio standards than the development site.

The applicant has provided documentation to demonstrate that reasonable attempts have been made to incorporate these properties in the development site, including the making of reasonable offers to purchase the properties. However, despite an indication that the owners might be willing to sell, an agreement from all owners was unable to be reached. This is understood to be partially due to the existing leasing arrangements of each of these properties.

As such, consideration must be given to the ability of these properties to be redeveloped in their own right.

The applicant has provided a concept design for the redevelopment of these sites, incorporating ground floor commercial space, 6 levels of residential units above and basement parking, with a maximum building height of 22m, in accordance with the development standard under Rockdale LEP 2011.

It is considered that this concept demonstrates that the properties at Nos. 20, 21 & 22 Station Street can be economically and viably redeveloped on their own, such that isolation of the sites by the current proposal will not adversely affect their redevelopment potential.

### Views and Vistas

The proposed development will not unreasonably affect any existing views and vistas. There may be some view loss towards Botany Bay that are currently afforded from public and private vantage points on the higher ground to the south-west near the intersection of Forest Road and Queen Victoria Street. However, these are distant views that would not be considered 'iconic' and the severity of this view loss would be considered minor.

### Parking & Traffic

The proposal complies with the on-site parking requirements under Council's DCP, recognising that the applicant proposes shared parking between the commercial/retail tenancies and resident visitor parking. The use of shared parking was raised as a concern by the JRPP at the Briefing Meeting. However, it is noted that Council's DCP makes provision for a 'shared parking concession' for mixed use developments where the applicant is able to sufficiently demonstrate a temporal demand between uses.

Under the DCP, Council recognises that the peak demand for parking between various uses may not always correspond and as such, off-street parking may be reduced in order to provide a more efficient parking facility. With respect to the proposed mixed use development, the peak visitor parking demand is likely to be during the evenings and on weekends when the demand for commercial/retail parking will be lower. The proposal seeks to utilise 8 of the 18 visitor parking spaces (45%) to also serve the commercial/retail component of the development. This is considered reasonable, given the proximity of the site to the railway station and the availability of street parking in the locality.

A Traffic and Parking Assessment report accompanies the development application and provides an assessment of the on-site parking, as well as the likely impacts of the additional traffic generated by the development on the surrounding road network. The report concludes that:

- i. *The proposed development would increase residential and employment densities close to good public transport services;*
- ii. *Parking provision is considered appropriate;*

- iii. *Access, servicing and internal layout will be provided in accordance with AS2890.1 – 2004;*
- iv. *The proposed development would generate some 35-60 vehicle movements per hour two-way; and*
- v. *The road network will be able to cater for the low traffic generation of the proposed development.*

Council's Development Engineer has considered the findings and conclusions of the Traffic & Parking Assessment and is satisfied that the proposal will not result in unacceptable traffic and parking impacts.

The proposal was also considered by the Rockdale Traffic Development Advisory Committee (RTDAC), who made the following recommendations:

1. *That the shortfall/shared use of car parking spaces is not acceptable as parking is at premium in this locality. Additional strain for parking demand cannot be absorbed. Most retail tenancies operating in this precinct have extended trading hours and generate high parking demand in the evening as well as weekends.*
2. *Loading unloading operations on Victoria Way needs to be further investigated in terms of physical site constraints and pavement strength.*
3. *Service vehicle access may create conflict with pedestrian and vehicle movement and needs further investigation.*
4. *If waste collection is proposed to be carried out onsite, provisions will have to be made for garbage vehicle access to enter and leave the property in a forward direction in accordance with Council's Rockdale Technical Specification Waste Minimisation and Management, 2011.*
5. *That a roundabout be provided north of the driveway of the property with a concrete island in the middle to ensure that vehicles can access the property in a left in/left out movement only.*
6. *Traffic Management Plan for the demolition and construction traffic movement be submitted and approved by Council.*

The recommendations of the traffic committee have been incorporated into conditions of deferred commencement consent that will need to be satisfied prior to the consent becoming operative.

On the basis of the above discussion, subject to implementation of the recommendations of the RTDAC, the traffic and parking arrangements are considered to be appropriate and will not result in any adverse environmental impacts.

#### Noise

The sites proximity to the Illawarra Rail Line means that the development is susceptible to

adverse impacts from rail noise and vibration.

A detailed Acoustic Assessment was 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.

The application is accompanied by an acoustic assessment prepared by Vipac, that provides an assessment of the noise environment and makes recommendations as to the acoustic treatments that will be necessary in order to satisfy the requirements of the Building Code of Australia, AS1469 – Acoustics – Recommended Design Sound Levels and Reverberation Times for Building Interiors and the Department of Planning publication – Development Near Rail Corridors and Busy Roads – Interim Guideline. These treatments include acoustic glazing treatments, masonry/Hebal block wall construction, insulated roofing systems, as well as mechanical ventilation and air-tight seals on door and windows.

If correctly installed, the recommended materials of construction will provide sufficient noise attenuation against rail and road noise intrusion, as well as meeting the BCA noise criteria between residential units and impact isolation between residential floor levels. A condition has been included in the draft conditions of consent to require the construction to be in accordance with the recommendations of the Acoustic Report.

#### Amenity & Privacy

The adjoining residential development to the west is separated from the proposed development by distances of between 9.2m and 16.7m. Further, extensive screen planting and privacy screens are proposed along the western side of the development in order to protect the privacy of residents. The communal open space is located in the centre of the development, such that the use of these areas will not impact on adjoining developments. The decision to relocate the principal vehicular access to Station Street minimises the impacts of vehicular movements along Victoria Way.

The privacy of the residents in the building to the north of the site will not be adversely affected as there are no balconies on the southern side of that building.

As such the proposal is considered satisfactory regarding amenity and privacy.

#### Solar Access / Overshadowing

The proposed development minimises the number of single aspect apartments with a southern orientation to ensure that solar access is maximised within the units. As noted earlier in the report, 52% of units will be afforded 6 hours solar access during mid-winter. Solar access to the communal open space areas will also be acceptable, assisted by the north-south orientation and linear design of the residential towers and the 17.7m separation provided between the towers.

There will be no impacts from overshadowing to the adjoining residential property to the north and solar access to the residential properties to the west will not be unreasonably affected. Shadows from the proposed development fall substantially over the vehicular access

in Victoria Way and over the right-of-way across the rear of Nos. 20, 21 & 22 Station Street.

As such it is considered that the proposal is satisfactory having regard to solar access and overshadowing.

### Social & Economic

The proposed development will have both a short and long term positive economic impact on the locality. In the short term it will create construction jobs for a variety of trade and specialist occupations.

In the longer term, the residential units will increase the housing choice within Kogarah and will create additional housing in an established urban area with good access to local services and facilities, as well as nearby major employment centres. The additional population generated by the proposed development may reasonably be expected to improve expenditure in the local shops and nearby centres, thereby making a positive contribution to the local economy.

As a result, it is considered that the proposed development will have a positive social and economic impact.

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

The site is considered to be suitable for the proposed development and residential land use. It is located in proximity to the Kogarah commercial centre, as well as Kogarah Station and has the capacity to support the proposed additional density and built form. Having regard to the characteristics of the site and its location, the proposed mixed use development is considered appropriate in that:

- the site is zoned to accommodate this type and form of development;
- the nature and form of the proposed development is generally consistent with the development controls which apply to the site;
- the size and dimensions of the land are suitable for the scale of the proposed development;
- the site will have access to all utility services to accommodate the demand generated by the proposed development;
- the proposed development is unlikely to result in any adverse traffic impacts;
- the proposed development will not result in any unacceptable or material environmental impacts in relation to adjoining and surrounding properties, particularly in terms of overshadowing, views, privacy (aural and visual), solar access and natural ventilation; and
- there are no known major physical constraints, environmental impacts, natural hazards or exceptional circumstances that would hinder the suitability of the site for the proposed development.

Additional conditions of consent are included in the draft conditions of consent aimed at further minimising any potential impacts on neighbouring properties, particularly during the construction phase.

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

The development application was notified to adjoining and affected owners and occupiers and placed on public exhibition for a period of two weeks, in accordance with Council's Development Control Plan 2011. Six (6) letters of objection were received and the issues raised in the submissions are discussed below:

**Issue:** Excessive density

**Comment:** The density of the proposed development is in accordance with the floor space ratio development standard for the site. Although the applicable FSR is greater than that applicable to surrounding properties, in adopting the FSR standard, Council anticipated a development of this density on this site.

**Issue:** There will be a negative impact to surrounding development due to a loss of solar access/overshadowing.

**Comment:** Solar access and overshadowing impacts have been discussed in the report. An acceptable degree of solar access will be maintained to surrounding development and the majority of the shadow impacts affect un-built upon land to the south and south-west of the site.

**Issue:** There will be an increase in traffic and congestion.

**Comment:** The potential impacts of the development on traffic and parking have been discussed in the report, as well as considered by Council's Engineers and RTDAC. Subject to the resolution of some minor issues, the anticipated traffic and parking impacts will not be unreasonable.

**Issue:** There will be unreasonable privacy impacts on neighbouring properties.

**Comment:** The issue of privacy has been discussed in the report, with the conclusion that privacy impacts will not be unreasonable. Appropriate measures to minimise a loss of privacy have been incorporated into the design.

**Issue:** The demolition works may have an impact on No. 22 Station Street, as Nos. 22 & 23 share a party wall. Also, there is a risk of defects to No. 31 Station Street due to the use of machinery for excavation purposes.

**Comment:** A condition to require pre and post construction dilapidation surveys to be undertaken has been included in the draft conditions of consent. Any damage to adjoining properties shown to have occurred as a consequence of the demolition /excavation /construction works will need to be rectified at the expense of the developer.

**Issue:** The use of the right-of-way for bins for 90 units and the shortening of the right-of-way will have an adverse impact on the ability of vehicles to manoeuvre in this area.

**Comment:** The right-of-way is not to be shortened as a consequence of the proposed development and the legal right to manoeuvre over the land burdened by the right-of-way will remain unaffected. In line with the recommendations of the RTDAC, prior to any consent becoming operative, the applicant will need to demonstrate that the use of the right-of-way by vehicles and pedestrians will not be affected by service vehicles. It is understood that waste and recycling collection is to be done within the site, so that bins will not be left on the right-of-way awaiting or post collection.

**Issue:** Will vehicular access still be available to Nos. 20-22 via the right-of-way? If Nos. 20-22 Station Street are redeveloped and Council does not permit vehicular access from Victoria Way, what becomes of the right-of way?

**Comment:** Vehicular access to Nos. 20-22 Station Street via the right-of-way will be maintained and would be available in any redevelopment of these properties.

**Issue:** The proposed development does not address the 10 design principles under SEPP 65, will not be of high architectural merit and will not contribute to the character of the street or provide usable external spaces.

**Comment:** The application has addressed the SEPP 65 design quality principles and will make a significant contribution to the streetscape character, as evidenced by the comments of the Design Review Panel.

**Issue:** There will be increased noise both during and after construction.

**Comment:** Unfortunately, as with any building site, there are short term increases in noise during demolition and construction works. However, once completed, it is unlikely that there will be an unreasonable impact on the noise environment of the locality as a consequence of the development.

**Issue:** The excavation for the basement may affect the utility services of adjoining properties.

**Comment:** Prior to excavation commencing, the location of all utility services will need to be determined. Although unlikely, if it becomes necessary, works will need to be carried out to ensure that there is no impact on the provision of utilities to surrounding development.

**Issue:** The basement does not take into consideration car wash bays and visitor parking.

**Comment:** The proposal provides visitor parking and car wash bays in the basement levels, in accordance with Council's requirements.

**Issue:** The proposal will block sea breezes.

**Comment:** It is unlikely that the proposed development will have an adverse impact on sea breezes in this locality.



**Issue:** Nos. 20, 21 & 22 Station Street are too narrow to be redeveloped with adequate car parking.

**Comment:** The applicant has demonstrated that these properties can be redeveloped with basement parking, to achieve an economically viable development.

**Issue:** Please ensure the right-of-way will not be impacted.

**Comment:** The right-of-way will remain in place and available for use in accordance with the terms of the restriction as to user.

**Issue:** The demolition of the shops at Nos. 23 & 24 will break up the original village look of the shopping strip.

**Comment:** These buildings are not heritage listed and in their current dilapidated state, do not make a positive contribution to the streetscape and character of the area.

### **Public Interest (S.79C(1)(e))**

The proposed development is considered to be in the wider public interest for the following reasons:

- it is consistent with the objects of the Environmental Planning and Assessment Act 1979, specifically because it represents the economic and orderly development of land;
- the proposal generally satisfies the objectives and intent of Rockdale Local Environmental Plan 2011 and Rockdale DCP 2011;
- the proposal provides a responsive design in terms of its relationship to adjoining development and establishes an appropriate streetscape and human scale through sound urban design principles;
- the design incorporates a number of ESD initiatives that will achieve a high standard of environmental design and sustainability;
- the proposal provides a satisfactory response to the design principles set out in SEPP 65; and
- the proposal provides the community with additional commercial/retail space, as well as additional high quality housing, taking advantage of the sites proximity to local and regional facilities, public transport and open space areas.

## **CONCLUSION**

The proposed development has been assessed in accordance with the relevant matters for consideration under Section 79C of the Environmental Planning and Assessment Act, 1979. The application involves the demolition of all existing structures and the construction of a part 9 / part 4 storey mixed use development containing five (5) commercial/retail tenancies, ninety two (92) residential units and associated parking.

The proposal provides a responsive design in terms of its relationship with adjoining development and establishes an appropriate human scale through sound urban design principles, whilst ensuring that environmentally sustainable principles are incorporated.

As such, the proposed development is considered to be both reasonable and appropriate in the context of the site. The development will have positive social and economic benefits in terms of creating accommodation for an additional resident population that will benefit from the sites location in proximity to services and facilities and who will, in turn, support local businesses and services.

Although generally consistent with the objectives and relevant statutory requirements under Rockdale LEP 2011, the proposal is subject to a request for a variation to the maximum building height development standard under Clause 4.3 of Rockdale LEP 2011.

Notwithstanding, the request for a variation is considered to be well founded and worthy of support in the circumstances, having regard to the provisions of Clause 4.6 of Rockdale LEP 2011.

The areas of non-compliance with the relevant controls under Rockdale DCP 2011 have been discussed earlier in the report and on merit, are considered to be worthy of support.

As such, it is recommended that the proposed development be APPROVED as a deferred commencement consent.