

Joint Regional Planning Panel

(Sydney East Region)

Meeting Date: 17 October 2012

JRPP Number:	2012SYE056
DA Number:	DA-2012/395
Local Government Area:	ROCKDALE
Proposed Development:	Demolition of existing structures and construction of a mixed use development comprising 282 dwellings, 2 non residential units, associated car parking and landscaping
Street Address:	120 Turrella Street and 27 & 29 Cook Street, TURRELLA
Applicant/Owner:	Mosca Pserras Architects Pty Ltd / Mourad Investments Pty Ltd
Number of Submissions:	5 letters of objection and a petition containing 20 signatures
Recommendation:	Approval subject to conditions
Report by:	Marta Sadek – Senior Development Assessment Planner

Precis

The proposal is for the demolition of the existing buildings and the construction of a mixed use development containing a total of 282 dwellings and two non residential units. The proposal is in the form of three perimeter type buildings over basement levels with a central communal area containing amenity facilities for future residents such as a gymnasium, playground and swimming pool. The proposal includes a public pedestrian link through the site.

The site at 120 Turrella Street, Turrella is zoned R4 High density residential and the site at 27-29 Cook Street Turrella is zoned R2 Low density residential under the provisions of Rockdale Local Environmental Plan 2011 (RLEP2011). The proposal in Turrella Street is defined as shop top housing (Block 3) and residential flat building (Blocks 1 and 2). The proposal is permissible in the R4 zone with development consent. The proposal at 27-29 Cook Street, is defined as 'attached dwellings' and is also permissible with development consent in the R2 zone.

The subject site is an island type site containing five street frontages and is surrounded by low density residential developments, except for the site at 132 Turrella Street, which is also zoned R4 High density residential. This site is currently vacant. The topography of the site is highly irregular characterised by rocky outcrops and the altered natural ground levels as a result of the existing industrial buildings.

The original proposal was amended in response to the issues raised by residents and the issues identified during the assessment of the application. The amended proposal involves a transfer of floor space from the Cook/Henry Street intersection to Block 3 in proximity to the corner of Reede and Turrella Streets. In addition, Block 2 has now been provided with direct pedestrian access to the lift cores from the street and the setback of the building in Loftus Street has been increased.

The amended proposal generally complies with the requirements and objectives in RLEP 2011 and Development Control Plan 2011 (DCP 2011). A non compliance against the maximum building height control stipulated in clause 4.3 (20.5m) of RLEP 2011 has been addressed by the applicant in accordance with the requirements of clause 4.6, which allows a variation to development standards. The proposal seeks a variation to the height controls of up to 1.36m at some points, mainly within the centre of the site. The proposed variation is supported in the context of clause 4.6 as it is considered that there are sufficient planning grounds to support the variation and there is no additional public benefit in strictly applying the development standard. Compliance with the development standard is considered unreasonable and unnecessary in this case.

The proposal has a Capital Investment Value greater than \$20 million (i.e. \$62,260,000) and as such the development application is referred to the Joint Regional Planning Panel (JRPP) for determination. The recommendation is for approval.

Officer Recommendation

1. That the JRPP support the variation to the height control contained in clause 4.3 of Rockdale Local Environmental Plan 2011 (RLEP 2011).
2. That development application DA-2012/395 for the demolition of existing structures and construction of a mixed use development comprising 282 dwellings, 2 non residential units, associated car parking and landscaping be APPROVED.
3. That the NSW Department of Planning be advised of the Joint Regional Planning Panel's decision.
4. That the objectors be advised of the Joint Regional Planning Panel's decision.

Report Background

PROPOSAL

The proposal is for the demolition of existing buildings and the construction of a mixed use development comprising shop top housing, residential flat buildings and attached dwellings. The proposed development is in the form of a perimeter building divided into 3 blocks with internal communal open space areas. The attached dwellings are provided with separate private open space.

The total gross floor area for the development is 27378 sq.m., comprising 108 sq.m. for the non residential component, 595sq.m. for the attached dwellings and the remainder attributed to the apartments and communal facilities. The total number of residential dwellings is 282, including 28 adaptable units. The number of dwellings is distributed in the following manner:

Block 1 – 74 apartments
Block 2 – 136 apartments
Block 3 – 69 apartments and 2 non residential units
Attached dwellings – 3 dwellings

The unit mix is 15% studio and one bedroom units, 75% two bedroom units and 10% 3 bedroom units. Twenty (20) of the 3 bedroom apartments are dual key.

The height of the proposed development varies. In Turrella and Loftus Streets the proposed building is 6 storeys high. In Henry Street, the proposed building is between 5 and 6 storeys. In Cook Street, the proposed height at street level is between 5 and 6 storeys. Given the difference in level at the boundary, there is an additional 1 and a half levels partially underground or below the street level for the building fronting Cook Street.

In Reede Street the proposed building is between 5 and 7 storeys high.

Carparking is provided at basement levels. The total number of carparking spaces on site is 369, including visitor parking. Twenty (20) motorcycle and 36 bicycle spaces are also available on site. Vehicular access is provided from Henry and Reede Streets. Each attached dwelling is provided with separate vehicular access from Cook Street.

The proposal requires upgrading of the public domain such as the provision of a new footpath along Cook Street, upgrading existing footpath on the other street frontages and street planting.

The internal communal area comprises a swimming pool, playground and barbeque area. A public walkway transverse the site connecting Henry Street with Reede and Turrella Streets.

The proposal includes the removal of most existing trees. Twenty four (24) trees are located within the proposed building footprint. The trees located in Henry Street and three trees located adjacent to the Reede Street boundary are to be retained.

The strata subdivision of the development, including the attached dwellings will be subject to a separate approval.

EXISTING AND SURROUNDING DEVELOPMENT

The site is described as Lot 3 in DP 60221, Lot 5 in DP 335068, Lot 1 in DP 1080986, Lot 16 Sec 4 in DP 33396 and Lot 17 in DP 933980. The site is known as 120 Turrella Street and 27 & 29 Cook Street, Turrella. The total site area is approximately 14,589 sq.m., being 1196sq.m. of R2 land and 13393sq.m. of the land zoned R4. The site is an irregular shape having five street frontages as follows:

Turrella Street – 68m

Cook Street – 115m

Henry Street – 116m

Loftus Street – 51m

Reede Street – 134m

The topography of the site is very irregular. The slope from the south-western corner of the site towards the intersection of Loftus Street and Turrella Street is approximately 15m. The slope is not uniform given the sharp falls due to rocky outcrops and modifications to existing levels by the existing industrial development.

There are significant trees on the site, predominantly native trees on the Cook Street, Henry and Reede Streets frontages and at the rear of the property at 27-29 Cook Street. There are a total of 66 trees affected by the proposed development. The site is affected by a 3.05m wide easement for sewerage.

On the site at 120 Turrella Street is an industrial building comprising a warehouse with associated office and parking areas. The property at 27-29 Cook Street contains a single storey dwelling.

Surrounding the site are low density residential developments, except for the property at 132 Turrella Street, which is also zoned R4 High density residential. This site is currently vacant. Opposite the site on the northern boundary is Turrella railway station and the East Hills railway line. Properties on the opposite side of the railway line are zoned IN2 Light Industrial. A bus stop is located on the Turrella Street frontage.

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 Building Sustainability Index (BASIX)

The applicant has submitted a BASIX Certificate and assessment report. The report concludes that subject to compliance with the recommendations of the report, the proposal will achieve the BASIX commitments specified in BASIX Certificate No. 427223M, 427314M_02, 427311M_02 and 427326M in compliance with this policy. The recommendations of the report have been included as a condition of consent.

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

Given the history of industrial uses on the Turrella Street site, the applicant has submitted a detailed site contamination investigation report and site audit statement. The report concludes that the site is suitable for medium and high density residential uses subject to recommendations. Conditions of consent are proposed in line with these recommendations. Therefore the proposal meets the requirements of SEPP 55.

State Environmental Planning Policy (Infrastructure) 2007 (ISEPP)

The proposal meets the criteria of clause 86 as it involves excavation more than 2m in depth and within 25 metres of the rail corridor. In accordance with clause 86(2), the concurrence of the relevant rail authority (RailCorp) was sought. RailCorp granted concurrence to the proposal subject to conditions of consent. The recommended conditions have been included in the draft Notice of Determination attached to this report.

Clause 87 of the ISEPP requires consideration of the guidelines issued by the Director-General relating to residential developments affected by rail related noise and vibration. Further the consent authority must be satisfied that acoustic measures will be incorporated into residential developments in proximity to a rail corridor to achieve certain LAeq levels. The applicant has submitted an acoustic report. The report addresses rail related noise and vibration as well as road noise. The report concludes that subject to compliance with the recommendations, the proposal is satisfactory in regards to noise mitigation and vibration impacts. The recommendations of the report have been included in the draft Notice of Determination.

The proposal meets the criteria under Schedule 3, Column 2 of the ISEPP and as such is classified as traffic generating development in accordance with clause 104. As such the proposal was referred to the Sydney Regional Development Advisory Committee (SRDAC). The traffic impacts of the development were considered by the SRDAC at its meeting on 4 July 2012. The proposal is supported on traffic grounds subject to conditions. The recommended conditions have been included in the draft Notice of Determination attached to this report.

The proposal is satisfactory in regards to the ISEPP.

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

In accordance with clause 30 of this policy, the consent authority is to take into consideration the following:

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

The proposal has been referred to the Design Review Panel as part of the PreDA process and on lodgement of the development application. The DRP advised that the proposal had generally addressed the issues raised at PreDA. The panel considers that the proposed attached dwellings are appropriate as they provide a transition between the high density development and the surrounding low density development. The panel supports the proposal in regards to built form, density, landscaping, safety and security and aesthetics. However further recommendations were made as indicated below.

- Reduce the height of Block B facing onto Henry Street and setting back the top level 3m or the width of the balconies below.
- Set back the top level of Block 2 facing onto Cook Street.
- Provision of initiatives for energy generation, water recycling and ecological issues.
- Provision of crossover access for lifts combined with roof top sheltered areas to allow communal use of these areas by residents.

Comment: The proposal has been amended to reduce the bulk and scale of the building in Cook and Henry Street as recommended by the DRP. Similarly the application has demonstrated that the BASIX commitments and Section J of the Building Code of Australia will be fulfilled.

In regards to the provision of crossover and communal areas at roof tops, the applicant states that the proposed stepped roof would require stairs linking the different levels, which will preclude disabled access and may create security and privacy issues. It would also require higher lift overruns and balustrades, which would add bulk and scale to the buildings.

The amended proposal is considered to have responded satisfactorily to the issues raised by the DRP.

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 as indicated below.

Principle 1 - Context

In response to the DRP comments and issues raised by Council, the applicant modified the proposal by reducing the height and increasing the setback of the top levels in Block 2 as seen from Cook and Henry Streets. The gross floor area was however transferred to Block 3, specifically level 6 at the northern most corner between Reede Street and Turrella Street. The amended proposal is a better response to the context as the height of the building has been reduced along the low density residential streets. The increased building height is proposed opposite the site at 132 Turrella Street, which is also zoned R4 High density residential. The proposal is satisfactory in regards to its context.

Principle 2 - Scale

The scale of the development is generally consistent with the scale as anticipated under RLEP 2011. The variations to the height requirement have been justified under clause 4.6.

Principle 3 - Built Form

The proposed built form as a perimeter style development with a central communal open area is appropriate and provides a satisfactory response to the public domain and surrounding low density character.

Principle 4 - Density

The proposal is consistent with the density controls under RLEP 2011.

Principle 5 - Resource, Energy and Water Efficiency

The BASIX Certificate demonstrates that the proposal meets the targets of the SEPP.

Principle 6 - Landscape

The proposed landscaping has been reviewed and approved by Council's landscape architect and is consistent with this principle under SEPP 65.

Principle 7 - Amenity

The proposal provides a high level of amenity to future residents by the provision of efficient apartment layouts, appropriate room sizes, storage areas, adaptable units and accessible path of travel within the site. A large percentage of apartments achieve the daylight access and natural ventilation requirements. Only 7.5% (21 apartments) of the apartments are single aspect apartments.

Principle 8 - Safety and Security

Given the proposed public access through the site, the applicant has provided a comprehensive assessment of security and safety issues. In this regard the proposal incorporates adequate access control and measures in line with the principles of crime prevention through environmental design (CPTED). Conditions of consent are recommended to ensure that these measures are implemented. The proposal achieves a good level of safety and security.

Principle 9 - Social Dimensions and housing affordability

The proposal provides a variety of apartment types, including dual key apartments to cater for the needs of the broader community. The internal communal areas are provided with amenity facilities for the residents, which will promote social interaction. On this basis, the proposal is supported in regards to social dimensions.

Principle 10 - Aesthetics

The proposed buildings have been further articulated by providing architectural fins along Henry, Loftus and Turrella Streets frontages. The proposed lighter colours allow a less prominent façade more sympathetic to the surroundings. The architectural expression of the building is considered satisfactory.

c. The Residential Flat Building Code (RFDC)

The Residential Flat Design Code is a publication by the State Government which further expands on the 10 design quality principles by providing some detailed practical guidance for the design of residential flat buildings. The proposal has been assessed against the Residential Flat Building Code.

The proposed development is considered to be satisfactory in regards to the recommended controls and objectives within the RFDC such as storage areas, unit sizes, communal open space, ceiling heights, ground floor apartments, circulation etc.

Minor variations to the building separation numerical controls specified in the RFDC have been identified, particularly between Blocks 1 and 2 and Blocks 2 and 3. The objectives of the control are to provide a reasonable level of visual and acoustic privacy, improve solar access and provide communal space and deep soil planting. In addition to the measures already in place, additional conditions of consent are proposed to ensure that screens are installed in some balconies to enhance privacy. The proposed building separation is considered to meet the objectives of the control and is therefore supported.

Rockdale Local Environmental Plan 2011 (RLEP 2011)

The site at 120 Turrella Street, Turrella is zoned R4 High density residential and the site at 27-29 Cook Street Turrella is zoned R2 Low density residential under the provisions of RLEP2011.

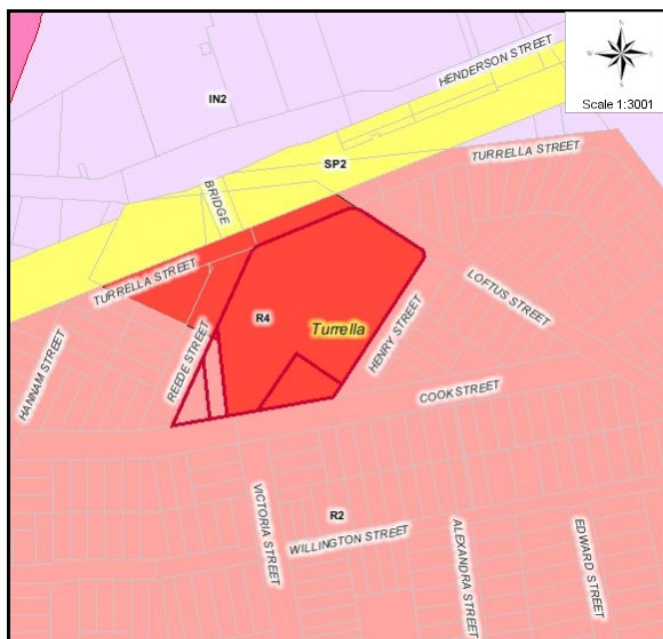


Fig. 1 – The site

The proposal in Turrella Street is defined as shop top housing (Block 3) and residential flat building (Blocks 1 and 2). The proposal is permissible in the R4 zone with development

consent. The proposal at 27-29 Cook Street, is defined as 'attached dwellings' and is also permissible with development consent in the R2 zone.

Clause 4.2 – Minimum subdivision lot size

The new lots created for the proposed attached dwellings do not meet the minimum lot size of 450 sq.m. required by this clause and as such the Torrens Title subdivision of the attached dwellings is not permitted. A condition of consent is proposed to this effect. Subject to compliance with this condition, the proposal is satisfactory in regards to this clause.

Clause 4.3 - Height of buildings

The maximum permitted height under this clause for the Turrella Street property (zoned R4) is 20.5m. The maximum height permitted for the Cook Street property (Lots 16 and 17 zoned R2) is 8.5m.

Given the irregular topography of the site and in documenting the proposed height of the buildings, the applicant has assumed ground level RLs across the site and its boundaries and has omitted the anomalies found due to sharp rises and falls within the site. Notwithstanding, it has been established that overall, the proposal complies with the height requirement around the perimeter of the site. However the maximum height has been exceeded at some points as follows:

Building	Approximate location	Maximum height	Proposed variation
Attached dwellings (Lots 16 and 17)	Reede Street	8.65m	0.15m
Block 2	Henry Street around lift lobby F – top of parapet	20.55m	0.05m
Block 3	Reed Street – Lift lobby M – Top of parapet	21.36m	0.86m
	Reed Street – Lift lobby M – Top of lift over run	21.86m	1.36m
	Reed Street – Lift lobby L – Top of lift over run	20.84m	0.34m
	Reed Street – Lift lobby K – Top of lift over run	20.54m	0.04m

The proposal seeks a variation to the height controls of up to 1.36m at some points. Refer to assessment under clause 4.6 below.

Clause 4.4 – Floor Space Ratio (FSR)

A maximum FSR of 2:1 is permitted on the Turrella Street site and 0.5:1 on the Cook Street site. The proposed FSR on the Turrella Street site is 2:1 (26,783sq.m. GFA). The proposed FSR on the Cook Street site is 0.5:1 (598 GFA). As such the proposal complies with clause 4.4.

Clause 4.6 – Exceptions to development standards

Clause 4.6 allows a variation to a development standard subject to a written request by the applicant justifying the variation by demonstrating:

(3)(a) that compliance with the standard is unreasonable or unnecessary in the circumstances of the case, and

(3)(b) that there are sufficient environmental planning grounds to justify the variation.

In considering the applicant's submission, the consent authority must be satisfied that:

- (i) the applicant's written request is satisfactory in regards to addressing subclause (3) above, and
- (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives of the relevant zone.

5(a) The consent authority must also consider whether contravention of the development standard raises any matter of significance for State or Regional environmental planning, and 5(b) the public benefit of maintaining the development standard.

The applicant has submitted a detailed justification to the proposed variation to the development standard. It is stated that the proposed variation is consistent with the objectives of the height control in that:

- The additional height will not be perceived from the public domain;
- the proposed variation to the height does not substantially increase the bulk and scale of the overall development;
- the proposed variation does not result in overshadowing adjacent properties;
- the proposed development does not result in unacceptable impacts to surrounding properties in terms of privacy, access to daylight, ventilation and view loss;
- the proposed height still provides an appropriate transition in built form and land use. The height around the perimeter of the site allows for a central communal open space and a publicly accessible link through the site. It also accentuates the site corner's / gateway location to Turrella Station and achieves visual interest; and
- the proposal is of a high standard of design and will make a positive contribution to the built form of Turrella.

It is further stated that strict compliance with the development standard would not result in any real planning gain and would make no difference in terms of the proposal's environmental impacts, including impacts on views. For these reasons, the applicant argues that the strict application of the development standard is unreasonable and unnecessary in the circumstances of the case as there is sufficient planning merit to justify the proposed variation. The proposal nevertheless meets the objectives of the standard and the planning objectives for the locality.

In the justification, the applicant finally indicates that 'the proposed departure does not raise any matter of State or regional environmental planning significance and no public benefit would be served in requiring strict compliance.'

The applicant's submission is supported in the context of clause 4.6 for the following reasons:

- The site offers significant constraints in regards to its topography. The existing natural ground level is very irregular across the site given the existing rocky outcrops and the already altered natural ground by the existing buildings;
- the larger variation (between 0.86m and 1.36m) is concentrated on the corner of Reede Street and Turrella Street, opposite the railway line and the site at 132 Turrella Street, which is also zoned R4 High density residential;
- a higher building in Turrella/Reede Streets allows transferring the floor space from the low density residential character streets such as Henry Street and Cook Street to a less sensitive area opposite the railway line and future high density development site;
- the strict compliance with the development control would not offer any significant benefit to the surrounding area in regards to visual, overshadowing, views;

- the proposal is consistent with the objectives of the height control and R4 zone objectives and as such is consistent with Council's vision for the site and the locality.

Based on the above, it is considered that there are sufficient environmental grounds to support a variation to the height control as proposed and the strict application of the numerical controls is considered to be unreasonable and unnecessary in this case. Further, given the unique characteristics of the site, the proposed variation is not considered to create an undesirable precedence and does not raise any matter of State or Regional significance. The proposal is in the public interest.

Clause 5.9 – Preservation of Trees and Vegetation

An Arboricultural Assessment and Development Impact report prepared by a consulting Arborist has been submitted with the application. The report recommends appropriate measures to protect the trees to be retained on site. The recommendations of the report have been approved by Council's tree management officer. Additional trees are proposed on site as part of the landscape design. The proposal is considered to achieve the objectives of this clause.

Clause 6.1 – Acid Sulfate Soils

The site is within an area classified as Class 5 in the acid sulfate soils map. An Acid Sulfate Soils Management Plan is not required. 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. The impacts of the proposed earthworks have been considered in the assessment of this proposal. Conditions of consent are recommended to ensure minimal impacts on the amenity of surrounding properties, drainage patterns and soil stability. The proposal meets the objectives of this clause.

Clause 6.4 – Airspace operations

The subject site is affected by the 15.24m building height Civil Aviation Regulation. The proposal was referred to Sydney Airports for comment. Sydney Airports approved the proposed height subject to conditions. The recommended conditions have been included in the draft Notice of Determination.

Clause 6.6 – Flood Planning

Part of the site is affected by Probable Maximum Flood (PMF). The proposal has been designed to ensure that driveway crossings and floor level in Loftus Street are above the 100 year street flood level. Additional conditions of consent are proposed in line with the requirements of this clause. Subject to compliance with these conditions, the proposal is satisfactory in regards to flooding.

Clause 6.7 – Stormwater

The proposal involves the construction of an on site detention system to manage stormwater. The proposed stormwater system has been approved by Council's development engineers and is consistent with this clause.

Clause 6.12 – Essential Services

Services are generally available on the site. Additional conditions of consent are proposed requiring consultation with relevant utility providers in regards to any specific requirements for the provision of services on the site.

Provisions of any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (S.79C(1)(a)(ii))

Draft Rockdale Local Environmental Plan 2011 (Amendment No. 1) - Housekeeping was on public exhibition from 28 June 2012 until 27 July 2012 and applies to the entire LGA. However none of the proposed changes affects the proposal. There are no other Draft Environmental Planning Instruments applying to this proposal.

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

Development Control Plan 2011(DCP 2011)

The proposal has been assessed against the objectives and controls under DCP 2011 and associated documents being the Technical Specifications for Parking, Technical Specifications for Stormwater, Waste Minimisation and Management and Landscaping. Given the nature of the site having 5 street frontages, some of the numerical controls are not relevant to the proposal. The proposal complies with controls relating to front setbacks, streetscape, unit sizes, unit mix, carparking, landscaping, communal open space, solar access, adaptable dwellings and site facilities.

Clause 5.2 contains specific requirements for lifts in regards to minimal internal dimensions, accessibility to all levels and that the units in levels above the 6th level are provided with two lifts. The proposed lift size is consistent with the requirements of this clause. However, the proposal provides a single lift per lift core. It is noted that the only part of the proposal that is higher than 6 levels is the building in Reede Street in the area of lift lobby identified on the plans as 'M'. This lift serves 3 units per level. The provision of an additional lift in this instance is considered onerous and as such the proposal is supported in regards to the objectives and requirements of this clause.

The proposal is consistent with the objectives of DCP 2011.

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 proposal is not subject to a Voluntary Planning Agreement (VPA).

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.

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

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

Character / Streetscape / Density / Bulk / Scale

The challenges presented in terms of the existing topography, the surrounding low density area and the high density zone applying to the site have been addressed satisfactorily. The character of the existing development on the opposite side of the street has been considered where possible in the design of the buildings i.e. by creating separate pedestrian access to ground level units, use of architectural elements to soften the appearance of the buildings, greater setbacks to higher levels etc. The facades have been articulated and the roofs stepped to correspond to the topography. The proposed density complies with Council's controls. The proposal is supported against the design principles of SEPP 65 and as such is supported in regards to streetscape and character.

Visual Privacy

The proposal is not considered to create unreasonable privacy impacts to surrounding properties. The visual privacy within the site achieves the objectives of SEPP 65. The amenity of future residents is not compromised in regards to visual privacy.

Overshadowing

The shadow diagrams submitted demonstrate that the overshadowing impacts on surrounding properties are not unreasonable. The most affected properties are those in Cook and Henry Streets. However in mid winter the proposal does not impact on solar access between the hours of 9am and 1pm in compliance with Council's policies.

Safety and Security

The proposal has been referred to the NSW Police. The NSW Police has rated the proposed development as 'moderate crime risk'. Conditions of consent have been recommended in line with the safer by design principles (CPTED). In addition, the applicant has provided a detailed assessment of security measures within the site to enhance safety and security such as fencing, security gates within the internal communal area, secure lift access, signage. The relevant recommendations of the NSW Police have been included in the draft Notice of Determination.

Subject to compliance with these conditions, the proposal is satisfactory having regard to safety and security.

Traffic/Parking

The application has been accompanied by a Traffic Report. The Traffic Report concludes that the road network will be able to cater for the additional traffic resulting from the proposed development. The traffic report has been considered by the Sydney Regional Development Advisory Committee (SRDAC) of the Roads and Maritime Services (RMS). The proposal is supported on traffic grounds subject to conditions.

Further, the proposal was also considered by the Rockdale Traffic Development Advisory Committee, who made recommendations in terms of additional traffic measures to be implemented at intersections to improve safety. The recommendations have been included as conditions of consent.

The proposal complies with Council's parking controls contained in DCP 2011.

As such the proposal is satisfactory in regard to traffic and parking.

Noise

An acoustic report has been submitted. The report recommends appropriate measures to mitigate noise impacts to surrounding properties as a result of mechanical plant and equipment within the development. Further, the report addresses the road and rail related noise and vibration impacts given the location of the subject site in proximity to the East-Hills rail corridor. Measures are also proposed to ensure that the walls and floors within the proposed apartments are insulated in accordance with Council's requirements. The recommendations of the report have been included as conditions of consent. The proposal is satisfactory in regards to noise impacts.

Views and Vistas

A detailed assessment of the proposal in regards to impacts on views and vistas has been submitted with the application. The topography surrounding the site allows the properties located in Cook and Victoria Streets extensive district views towards the north (mainly above the roof tops and tree canopies) as well as distant views of the City and Sydney airport towards the north east (from the first floor level). The views are not iconic, but considered of some value when assessed against the planning principle for view sharing in *Tenancy Consulting v Warringah Council* [2004] NSWLEC 140.

Of lesser value are views towards the northwest in the immediate vicinity dominated by the existing industrial development, the subject of this application and further north, the M5 exhaust stack and residential properties on the other side of the Cook River. Views towards the north are already interrupted, particularly for properties located at 34 Cook Street and the properties in Victoria Street located in proximity to the corner with Cook Street, by the extensive vegetation along the Cook Street frontage of the subject site.

The most affected property in regards to view loss is considered to be 34 Cook Street. However this property as well as other properties affected by the proposal retains most of the district views and distant views of the City towards the north east. The principle of view sharing is achieved and the impact of the proposal in terms of view loss is not unreasonable.

Management of Waste

The applicant has been in consultation with Council officers in regards to the provision of on site garbage collection facilities. Two waste collection points are proposed in Henry Street and Reede Street. A condition of consent is proposed requiring the submission of a Waste Management Plan prior to commencement of operations in accordance with Council's policies. The proposal complies with Council's requirements and is therefore satisfactory in regards to waste management.

Wind Impacts

A wind assessment report submitted with the application concludes that the proposed development will have a minor influence in the local wind environment. The report recommends wind control measures such as planting at certain locations to ensure that wind conditions for pedestrians around the development and the users of the communal areas and private open space areas are satisfactory. The recommendations of the report have been included as conditions of consent.

Existing vegetation

The application has been accompanied by an Arboricultural Assessment and Development Impact report prepared by a consulting Arborist. The report identifies the condition of each tree affected by the proposal. The report recommends the retention of three(3) Brushbox trees located within the public domain in Henry Street as well as the Silver-Top Ash located adjacent to the Reede Street boundary (Tree 42 in the Report). Measures have also been recommended in regards to the protection of those trees during building works. The recommendations of the report have been reviewed and approved by Council's tree management officer and have been included as conditions of consent.

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. Additional conditions of consent are proposed to further minimise any impacts on neighbouring properties. 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.

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

The development application has been notified in accordance with Council's Development Control Plan 2011. A petition containing 20 signatures and 5 letters of objection have been received. It is noted that the proposal was amended in response to the issues raised by residents and the issues identified during the assessment of the application. The amended proposal involves a transfer of floor space from the Cook/Henry Street intersection to Block 3 in proximity to the corner of Reede and Turrella Streets. In addition, Block 2 has now been provided with direct pedestrian access to the lift cores from the street and the setback of the building in Loftus Street has been increased. The amended proposal is not considered to create greater impacts on surrounding development and as such was not notified. This is considered to be in accordance with the notification requirements of DCP 2011. The issues raised against the original proposal are addressed below.

Issue: Traffic impacts. Surrounding streets do not have the capacity to support the increased traffic flow.

Comment: The application has been accompanied by a traffic report. The traffic report was considered by the RMS Regional Traffic and Rockdale Local Traffic Committees. The proposal is supported on traffic grounds.

Issue: Out of character with the surrounding low density residential area.

Comment: The site is subject to a higher density zoning under RLEP 2011. The proposal is generally compliant with the density requirements of the RLEP 2011. The design of the proposal incorporates features which reduce the scale and bulk of the proposal such as façade articulation, setbacks, and direct pedestrian access to ground floor apartments etc. The proposal is considered to be a satisfactory response to the context.

Issue: Impact on views.

Comment: The impacts of the proposal in regards to view loss have been addressed in this report. The proposal meets the principle of view sharing and as such impacts on views are not unreasonable.

Issue: Overshadowing impacts.

Comment: As previously stated in this report, the overshadowing impacts of the proposal are not unreasonable.

Issue: Privacy impacts.

Comment: Unreasonable privacy impacts on surrounding residences are not anticipated. The site enjoys 5 street frontages and the proposed perimeter style footprint ensures that all communal areas are located in the centre of the site, screened from adjacent properties.

Issue: Noise pollution given the increase in the number of residents and traffic.

Comment: This issue has not been substantiated. Noise from a residential development is not considered to be greater than the noise from the existing and potential industrial use on the site.

Issue: Townhouses/ Three storey buildings are more suitable.

Comment: Townhouse style dwellings are proposed on the corner of Reede Street and Cook Street. They are considered to provide a balanced transition between the high density and low density zones. RLEP 2011 permits the development of the Turrella Street site for a residential flat building. The response of the proposal to the surrounding low density residential character is satisfactory.

Issue: The proposal will be an eyesore.

Comment: The aesthetic qualities of the proposal have been recognised by the Design Review Panel under SEPP 65. The amended proposal is still consistent with the aesthetics consideration under SEPP 65 and is supported under the SEPP 65 principles.

Issue: The impacts on views will reduce the value of properties.

Comment: This issue has not been substantiated. The proposal is consistent with the view sharing principle as previously stated. It is considered that a change in property value is influenced by many socio-economic factors and can not solely be attributed to the proposed development and impact on views.

Issue: The removal of significant existing trees in Cook, Reede and Henry Street is not supported.

Comment: The condition of each existing tree has been documented in the Arborist report. The recommendations of the Arborist report have been assessed and approved by Council's tree management officer. The proposed landscaping for the site includes planting of replacement trees to compensate the loss of existing trees.

Issue: Block 2 adjacent to Cook Street should be reduced to 4 levels.

Comment: Block 2, as seen from Cook Street complies with the maximum height control under RLEP 2011.

Issue: Cook Street between Reede and Victoria Street is a crest and is dangerous in particular during the summer months when travelling east to west. There are driveways proposed in the middle of the crest, which will add to the current risks. This area is also a danger to pedestrians walking to the train station. There is poor visibility on corner of Henry/Loftus Street, when traffic entering Loftus Street from Henry Street creates a dangerous corner.

Comment: These issues have been considered by the Rockdale Traffic Development Advisory Committee (RTDAC). Traffic safety measures have been recommended to address pedestrian and traffic safety and have been included as conditions of consent.

Issue: Noise impacts from Waste collection. Collection areas should be located within the development.

Comment: The proposed waste collection system has been developed in consultation with Council's Waste Contract Supervisor and is considered to be appropriate for this type of development.

Issue: Overdevelopment of the land. The proposal will change the sense of community currently enjoyed by residents.

Comment: The proposal complies with the density controls. The proposal will introduce a land use more compatible with the predominant residential area than the existing industrial use.

Issue: The existing pollution from the M5 exhaust stack will impact on future residents. Recent NSW government reports indicate serious health impacts/high cancer risks from the stack.

Comment: There is no current known planning policy that would preclude the development of the site for the proposed use based on proximity to the M5 exhaust stack. The proposal is for a development which is permissible in the zone.

Issue: The infrastructure in the area is insufficient to sustain a development of the proposed size. The increase in population will strain existing ageing services and would require a significant financial input from the state government to bring current facilities up to an acceptable standard.

Comment: The proposed density is supported by current planning controls. The development provides appropriate facilities for future residents such as communal areas, swimming pool, playgrounds and gymnasium. The developer is also required to contribute to the provision of public infrastructure in accordance with Council's S94 Contribution Plan.

Issue: Wolli Creek wetlands are located in close proximity to the proposed development. The increase in population, vehicle, transport etc will potentially damage this area.

Comment: The Wetlands are located at least 300m in radius from the proposed development and are separated from the subject site by the railway corridor and industrial developments in Henderson Street. Adverse impacts are not anticipated.

Issue: The proposal will represent a 59% increase to the suburbs population within one location.

Comment: The proposed development is consistent with Council's and the Department of Planning's strategy for urban growth as well as Council's vision for the site as reflected in the recently adopted RLEP 2011.

Issue: The proposal will have an impact on the dwelling structure (built form and social fabric) for Turrella (currently 88.1% is separate house). This is considered unreasonable for Turrella's existing residents and investors.

Comment: Refer to previous comments.

Issue: The proposal does not comply with Rockdale DCP as it does not protect the residential character of Turrella, but significantly alters it.

Comment: The proposal is consistent with the front setbacks requirements of the DCP and provides elements such as direct access to the street from ground floor apartments, which are compatible with the residential character of the area.

Issue: There are no parking facilities on the street to accommodate the proposed increase in demand from families having more than one car and visitors to the proposed development. The increased traffic and parking demand will create safety issues for pedestrians.

Comment: The proposal provides on site parking in accordance with Council's controls.

Issue: The increase in pedestrian movements to the station in peak travelling times will affect the flow of vehicular traffic along Turrella Street 'causing unreasonable reduction in ease of access to current residences'.

Comment: The proposal has been supported by Council's Traffic Development Advisory Committee on traffic grounds subject to the implementation of safety measures to protect pedestrians and motorists.

Issue: Crime prevention via environmental design principles appear to have been ignored given many niches/recesses within the internal courtyard, which creates opportunities for crime.

Comment: Crime prevention through environmental design principles have been incorporated within the site. Refer to comments under Safety and Security in 'Impacts of the Development' section of this report above.

Issue: There was no appropriate community consultation when the site was rezoned.

Comment: This issue is not relevant to the assessment of the proposal.

Issue: Potential for rodent infestation during demolition given previous use.

Comment: This claim has not been substantiated and is not considered a relevant planning matter in the assessment of the application.

Issue: Removal of asbestos.

Comment: The applicant has submitted a Site Investigation report, which identifies the presence of asbestos in the fabric of existing buildings. The report further states that asbestos is to be removed in accordance with the requirements of WorkCover NSW.

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

The proposal has been assessed against the relevant planning policies applying to the site having regard to the objectives of the controls. As demonstrated in the assessment of the development application, the proposal will allow the development of the site in accordance with its environmental capacity and future vision for the area. The proposed building is supported by SEPP 65 and will add value to the existing streetscape. The proposed height variation is supported by the cl 4.6 test. Furthermore, the proposal does not create unreasonable impacts on surrounding properties. As such it is considered that the development application is in the public interest.

CONCLUSION

The proposed development has been considered under S79C(1) of the Environmental Planning and Assessment Act, 1979. The application involves the construction of a mixed use development with associated carparking, landscaping, communal facilities and public domain works. The proposal is consistent with the objectives of the controls under RLEP 2011, DCP 2011 and relevant State policies. The proposed variation to the height requirement is supported within the parameters of clause 4.6 of RLEP 2011. The proposed variation is not considered to create an undesirable precedent. The proposal is in the public interest. As such, the application DA-2012/395 is recommended for approval.