

Joint Regional Planning Panel

(Sydney East Region)

Meeting Date: Wednesday 17 October 2012

JRPP Number:	2012SYE063
DA Number:	DA-2012/378
Local Government Area:	ROCKDALE CITY
Proposed Development:	Demolition of existing structures and construction of a six storey mixed use building, comprising 6 commercial units with 39 residential units above, carparking at ground and basement level and Strata Subdivision into 45 lots
Street Address:	158-162 Ramsgate Road, RAMSGATE BEACH NSW 2217
Applicant/Owner:	Helm Pty Ltd
Number of Submissions:	Nine (9) submissions against and seven (7) submissions in favour of the scheme
Recommendation:	Approval subject to the imposition of conditions
Report by:	Michael Maloof

Precis

The proposal is for a mixed use development which includes a six storey building containing ground floor retail and 39 residential units above over car parking at ground and basement level. The proposal includes strata subdivision of the site into 45 lots.

The site is currently zoned B4 Mixed Use under Rockdale Local Environmental Plan 2011 (RLEP 2011). The proposal is defined as shop top housing and the B4 Mixed Use zone permits the construction of a mixed use development (shop top housing) with Council consent under the provisions of Rockdale Local Environmental Plan 2011 (RLEP 2011).

The proposal complies with requirements in Rockdale Local Environmental Plan 2011 (RLEP 2011). The proposal complies with the objectives of Council's DCP 2011 notwithstanding some numerical departures with respect to communal open space, private open space and housing diversity. The proposal is considered acceptable in respect to these matters which have been addressed in more detail later in this report.

The proposal has a Capital Investment Value greater than \$20 million (i.e. 32 million) 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 development application DA-2012/378 for the demolition of the existing structures and construction of a six storey mixed use building, comprising 6 commercial units with 39 residential units above, car parking at ground and basement level and Strata Subdivision into 45 lots be APPROVED pursuant to Section 80(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report..
2. That the objectors be notified of the Joint Regional Planning Panel's decision.

Report Background

BACKGROUND

On 5 December 2011 the subject site was rezoned from 2(b) Residential to B4 Mixed Use zone in an effort to improve the Ramsgate Beach precinct and reinforce the town centre on both sides of Ramsgate Road adjacent to The Grand Parade. The town centre provides a pleasant sea side environment which is well used by residents and visitors alike. The beachside atmosphere of the precinct is host to many events including New Year's Eve fireworks with significant pedestrian activity within Ramsgate Road.

PROPOSAL

The current proposal will involve the erection of a mixed use development comprising one six storey building (with no roof terrace) on the site with one basement level and strata subdivision of the same into 45 lots. The development will contain 6 commercial ground floor units and a total of 39 residential apartments above. This will comprise 2 x 1 bed studio, 6 x 1 bedroom, 16 x 2 bedroom units and 15 x 3 bedroom units. The proposal includes car parking behind the building at ground level and a basement parking level with a total of 64 car parking spaces. This comprises 54 residential and retail parking spaces, 2 retail spaces, 8 visitor spaces, 1 car wash bay and 4 motor bike spaces and 6 bicycle spaces. The proposal requires the sharing of the retail and visitor car parking spaces. The site fronts Ramsgate Road and has direct vehicular access from it.

EXISTING AND SURROUNDING DEVELOPMENT

The site is located on the northern side of Ramsgate Road between Alfred Street and The Grand Parade. It comprises three lots having a total frontage to the street of 50.37m, depth of 40.235m and a total area of 2026.6m². The site adjoins a Shell service station to the east on the corner of the Grand Parade and three low density residential lots to the west up to the corner of Alfred Street. The site is located opposite the Ramsgate Beach Commercial building to the south. To the north are low density residential properties which contain dwelling houses that front The Grand Parade with villas and residential flat buildings that front Alfred Street.

The site was recently rezoned under the Rockdale LEP 2011 which was gazetted on 5 December 2011. This was to expand the commercial centre and increase the village's retail activity. The site is generally located within a commercial precinct with a mixture of

residential zones. This mixture of residential densities is also replicated further to the south of the site along the same streets.

PLANNING CONSIDERATION

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

Section 91A – Development that is Integrated Development

The proposed development constitutes Integrated Development and requires approval by the NSW Office of Water under the Water Act 1912. The proposal has been referred to the Office of Water and general terms of approval (GTA) have been granted. The conditions of the GTA have been incorporated in the draft Notice of Determination.

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 for the proposed development. The Certificate number is 428153M_04.

The commitments made result in the reduction in energy and water consumption shown below. A condition is proposed on the consent to ensure that the BASIX requirements are adhered to.

Reduction in Energy Consumption	30% (target 20%)
Reduction in Water Consumption	46% (target 40%)
Thermal Comfort	PASS (target pass)

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

Council's records indicate that the property does not have any history of contamination or any such uses that would result in contamination. A preliminary environmental site assessment report has been submitted with the application. The report concludes that the risk of any potential impact from contaminants on the soil and ground water on the site is considered to be very low. The report states that the risk of generating acid sulphate soil (ASS) conditions in the disturbed soil on the site is very low and therefore an ASS management plan is not necessary. The Environmental Site Assessment report prepared by Environmental Investigation Services was referred to Council's Environmental Health Officer who raised no objections to the proposal subject to the imposition of conditions of development consent. The report concluded that the site is suitable for the proposed land use subject to specific 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)

Ramsgate Road contains exposed overhead electricity powerlines and the proposal is also required to place power lines underground. Clause 45 of the ISEPP requires consultation with electricity supply authorities. Energy Australia was notified of the proposed

development and no response has been received. Nevertheless, conditions of consent are proposed to ensure that the applicant consults with utility providers to determine any additional requirements.

The subject site fronts onto Ramsgate Road which is a State Road. As such the following clauses from SEPP Infrastructure apply:

Clause 101 - Development with Frontage to Classified Road / Clause 102 - Impact of Road Noise or Vibration on Non Road Development

The above mentioned clauses require that the consent authority not grant consent to development on land that has a frontage to a classified road unless it is satisfied that, vehicular access to the land is provided by a road other than the classified road and that the development is appropriately acoustically mitigated in respect to potential traffic noise, vibration and emissions.

The subject site comprises a southern facing frontage to Ramsgate Road with no lane access to the rear. The proposal seeks to provide direct vehicular access from Ramsgate Road via a driveway along the western side boundary.

The application was referred to the Roads and Maritime Services (RMS) who raised no objections to the proposal subject to the imposition of conditions of development consent. The conditions relate to vehicular access, construction management plan and other matters. It also included consideration by Council on the preparation of a Master Plan Traffic Report for the precinct. This matter was referred to Council's Traffic Section for consideration.

The current application was referred to the Rockdale Traffic Development Advisory Committee on 1 July 2012. The Rockdale Traffic Development Advisory Committee resolved to support the application subject to the following:

- 1 That no pedestrian marked footcrossing be allowed on Ramsgate Road as it does not meet the RMS warrants for the marked footcrossing.*
- 2 That the applicant undertakes intersection modelling for Ramsgate Road and The Grand Parade especially addressing queue lengths along Ramsgate Road east bound and The Grand Parade right turn into Ramsgate Road southbound.*
- 3 That the modelling results be forwarded to the RMS for comments.*
- 4 On street parking in front of the site on Ramsgate Road is subject to change at any time in accordance with the RMS requirements, Council needs and Ramsgate Beach Masterplan. Hence, any on street loading zone, disabled parking requests will not be considered favourably.*

On 17 August 2012 the applicant complied with items 1 to 3 outlined above and the information was referred to Council's Development Engineer. On the basis of this information Council's Development Engineer raised no objections to the development. The applicant has confirmed that the proposal does not rely on any on street car parking, loading zone or disabled parking. The original design with car parking spaces within the nature strip along Ramsgate Road have been removed from the scheme. The applicant has also concurred that these matters will be controlled by the prevailing state regulations under the auspices of Council.

The applicant submitted a Traffic and Parking report prepared by McLaren Traffic Engineering dated May 2012 with the lodgement of the application. This report and

additional information submitted to Council on 17 August 2012 addresses all of the above matters and satisfies the traffic and parking requirements of Council applying to the scheme.

The proposal has been accompanied by an Acoustic Report, prepared by Renzo Tonin, dated 24 May 2012. The report considered the impact of external noise intrusion into the development, including traffic and aircraft noise and any noise emission from the proposed development to any affected neighbours.

The report concludes that the proposed development is acceptable provided that noise control measures as outlined in the Acoustic Report are incorporated into the construction of the development. The proposal will be conditioned to ensure the acoustic treatments are incorporated into construction. The proposal is considered to satisfy the requirements of both clause 101 and 102 of the SEPP.

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

The proposal was referred to the Design Review Panel on 5 July 2012. The panel advised that the proposal was well designed and raised no issues in respect to its context, scale, built form, density and aesthetics. However, the panel did have some comments relating to privacy, lift crossovers, roof garden and ground floor amenity. In accordance with clause 30 of this policy, the consent authority must take into consideration the advice of the Design Review Panel (DRP). At the meeting, the panel resolved the following in respect to the scheme:

that the Applicant:

- i. be requested to demonstrate, in detail, the proposed methods of ensuring privacy between apartments and possible replanning of the units facing the courtyard.*
- ii. be asked to consider incorporating the issues raised in this report including:*
 - a) Privacy across atrium*
 - b) Lift cross-overs*
 - c) Roof garden and enclosed space*
 - d) Ground floor residents' amenity;*

and resubmit to Council for approval. The Panel commends the design overall.

The applicant has submitted amendments and additional information which satisfies Council in respect to retaining adequate privacy between dwellings and to the rear of the site. In this regard, the amendments to the scheme satisfy i and ii (a) above. In respect to the remaining measures outlined in b), c) and d) above, the applicant has submitted additional information to justify why these additional areas should not be provided. In this instance, Council is satisfied that the matters b), c) and d) are not of an essential nature and their inclusion in the scheme would result in a non compliant scheme that would be underutilised given the location and siting of the subject site. In this instance, the applicant has demonstrated that the proposal is acceptable in relation to the recommendations of the DRP. These matters are discussed in more detail later in this report (refer to the section headed DCP 2011).

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

The site is on the northern side of Ramsgate Road and is located in a mixed precinct. In this regard, the proposal has a suitable context.

Principle 2 - Scale

The scale of the development is compliant with the floor space ratio and height controls applying to the site.

Principle 3 - Built Form

The proposed built form is consistent with the future desired character of the area and nature of developments anticipated on the northern side of Ramsgate Road within this street block.

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

This landscape palette will complement the building and add a rich plant texture and colour to the development. Further consideration should be given to the placement of some of the proposed shrubs and groundcovers, such as the Alpinias, which are not as tolerant to windy and sunny conditions. The atrium landscape could include plants (including climbing plants) that will provide a visual filter for the apartments which overlook each other across the space (refer Item 3 Built Form and Item 7 Amenity)

The applicant has amended the plans and included planter boxes within the podium level and atrium and species of particular types within the scheme. In this regard, the proposal is considered to be in accordance with the DRP recommendation, the proposal is considered acceptable in respect to landscaping.

Principle 7 - Amenity

The amenity issues identified by the DRP which include privacy, lifts and the roof top terrace have been addressed elsewhere in this report and by conditions of consent relating to the amended plans. In this regard, the application is considered acceptable in respect to amenity.

Principle 8 - Safety and Security

The DRP stated that the proposal achieves a good level of safety and security.

Principle 9 - Social Dimensions

The DRP stated that the proposal will provide a good mix of apartments appropriate to the area.

Principle 10 - Aesthetics

The proposal incorporates contemporary architectural elements in the facade, which provide a satisfactory architectural expression and articulation in the massing of the building. The DRP stated that the proposal is well considered in terms of architectural expression, materials and façade elements.

c. The Residential Flat Building Code.

The Residential Flat Design Code (RFDC) 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 proposal generally complies with the requirements of the Residential Flat Design Code apart from the following matters which are discussed in more detail:

Length of Building: the proposed building has a maximum depth of 27m which should be limited to 18m under the code. However, the proposal has a central void area in the shape of a “T” in the building which is open to the sky and provides an open atrium atmosphere being accessible from the street in the middle of the building. In this regard, the proposal varies from the maximum but is considered acceptable as it contains a design with dwellings accessed around the central atrium. In this regard, the building depth is not limited to one unit, but has the units arranged around the “T” shape with good cross flow ventilation and solar access.

The current proposal will contain 203m² of deep soil landscaped area. This is located along the rear and western side boundaries of the site. This complies with Council’s minimum requirement of 10% but does not comply with the minimum of 25% required under the Residential Design Flat Code. The Code makes allowances for urban areas which are built out on the proviso that developments include stormwater treatment measures. Given the proposal contains an acceptable amount of deep soil area that complies with Council’s DCP and that there is a high degree of pervious areas adjacent to the site in Cook Park no objections are to the proposal in this regard.

A minimum of 25 to 30% of the site area should be provided as communal open space areas under the RFDC. The site does not contain any communal open space area apart from the ground floor central courtyard which is communal identified as a piazza on the plans. This area includes seating, a water feature, landscape plantings and is a secure area with card entry only. The applicant has maintained that the area provides passive surveillance, encourages residents to interact with each other, can be used as a meeting place and improves communication with residents given the design of open lobbies on high levels which overlook the piazza. The retail floor space and cafes back onto this area and also foster an increase in interaction between residents. Notwithstanding this, the applicant has contended that the site is directly adjacent to Cook Park and any new communal area provided on the roof terrace would increase the height of the building resulting in a non compliance with the height control. In this regard, the proposal is consistent with the objectives of the open space controls in Council’s DCP and provides well in excess of the minimum private open space areas to the residential units. The ground floor piazza provides a functional communal open space area.

The proposed development complies with and is considered acceptable in respect to the remaining controls in the RFDC.

Rockdale Local Environmental Plan 2011 (RLEP 2011)

The site is zoned B4 Mixed Use under the provisions of RLEP 2011. Development for the purpose of shop top housing is permissible with Council consent. The proposal is consistent with the objectives of the zone. The relevant clauses that apply to the proposal are below.

Clause 4.3 - Height of buildings

The maximum permitted height contained in the gazetted LEP height map under this clause is 20.5m. The proposal will have a height of 20.2m and complies with this requirement.

It is acknowledged that during the pre DA process an error was identified on the building height map of the Rockdale LEP 2011 which increased the height from 16m to 20.5m. At the pre DA meeting it became known that the applicant had prepared the detailed plans for this application over considerable time based on the plans that were gazetted with the LEP 2011 on 5 December 2011.

Council is currently investigating whether the existing height controls should be retained in the LEP given the properties along the northern side of Ramsgate Road within the Ramsgate Beach town centre are affected by a high water table.

Clause 4.4 – Floor Space Ratio (FSR)

A maximum FSR of 2:1 is permitted on the site. The proposal will result in a maximum FSR for the site of 1.99:1, which complies with this requirement pursuant to clause 4.4.

Clause 5.1A – Development on land intended to be acquired for public purposes

Clause 5.1A requires consideration of restrictions applying to the land identified in the Land Reservation Acquisition map. The site is not subject to any land dedications on the Land Reservation Acquisition map.

Clause 6.1 – Acid Sulfate Soils

The site is within an area classified as Class 3 in the acid sulfate soils (ASS) map which relates to any works more than 1m below ground level. The applicant has submitted a Contamination, ASS and Ground Water report prepared by Environmental Investigation Services which contains Management Plans and states that the risk of generating any ASS conditions as a result of soil disturbance is considered to be very low. The recommendations of the report have been included in the draft notice of determination. The proposal is consistent with the objectives and requirements of clause 6.1 and is considered acceptable in this regard.

Clause 6.2 – Earthworks

The proposal involves excavation within the site to accommodate the proposed single basement car parking level. In this regard, the applicant has submitted a geotechnical report prepared by Jefferey and Katauskas which addresses the proposal in respect to drainage patterns, soil conditions and stability, quality of fill and effect of the development on the adjoining properties. The report was referred to Council's Development Engineer who raised no objections to the proposal in respect to earthworks subject to the imposition of conditions of development consent. Conditions have been imposed on the development in this regard.

Clause 6.3 – Development in areas affected by aircraft noise

The site is not located on or near any of the ANEF contours for 2023/24. Accordingly, the site is not affected by aircraft noise and the proposal is considered acceptable in this regard.

Clause 6.4 – Airspace operations

The site is affected by the 45.72m building height Civil Aviation regulation. The proposal will have a maximum height of RL 23.1 AHD and therefore was not required to be referred to Sydney Airports for comment. Accordingly, the application is considered acceptable in this regard.

Clause 6.6 – Flood Planning

The site is affected by flooding and as such a minimum habitable floor level of 2.95m is required. The proposal will contain a floor level of 3.1m and complies with this 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

Details of the proposed stormwater system were lodged with Council and referred to Council's Development Engineer who raised no objections to the scheme subject to the imposition of conditions of development consent. In this regard, the scheme has been approved by Council's development engineers and is consistent with the requirements of this clause.

Clause 6.12 – Essential Services

Services are available on the site. Additional conditions of consent are proposed requiring consultation with relevant utility providers to ensure that the appropriate provision of services on the site is ongoing and can cater for the proposed development.

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

There are no 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. The following issues are relevant to determine compliance of the proposal with the objectives of DCP 2011.

Under section 4.1.9 of the DCP 2011 the applicant must satisfy Council that adjoining parcels not included in their development are capable of being economically developed. Isolated sites are not to detract from the character of the streetscape and achieve a satisfactory level of residential amenity for its occupants. The proposal will result in the isolation of the adjoining lot to the east which is currently occupied by the Shell Service Station. The owner of this property has raised no objections to the proposal and indicated that they intend to continue the use of the site for the purposes of a service station indefinitely. While the proposal does not involve the consolidation of this adjoining lot, it can

be economically developed in future in its own right and would not detract from the character of the street. Given the continuation of the current use on the adjoining property, the adjoining lot will remain the same in respect to its external appearance and streetscape.

The proposal complies with the requirements of Council's DCP in respect to trees, lot size, streetscape, solar access, energy efficiency, noise, wind impact, adaptable housing, equitable access, apartment size and public domain.

The proposal complies with the overshadowing requirements of Council's DCP and this has been addressed later in this report under the heading "Impact of the Development". The remaining requirements of the DCP 2011 are discussed in more detail below:

Private open space

Council's DCP 2011 refers to the Residential Design Flat Code (RDFC) in respect to the minimum provision of private open space. While the applicant has stated correctly that the total amount of private open space areas within the development for the residential units far exceeds the total minimum required, there are twelve x 3 bedroom units that contain a balcony area of less than the minimum required of 24m². These include three bedroom units on each of floors 2 to 5 and contain balcony sizes of 12.91m², 15.22m² and 22.21m². The RDFC makes allowances for some variations where units demonstrate that satisfactory daylight and natural ventilation can be achieved to habitable rooms. In this instance, the applicant has demonstrated this and given the area of balconies provided and location of the site in such close proximity to Cook Park this minor variation is not considered unreasonable. Indeed, the proposal is consistent with the objective of the private open space requirement which states the following:

To ensure private open space is clearly defined, usable and meets the user requirements for privacy, solar access, outdoor activities, accessibility and landscaping.

Accordingly, the proposal is considered acceptable in respect to private open space.

Communal Open Space

Council's DCP 2011 requires a minimum communal open space provision of 195m². The proposal includes substantial central courtyard (Piazza on the plans) accessed by a central entry passage from the street being 4m wide. The proposal does not provide any communal open space other than the central courtyard which contains a water feature, seating, landscape elements and suitable paved finishes. The courtyard is the central access way to the units above and is located between the shops fronting Ramsgate Road. In this regard, the shops and courtyard activate the street frontage and are designed appropriately for use by the future occupants of the units. The applicant has provided the following reasons as to why a communal open space area is not required:

1. The site is located in close proximity to the foreshore of Botany Bay which provides significant land and water based recreation opportunities.
2. The strength of any apartment community is heightened when a building is designed in a way that encourages the building's occupants to come into contact with each other, thus increasing the opportunity for interaction and passive surveillance.
The Ground floor courtyard area incorporates planting, seating and a water feature. This area has been deliberately designed to act as a focal point for the buildings residents, as it will enable residents to greet each other as they come and go. For residents wanting to talk, seats have been provided.
3. At the same time the courtyard area will foster familiarity between residents through the provision of open lobbies on the higher levels, which will allow residents to see each

other, exchanging a wave or a smile. The design also promotes the opportunities for greater passive surveillance.

4. In addition, the proposed café will provide a place for friendships to be fostered.
5. The DCP permits the non-provision of communal space so long as the minimal communal space required is provided as additional private open space. The development provides almost double the minimum private open space requirement.
6. The construction of a roof garden and associated lift and roof infrastructure will breach the building height plane.
7. The overall architectural integrity of the building as outlined above will be diluted to an unacceptable extent if roof gardens were provided.

The applicant has argued that the site does not require a communal open space area by way of a roof top terrace given the location of the site in proximity to Cook Park, the provision of a ground floor central courtyard and that it would otherwise encroach on the maximum height limit. In this regard, the applicant has argued correctly that the inclusion of such an area would be underutilised given the close proximity of the park and would add to the scale and height of the building. As such, it is considered that the applicant's arguments are justified and the proposal is not inconsistent with the objectives of the communal open space requirement under Council's DCP. The proposal includes a passive recreational area to reduce social isolation in the central courtyard, soft landscaping and deep soil areas while the occupants have easy and unrestricted access to Cook Park. Accordingly, the proposal is considered acceptable in respect to communal open space.

Natural Lighting and Ventilation

Clause 4.4.3 of Council's DCP requires the first floor of a mixed use building to have a floor to ceiling level of 3.3m for the possible use of this level for commercial purposes. The proposal has a floor to ceiling level on the first floor of 3.1m with residential units and does not comply with this requirement. The proposal does not include a first floor commercial area while the shops on the ground floor at the front will be used for retail purposes and activate the street frontage. Given the location of the site and nature of the future commercial uses, no objections are raised to the floor to ceiling level of the first floor which is likely to be retained for residential use in the future.

Visual and Acoustic Privacy

The proposed development includes a 3m wide landscape strip across the rear boundary on the ground floor and a 2m wide strip along the podium level being setback 5.6m from the rear boundary resulting in the usable balcony on the podium level being setback 7.6m from the rear boundary. Both these landscape buffers will be planted with mature shrub and plant species of various heights that reduce overlooking at the rear into the residential dwellings and yard area of the adjoining properties to the north. Neighbouring development includes a single storey dwelling house and two villas all of which contain a pitched tile roof. As such, it is considered that the degree of overlooking onto the properties that directly adjoin the rear of the site has been minimised and is not unreasonable. The setback of 12m to the rear wall of the proposed units on the podium level complies with Council's DCP and is not considered to result in any significant overlooking from the residential units on this level.

The proposed residential levels above the podium comply with the 12m setback which includes the balconies for each respective unit. This design allows a field of view out over the adjoining properties below to benefit from the northerly views of the skyline and distant roof tops which is visible from each of the upper levels. The actual view from these levels (not just a representation) has been provided by the applicant using a cherry picker with photographs taken that demonstrates the privacy and amenity of the dwellings to the north have not been undermined. The landscaped setback of the lower levels and the design of the upper levels encourage views out over the adjoining properties rather than overlooking

down onto them. In this regard, overlooking has been reduced to an acceptable degree. As such, the proposal is not considered unreasonable and affords adequate levels of privacy between adjacent dwellings.

The proposal will include noise attenuation measures to retain interior noise levels as well as an appropriate design of external walls to minimise noise emitted from balcony areas. The acoustic report submitted with the application outlines the noise attenuation measures and is considered acceptable in this regard.

Housing Diversity and Choice

The proposal will provide the following housing mix:

	Proposal	Council's DCP	Compliance
3 bedroom or more	15 (38%)	10-20%	No
2 bedroom	16 (41%)	50-75%	No
1 bedroom or studio	8 (21%)	10-30%	Yes
Total	39 (100%)		

The proposal does not comply with required housing mix under Council's DCP 2011. However, given the proposal includes 18% more 3 bedroom units with a 9% shortfall of 2 bedroom units, the proposal is not considered to be unreasonable as it will provide additional larger size units which are in demand within the local government area. The DRP raised no objections to this as the proposal will provide more housing for a range of community groups including larger families within the precinct. Accordingly, the proposal is considered acceptable in respect to housing diversity and choice.

Setbacks

Council's DCP requires that development have nil setbacks to the street to assist in defining the alignment to the public domain. Development on a busy road is to have a nil setback for the first three levels which includes the ground floor and two levels above. The proposal complies with these requirements and will contain a further setback of 2m on the upper three levels. The proposal complies with Council's DCP in relation to the front setback and is acceptable in this regard.

The minimum setbacks required under Council's DCP include 3m up to 3 storeys and 4.5m above street storeys for side setbacks and 12m or 15% of the length of the site for rear setbacks. The proposal will include minimum side setbacks of 4.5m to the east and west on levels 1 to 5 of the building with the only exception being the ground floor driveway and first floor balcony on the eastern side adjacent to the service station which contains a 1.5m wide planter along the boundary to prevent overlooking. While mixed use development normally permit nil side setbacks in commercial precincts, the applicant has appropriately increased the setbacks to comply with those normally applying to residential flat buildings. The rear setback provided is 12m on all levels with only the podium level having a courtyard / balcony which encroaches into this setback up to 4m. Given the balcony contains a planter box 2m wide so that the podium balcony is setback 7.6m from the rear boundary and contains a solid balustrade with a height of 1m, the encroachment of the courtyard/balcony is not considered unreasonable and is setback sufficiently to minimise overlooking onto the adjoining properties. This is achieved by the combination of both a 3m wide strip of landscaping on the ground floor and 2m on the podium level.

The design will result in levels 2 to 5 having a full setback of 12m to the rear boundary. In this regard, the proposal contains suitable setbacks compliant with the requirements under Council's DCP 2011.

Car Parking

Council's DCP 2011 requires the provision of 72 on site car parking spaces. Although it also contains provisions that allow a "shared parking concession for mixed use development", the proposal will provide 23 spaces on the ground floor and 41 within the basement parking level resulting in a total of 64 car parking spaces for the site.

The applicant has submitted a traffic and parking report which details the use of the retail spaces and visitor spaces on the site being shared as they occur during alternate hours. Council's DCP makes provision under section 4.6 for a shared parking concession and indicates that that such a variation can be made on the grounds that all the residential parking be freely accessible to residents at all times and peak parking demands be shown. In this instance, the traffic and parking report was referred to Council's Development Engineer who raised no objections to the scheme subject to the imposition of conditions of development consent. In this regard, the proposal can work effectively and will provide a more efficient parking supply which ultimately provides a more sustainable development.

As the proposal complies with Council's parking requirements the proposal is considered acceptable and in respect to the provisions of Council's DCP 2011. The plans submitted with the application do not detail provision of a proposed car wash bay. Council's DCP requires provision such a car wash bay for buildings with 5 dwellings or more. This can be addressed by way of a condition of development consent.

Strata Subdivision

The proposal includes the strata subdivision of the development into 45 lots. The applicant has submitted a strata plan of subdivision which is consistent with the architectural plans for the redevelopment of the site subject to the conditions of development consent. In this regard, the strata subdivision will allow separate ownership of the commercial and residential units and management of the entire site by way of an owner's corporation.

The plans identify the visitor car parking spaces at ground level as "VCS - Denotes car wash bay". In this regard, these spaces are to be identified as "Visitor car parking spaces" not wash bays and are to form part of the common property within the strata plan and be identified as such. This matter has been addressed through the imposition of a condition of development consent.

Accordingly, the proposal complies with Council's requirements and is considered acceptable subject to the imposition of conditions of development consent.

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

The proposal is 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.

The Regulations requires notification to relevant authorities that may have an interest in the application. The proposal has been notified to Sydney Water, Energy Australia, Sydney Airports, NSW Police and the Roads and Maritime Services (RMS). The recommendations provided 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))

Character / Streetscape / Density / Bulk / Scale

The proposal complies with the maximum permitted floor space ratio and height controls applying to the site under Council's LEP 2011. In this regard, the proposal is considered acceptable in respect to the density, bulk and scale.

Even though the proposed development will have a height and scale greater than that of any of the surrounding developments, it is considered that the building contains sufficient setbacks capable of minimising impacts on the adjoining properties whilst reflecting the built form of the Ramsgate Beach commercial centre buildings to the south on the opposite side of Ramsgate Road. In this regard, the building will form a "book end" at the eastern end of Ramsgate Road reinforcing the town centre precinct and allowing for a similar development further along to the west.

The proposal responds to the site and its context by providing a continuous active retail frontage to the street and podium with levels above being residential. This approach is supported by Council as it is capable of well integrating with the existing and future development on the adjoining properties. While the design of the building and its massing appears bulky, the design includes a "cut out" in the middle which provides solar access, ventilation and a central courtyard accessible to all occupants. This central void is supported as it creates architectural interest, improved amenity and includes privacy louvers to some units to minimise overlooking across the void. While removing the central atrium would reduce the bulk and scale of the building, this would be offset to the benefits it provides to the future occupants of the residential units. The central atrium also reinforces a legible entry point in the street located midway along the ground floor retail shops.

Given the above, regard has been given to the design and external appearance of the building that relates well with the beach side atmosphere of the precinct and is consistent with the future desired character of this part of Ramsgate Road. The proposal has been designed with eastern and western side elevations that contain horizontal and vertical feature elements the latter of which are privacy screens. These finishes to the building will provide contemporary facades that reduce its dominance.

While the site adjoins single storey dwellings to the rear (north) fronting The Grand Parade and villas to the northwest fronting Alfred Street, the land to the north is zoned Low and Medium Density Residential R2 and R3 which is capable of being developed up to two storeys in height. The precinct is a mixture of residential densities including residential flat buildings and the only disparity between building forms and the site is to the north with the dwelling houses fronting The Grand Parade. In this regard, the benefits to facilitate the expansion of the town centre's retail activity outweigh the density disparity to the north. Furthermore, the increased setbacks and privacy measures to the north are considered acceptable in this instance. Accordingly, the proposal is acceptable in respect to its streetscape, bulk and scale and is consistent with the planning controls applying to the site.

Visual Privacy

The proposal has been amended to include additional privacy measures to prevent overlooking to the rear and sides of the site. These measures include increased setbacks on the ground, podium and upper levels, landscape planters with mature plantings, privacy louvers to the sides and within the central atrium of the building, design of walls to the residential units to improve internal and external amenity, suitable location of openings, appropriate fenestration and pergolas and awnings on the front and rear elevations. These measures have been successful in affording appropriate levels of visual privacy and reducing the degree of overlooking which was present in the original and previous schemes.

The applicant has been successful in including appropriate privacy measures within the building to ensure that it affords appropriate levels of privacy to both the occupants of the proposed units and those of the dwellings on the adjoining properties. In this regard, the proposal complies with Council's DCP and is considered acceptable in respect to privacy.

Overshadowing

Of the 39 residential units proposed, only 10 of them (25.6%) have a single aspect to the south and do not receive in excess of 3 hours of direct sunlight. As such, 74.4% of the units will have in excess of 3 hours and therefore the proposal complies with the controls in Council's DCP 2011 that relate to solar access.

The proposal will result in an increase in overshadowing to the south. Given the orientation of the site which fronts Ramsgate Road to the south, the shadows cast by the proposal will fall over the street with only a small amount over the corner of the adjoining properties. In this regard, the proposal complies with Council's DCP in minimising the anticipated amount of overshadowing on neighbouring properties and is considered acceptable in this regard.

Safety and Security

The proposal has been referred to the NSW Police. The NSW Police has rated the proposed development as a Low Crime Risk and included conditions of development consent to be imposed in relation to safety and security. The conditions of consent have been recommended in line with the safer by design principles and the recommendations of the NSW Police have been included in the draft Notice of Determination. Subject to compliance with these conditions, the proposal is considered acceptable having regard to safety and security.

Traffic/Parking

The application has been accompanied by a Traffic and Parking Report prepared by McLaren Traffic Engineering dated May 2012. The proposal was also considered by the Rockdale Traffic Development Advisory Committee. This has been addressed previously in this report. Please refer to the previous sections headed SEPP Infrastructure 2007 and Development Control Plan 2011. Based on the above, the proposal is considered satisfactory in regard to traffic and parking.

Noise

As indicated, an acoustic report prepared by Renzo Tonin, dated 24 May 2012 has been submitted with the application and the recommendations of the report have been included as conditions of consent. The report considered the impact of external noise intrusion into the development, including traffic and aircraft noise and any noise emission from the proposed

development to any affected neighbours. The proposal is consistent with the acoustic privacy controls under clause 4.4.5 of Council's DCP 2011. The proposal achieves the five star acoustic rating between floors and walls. Accordingly, the proposal is considered to be satisfactory in regard to noise.

While there will be noise emitted from the site during the construction process, these noise emissions are temporary and have also been addressed within the acoustic report submitted with the application. In this regard, the proposal is considered acceptable in respect to noise emissions.

Views and Vistas

The proposal represents an increase in building heights in the town centre and will be visible street blocks away to the west along Ramsgate Road. This street has a moderate rise to the west up to approximately 7m above the level of the site with highest point along Rocky Point Road. Notwithstanding this, the proposal is not likely to interrupt any iconic or pristine view corridors of esteemed value to any significant degree. Views out to the west over Botany Bay would simply include the proposed building. However, this will represent a small angle in an existing wide view corridor which extends from the airport to the northeast down to the Kurnell Headland to the southeast. As such, the existing views are not likely to be dominated by the proposal and the degree of view intrusion into the existing views is not considered to be significant. Accordingly, the proposal is considered acceptable in respect to views.

Management of Waste

The applicant has been in consultation with Council officers in regards to the provision of on site garbage collection facilities. The proposal complies with Council's requirements and is therefore satisfactory in regards to waste management.

Wind Impacts

A wind assessment report was prepared by CPP dated May 2012 and submitted with the application. The report concludes that the proposed development will have a minor influence in the local wind environment. The wind conditions for pedestrians around the development and the users of the communal areas are considered to be acceptable given the design of the proposed elevations. In this regard, the proposal is considered to be acceptable and not likely to result in any adverse wind conditions in relation to the redevelopment of the site.

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))

Adjoining owners were notified of the development application in accordance with Council's Development Control Plan 2011 and sixteen (16) letters of objection were received by Council in respect to the scheme. Nine (9) of the letters objected to the proposal while the

remaining seven (7) letters were in support of the scheme. The issues raised are addressed below.

Issues: Dilapidation survey
Construction operation hours
Vibration and Acoustic monitoring

Comment: The above matters can be regulated in the development by way of conditions of development consent.

Issues: Building advertised as 5 storey but is 7 levels above ground
Height – 2 storeys too high – maximum 4 storeys demanded

Comment: The application was advertised as a 6 storey development and includes demolition and construction of a new 6 storey building with basement car parking.

Issues: Out of scale with the existing development
Excessive floor space ratio
Overdevelopment of the site – density and height

Comment: As the proposal is the first mixed use development on the northern side of Ramsgate Road adjacent to The Grand Parade there are no other buildings of the same height. Despite this, the site is zoned for a building of this size and the proposal has been designed in a manner consistent with that intended by the planning controls that apply to the land. The proposal complies with the floor space ratio and height controls that apply to the site. Accordingly, the proposal is not considered to be excessive and is acceptable in this regard.

Issue: Non complying commercial use in a low rise residential area

Comment: Commercial floor space is permitted within the B4 Mixed Use zone. The site was rezoned under RLEP 2011 and the commercial use is considered to be appropriate for the site given it will reinforce the commercial town centre precinct on opposing sides of this part of Ramsgate Road.

Issue: Overshadowing of public and private spaces

Comment: The proposal will result in an increase in shadows cast to the south over the footpath in Ramsgate Road. However, this level of shadow affectation is unavoidable and expected in any redevelopment of the site. The proposal is not considered likely to overshadow any other adjacent public spaces, such as Cook Park, and is considered acceptable in respect to overshadowing.

Issue: Insufficient parking and excessive traffic congestion

Comment: The proposal will include shared visitor parking for the residential and commercial components. Despite this, it will provide sufficient on site car parking for the proposal and generally complies with Council's minimum on site car parking requirements. Further, the proposal provides suitable access via a double driveway set well back from the adjacent intersection and is not likely to result in any significant adverse impact on road safety or the free flow of traffic within Ramsgate Road. This has been addressed previously in this report. The applicant has submitted a traffic and parking report and the RMS have raised no objections to the proposal in this regard.

Issues: Insufficient open space
Insufficient setbacks
The building should not be boundary to boundary

Comment: The proposal includes private open space by way of a balcony for each residential unit. However, twelve of these are slightly less than the minimum required area of 24m² for a 3 bedroom unit. Given the location of the site adjacent to Cook Park, the total amount of private open space provided and the design of the proposal with each unit containing sufficient solar access and natural ventilation, the proposal is considered acceptable in respect to private open space. This has been discussed in more detail previously in this report.

The proposal will include generous side and rear setbacks which exceed those required in Council's DCP. The proposed setbacks are considered suitable and will ensure that the building is not sited boundary to boundary.

Issues: Water quality
Stormwater drainage – will not cope

Comment: The applicant submitted a stormwater management plan which was referred to Council's Development Engineer who raised no objections to the proposal subject to the imposition of conditions of development consent. In this regard, the stormwater management plan is satisfactory and generally complies with Council's requirements.

Issues: Loss of amenity
Noise impacts

Comment: This has been addressed previously in this report. Refer to the section titled Impact of the Development.

Issue: Impact on public area and despoiling the unique recreation area

Comment: While the proposal will represent a major building element within this part of the town centre being the first element on the northern side of Ramsgate Road, it is not considered likely to have any significant adverse impact upon the public recreation area to the east of the site on the opposite side of The Grand Parade. This is due to the consideration horizontal separation from Cook Park, the well established canopies of trees along both street frontages and the height and scale of the existing commercial precinct on the southern side of Ramsgate Road which is not screened by mature trees. The eastern side boundary of the site is approximately 60m away from Cook Park with the service station and The Grand Parade between the two.

Issue: Precedent

Comment: The proposed development complies with the requirements of the Rockdale LEP 2011 and does not involve any significant variations to the planning controls applying to the site. The proposal represents a suitable development for the site and is generally consistent with Council's future desired character for the precinct. As such, the proposal is not likely to result in a precedent.

Issue: Loss of property values

Comment: No information has been submitted to Council that substantiates this claim.

Issues: Aesthetics – does not complement the foreshore or enhance streetscape
A 6 storey building will diminish the “village” atmosphere of Ramsgate Beach
We fought against the Draft LEP 2011 and were told the site would be a maximum of four storeys at the time. Councillors should keep their word.

Comment: It is acknowledged that the height controls Council sought to apply to the site differed from those that were approved by the state government. However, the height map gazetted under the Rockdale LEP 2011 now shows a maximum permitted height of 20.5m applies to the site. The current proposal complies with this requirement. It is considered that the 6 storey building will not result in a diminished atmosphere within the Ramsgate Beach Town Centre. Rather, it is likely to add to the diversity of styles, character of the built form and improve commerce along Ramsgate Road. The building will upgrade the housing stock with an increase in residential density that is not considered likely to dominate the foreshore. In this regard, the proposal is considered acceptable and is not likely to undermine or challenge the existing streetscape within Ramsgate Road.

Issue: Excessive wind tunnels

Comment: A wind report has been submitted with the application which demonstrates that the building will be acceptable in respect to wind forces at the pedestrian level. This has been addressed previously in this report.

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. 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 demolition of three dwelling houses and construction of a six storey mixed use building, comprising 6 commercial units with 39 residential units above, carparking at ground and basement level and Strata Subdivision into 45 lots. The proposal is consistent with the objectives of the controls under RLEP 2000, DCP 2011 and relevant state policies. As such, the application DA-2012/378 is recommended for approval subject to conditions of development consent.