

Joint Regional Planning Panel

(Sydney East Region)

Meeting Date: 4 December 2013

JRPP Number:	2013SYE056
DA Number:	DA-2014/15
Local Government Area:	ROCKDALE
Proposed Development:	Integrated Development - Demolition of existing structures and construction of a fourteen storey plus basement mixed use development comprising 3 x commercial units, 18 x 1 bedroom, 40 x 2 bedroom & 7 x 3 bedroom residential units, and 92 car vehicular spaces
Street Address:	36-42 Levey Street, WOLLI CREEK NSW 2205
Applicant/Owner:	Kai-Tian Group Pty Ltd
Number of Submissions:	Six submissions
Recommendation:	Approval with conditions
Report by:	Michael Maloof

Precis

The proposal seeks to demolish the existing structures and construct a fourteen storey plus basement mixed use development comprising 3 x commercial units, 18 x 1 bedroom, 40 x 2 bedroom & 7 x 3 bedroom residential units, and 92 car vehicular spaces. The proposal will result in a new mixed use development with 65 units, ground floor commercial area of 159.4m² and two and half basement parking levels with car parking for a total of 92 vehicles on the site in both two basement level and a ground floor car parking area.

The proposal has been assessed against the provisions of Section 79C of the Environmental Planning and Assessment Act, 1979, Rockdale LEP 2011, Rockdale Development Control Plan 2011 and the Residential Flat Code pursuant to State Environmental Planning Policy (SEPP) No. 65 – Quality of Residential Flat Developments. The site is zoned B4 Mixed Use Development. The proposal has a floor space ratio (FSR) of 3:1 and height of 45.94m which complies with the maximum FSR and height controls on the site of 3:1 and 46m.

The application was referred twice to the Design Review Panel once on 6 August 2013 and again on 6 November 2013. The DRP recommended approval of the application subject to

minor changes as it satisfies the design quality principles contained in SEPP 65. The minor changes raised by the panel were addressed by the applicant in the amended plans currently being considered.

Adjoining owners were notified of the proposed modification and again of the revised scheme in accordance with Council's Development Control Plan 2011 (DCP) and there were six letters of objection received by Council during the notification period. The matters raised in the submissions have been addressed in this report.

Accordingly, the proposed development has been assessed on its merits and the application is recommended for approval subject to the recommended conditions of development consent.

The proposal has a Capital Investment Value greater than \$20 million (i.e. \$20,240,000) 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 development application DA-2014/15 for the demolition of existing structures and construction of a fourteen storey plus basement mixed use development comprising 3 x commercial units, 18 x 1 bedroom, 40 x 2 bedroom & 7 x 3 bedroom residential units, and 92 car vehicular spaces 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 six (6) objectors be advised of the JRPP's decision.

Report Background

On 27 March 2013 Council issued a pre development application letter (PDA-2013/21) in relation to a proposal to construct a mixed residential and commercial development on the site with basement parking. The development included 2 alternative designs both of which included retail/home office suites, residential units above and two basement parking levels. The letter outlined numerous issues in relation to the scheme including the following:

- A floor space ratio of 3.9:1 and therefore exceed the permitted ratio of 3:1
- Amalgamation with the adjoining property at 32-34 Levey St
- Improved pedestrian environment
- Minimum 10% landscaped area to be provided
- Shadow diagrams are to illustrate the impact of the proposal onto adjacent properties confirming adjoining properties receive a minimum of 3 hours direct sunlight between 9 am and 3 pm mid winter.
- Adequate building separation and setbacks
- Housing mix and urban design comments
- Traffic and car parking

PROPOSAL

Council is in receipt of a development application (DA-2014/15) at 36-42 Levey Street, Wollie Creek NSW, which seeks consent to demolish the existing structures and construct a multi storey mixed use development comprising a fourteen storey building that steps down to five storeys comprising 3 x commercial units, 18 x 1 bedroom, 40 x 2 bedroom and 7 x 3 bedroom residential units, and 92 car parking spaces. The development includes 11 car parking spaces and 2 loading bays at ground level with 79 spaces in two basement levels.

The proposal comprises a total of 3 ground floor commercial units and 65 residential units above 2 of which are adaptable units. The building form comprises one fourteen storey element which steps down to five storeys. Associated landscaping is provided on the podium level at the rear, the ground floor at the rear (square shape), on the ground floor at each street frontage and the roof terrace (on level 7). The communal open space area at the rear contains seating and barbeque facilities.

A total of 92 car parking spaces are proposed within the two and a half basement parking levels comprising 75 residential parking spaces, 4 retail spaces, 13 visitor spaces, 1 car wash bay and 6 motorcycle spaces with 6 bicycle spaces and storage areas. Vehicular access to the ground floor car parking at the rear will be accessed directly from Innesdale Road while the basement car parking levels will be accessed directly from Levey Street. The ground floor includes two loading docks for a small rigid and a medium rigid vehicle accessed from Innesdale Road. The proposal will include a central lobby fronting Levey Street providing access to the upper floors by way of two lifts along with fire exits on the site.

Excavation to a maximum depth of 8m is proposed, in order to provide for two basement car parking levels on the site. The proposed basements will comprise parking areas, residential storage cages, plant rooms, lift access and fire stairs, along with bicycle storage, motorcycle parking and a garbage room for the development.

EXISTING AND SURROUNDING DEVELOPMENT

The subject site comprises a total of four (4) lots which front Levey Street containing four single storey detached dwellings with outbuildings to the rear. Under the previous DCP No. 62 - Wollie Creek the subject site was to be consolidated with the two adjoining lots to the north at numbers 32 to 34 Levey Street. However, they were never consolidated and the current proposal involves only four lots. The subject site has a total area of 1,781.1m² which comprises the four lots with a combined frontage to Levey Street of 48.76m and a depth of 33.53m while the northern lot has a depth of 45.72m. The site is a regular shape almost a rectangle (with the northern lot extending further) and is relatively flat with a very small fall to the rear having a change in level of 0.5m along its length (1%).

To the north east of the site is the Mercure Hotel with an 11 storey building fronting Marsh Street to the east, a tennis court, swimming pool and an open car park. Part of this property further north of the site (part of the Mercure Hotel car park) is partly zoned reservation for the extension to Gertrude Street. However, this does not affect the subject site. Adjoining the site directly to the north are two lots at 34-36 Levey Street which each contain a single storey dwelling house. This property is the subject of a separate review application for a multi storey mixed use development fronting Levey Street (S82-2014/2).

Further to the north of the site is the eastern end of Cahill Park and on the opposite side of Rockwell Avenue is the Rowing Club. The site has views to the north and south with the

former over the Cooks River. To the east the site adjoins the rear of the recently constructed multi storey mixed use development at 26-32 Marsh Street.

To the south of the subject site on the opposite side of Innesdale Road are single storey dwellings houses which are zoned R2 Low Density Residential.

On the opposite side of Levey Street to the west and to the south of Gertrude Street is an existing six storey hotel on the corner. This hotel extends between Gertrude Street and Innesdale Road and has vehicular access opposite the site within Levey Street. This property is zoned R4 High Density Residential under the Rockdale LEP 2011.

The precinct is in a state of transition with many properties being redeveloped for higher density mixed use development. While mixed use development zone applies to the properties adjacent to Marsh Street and the Princes Highway, the properties in between Gertrude Street and Innesdale Road remain ready for redevelopment with a high density residential zone applying to them in accordance with the Rockdale LEP 2011.

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 485261M_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	31 (target 20%)
Reduction in Water Consumption	47 (target 40%)
Thermal Comfort	Pass (target pass)

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

The property is not identified in Council's records as having any potential contamination and currently contains four dwelling houses which have a history of residential use. The site has a history of residential approvals and this would indicate there is no history of uses that would result in ground contamination. The applicant has confirmed this in their Statement of Environmental Effects (page 8.03) and as such, it is considered that a Soil Assessment Report is not required to be submitted with the application.

In this regard, the site is considered to be suitable for the proposed land use subject to the imposition of conditions of development consent. Such conditions are proposed to be imposed that relate to any changes found in the soil conditions that warrant research into any contamination levels. Therefore the proposal is considered acceptable as it meets the requirements of SEPP 55.

State Environmental Planning Policy (Infrastructure) 2007 (ISEPP)

The subject site does not have frontage to a State or Classified Road or any proposed such roads. Further, the site is located behind an existing multi storey development which fronts Marsh Street and as such, does not have any impact of road noise from that street. Pursuant to clause 104 of the SEPP, the proposal will contain 92 on site car parking spaces (more than 50 spaces shown in schedule 3 of the SEPP) and is less than 90m from Marsh Street. Therefore the application was referred to the Roads and Maritime Services (RMS) on 23 July 2013 for consideration. On 16 August 2013 Council received a response from the RMS in relation to the scheme which included three conditions which have been incorporated into the draft notice of determination. Accordingly, the application does not require referral to the Regional Traffic Committee and is considered acceptable in respect to clause 104 of the Infrastructure SEPP 2007.

Based on the above, the application is considered acceptable in respect to the provisions of the Infrastructure SEPP 2007.

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 must take into consideration the following:

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

The proposal has been referred twice to the Design Review Panel once on 6 August 2013 and again with an amended plan on 6 November 2013. In its final recommendation, the Panel recommended the following:

The Panel supports the application subject to the changes described above. The application satisfies the design quality principles contained in SEPP 65.

The changes discussed in the final DRP report included changes to exterior entry space on the ground floor, entry lifts and lobby space design and the safety and security of these areas, landscape design, communal courtyard space, provision of seating and barbeque areas, provision of privacy on the level 7 roof terrace and the void space on the ground floor.

The applicant has made changes to these areas which are considered to be an improvement to the scheme and in this regard, the amended plans now satisfy the recommendations of the DRP. Accordingly, the application is considered acceptable in respect to the provisions of the DRP.

b. The Ten Design Quality Principles

The design quality of the residential flat building when evaluated in accordance with the ten design quality principles is considered to be significant improvement when compared with the original scheme submitted to Council for the site.

The proposal complies with the density controls and is consistent with the context, scale and built form of surrounding development in the precinct. The amended scheme has an improved amenity, landscaping, safety and security with adequate aesthetics and social dimensions. Accordingly, the proposal is considered to be acceptable in respect to the 10 design quality principles and in this regard, no objections are raised to the proposal.

c. The Residential Flat Design Code.

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 comply with all of the requirements outlined in the Residential Flat Design Code apart from building separation and the deep soil zones which are required to be a minimum of 25% of the site area. The proposal will contain adequate building separation which has been increased along Innesdale Road between the proposed building and the existing multi storey building fronting Marsh Street. In this regard, there is adequate separation and location of openings to retain sufficient privacy and amenity for the existing and proposed dwellings. The proposal will contain a minimum of 10% landscaped area which complies with Council's requirements and is considered to be sufficient for the proposal. Accordingly, the proposal is considered acceptable in respect to the Residential Flat Design Code.

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 a mixed use development (shop top housing) is permissible with Council consent within the B4 zone. The proposal is consistent with the objectives of the zone. Accordingly, the proposal is permissible with the consent of Council. The other relevant clauses of the RLEP 2011 that apply to the proposal are shown below.

Clause 4.3 - Height of buildings

The maximum permitted height under this clause is 46m and the application will have a maximum height of 45.94m and complies with this requirement.

Clause 4.4 – Floor Space Ratio (FSR)

A maximum FSR of 3:1 is permitted on the site. The proposed FSR is 3:1, which complies with the requirements of clause 4.4. This has been confirmed by way of a report from a qualified surveyor. Accordingly, the proposal is considered acceptable in respect to FSR.

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 subject site is not affected by any land dedications and in this regard, the proposal is considered acceptable.

Clause 6.1 – Acid Sulfate Soils

The site is within an area classified as Class 3 in the acid sulfate soils map. The applicant has submitted an Acid Sulfate Soils report which states that the site has a relatively high

probability of affectation from Acid Sulphate Soils. The report recommends that the application submit an Acid Sulphate Soils Management Plan for the site and a condition to this effect has been included in the draft notice of determination. Accordingly, the proposal is consistent with the objectives and requirements of clause 6.1 of the RLEP 2011 and is considered acceptable in this regard.

Clause 6.2 – Earthworks

The proposal involves extensive excavation within the site to accommodate the two and a half basement levels. This clause requires Council to consider the likely effects of the proposal on the existing drainage patterns, future use of the land, quality of fill or excavated soil or both, amenity of the adjoining properties and so on. In this regard, the proposal is considered acceptable in respect to these matters given the imposition of conditions of development consent and that the scheme has been considered by Council's Development Engineer. In this regard, the proposal is considered acceptable in respect to the requirements of clause 6.2.

Clause 6.3 – Development in areas affected by aircraft noise

The site is between the 20-25 ANEF contours for 2029. An Acoustic Report has been submitted with the application that recommends acoustic measures be used to comply with the relevant standards as required by clause 6.3. A condition of consent is proposed to be imposed to ensure that the recommendations of the report are carried out in respect to the acoustic measures in the scheme. Accordingly, the proposal is considered acceptable in respect to aircraft noise.

Clause 6.4 – Airspace operations

The site is affected by the 46m building height Civil Aviation regulation. The proposal was referred to Sydney Airports for comment given the building will have the maximum height up to 46m (47.94m ADHD). Sydney Airports Corporation Ltd (SACL) has approved the proposed height subject to conditions. The recommended conditions have been included in the draft Notice of Determination and limit the height of the building to 47.94m AHD.

Clause 6.6 – Flood Planning

The site is affected by flooding and as such Council has applied a minimum habitable floor level of 2.8m AHD to the site. The applicant applied for a flood advice letter and the proposal complies with this level. The application was referred to Council's Development Engineer who raised no objections to the proposal in respect to flooding. Additional conditions of consent are proposed in line with the requirements of this clause. Subject to compliance with these conditions, the proposal is considered to be satisfactory in regards to flooding and complies with the requirements of clause 6.6 of the RLEP 2011.

Clause 6.7 – Stormwater

The proposed stormwater system has been approved by Council's development engineers and is consistent with the requirements of this clause. Accordingly, the application is considered acceptable in respect to stormwater subject to the imposition of the conditions of development consent.

Clause 6.12 – Essential Services

Services are generally available on the site. Additional conditions of consent are proposed requiring consultation with relevant utility providers to ensure appropriate provision of services on the site. Accordingly, the proposal is considered acceptable in respect to the provision of essential services.

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. In addition Draft Rockdale Local Environmental Plan 2011 – Height of Building Maps Amendment was on public exhibition from 27 September 2012 until 12 October 2012. 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 Wolli Creek Public Domain Plan and Manual (PDP), 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.

The proposal complies with all of the controls stipulated for this form of development under the Rockdale DCP 2011 apart from the following matters:

Building Separation

The proposal is required to have a minimum separation of 12m (up to four storeys) and 18m (up to nine storeys) between habitable rooms and balconies under Council's DCP (and the Residential Flat Design Code). The proposal will include a separation of 8.478m in the south eastern corner for a height of up to 4 storeys. Above this height the separation increases to 15m for the remainder of the building. This separation is considered acceptable given it is limited to four storeys and of limited length, the location of openings and nature of the rooms opposite each other. This would be akin to the same degree of separation between two residential flat buildings in an R4 residential zone. As such, the proposal is considered acceptable in respect to building separation.

Basement Footprint

The proposal includes a basement car parking level which occupies almost the entire site apart from a square lot of land in the eastern corner which contains dense landscaping and a thin strip of land along the northern side boundary. While Council's DCP limits the basement level to within the footprint of the building above, the proposal is not considered unreasonable given the reduced setback requirements of the mixed use zone. In this regard, the proposal provides sufficient landscaped area which is capable of screening and softening the development. Further, the proposal complies with the maximum density controls applying to the site and this warrants additional car parking spaces on the site over

and above what would normally be required for a standard residential flat building. Accordingly, the proposal is considered acceptable in respect to the building footprint.

Active Street Frontage

Council's DCP 2011 requires the street frontage to Levey Street to be residential and Innesdale Road to be mixed use. However, the Design Review Panel (DRP) has requested that the ground floor professional suites be commercial given their inadequate design, location and siting. Further, comments from Council's Urban Strategy section have confirmed that the zone permits a commercial use on this frontage and therefore the current proposal is acceptable. In this regard, the applicant complied with the DRP and amended the plan to include a ground floor which contained commercial uses only and this is considered to be more appropriate for the site. Accordingly, the proposal is considered acceptable in respect to the active street frontages for the site.

Retail Floor Area

Council's DCP 2011 stipulates a minimum provision of retail area of 10% of the gross floor area of the site. The proposal will provide 9% which is not considered unreasonable given the location of the site and design of the proposed building. Accordingly, the proposal is consistent with the objectives of the control and is considered to be acceptable in this instance.

Minimum Apartment size

The proposed development contains a mixture of units all of which comply with the minimum dwellings sizes apart from 4 of the 7 x 3 bedroom units. The four dwellings are between 90.8m² and 105m² in gross floor area and this represents just 6% of the 65 units in the development. Given the remaining dwellings comply, including the remaining 3 bedroom dwellings which are 124m² or more, the dwelling sizes provided just under this requirement are not considered to be unreasonable and the proposal is considered acceptable in this regard.

Overshadowing

Although the subject site contains a row of lots in a north / south orientation regard has been given to minimising the likely extent of the shadows cast over the adjoining property to the east. In this regard, the proposal generally complies with the minimum solar access requirements for each unit but will have some affectation over the building on the adjoining property to the east at 26-32 Marsh Street.

An inspection of the shadow diagrams submitted with the application indicates that the proposal is likely to result in minor overshadowing to the adjoining property at 26-32 Marsh Street during the afternoon only in the winter months after 12 noon. In this regard, the shadows likely to be cast by the development are not considered to be excessive as they will only affect the building on the adjoining property after 12 noon thereby allowing them to receive 3 hours of direct sunlight in the mornings during winter. The shadows cast by the proposal will be over the southern end of the existing building on the adjoining property being limited to the later part of the day during mid winter.

The proposal complies with the overshadowing controls under Council's DCP 2011 and the minor impact on the adjacent properties is considered to be acceptable being limited only to mid winter. As such it is considered that the proposal is satisfactory having regard to solar access and overshadowing.

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 proposed development has a built form, height scale and context consistent with the nature of the existing development to the east and the future desired character of the area anticipated in the precinct. In this regard, the proposal complies with the height, floor space ratio and overall density controls applying to the site. The proposed development has been designed to continue the larger building form permissible on the site around from Marsh St to the Levey Street in accordance with the zoning of the land. In this regard, the proposal will have a satisfactory relationship with the existing mixed use development to the south.

The proposed building includes sufficient modulation and articulation so that it provides a suitable series of elevations that have a positive relationship with the street. The built form steps down the site and will allow a suitable context in light of the lower development further to the south. While the materials and finishes submitted with the application are not unreasonable, a condition is to be imposed in respect to the final materials and finishes being acceptable to Council given they could be different in the construction certificate lodged for the site. This has been addressed by way of a condition of development consent.

Accordingly, the proposal is considered acceptable in respect to its bulk and scale and will make a positive contribution to the existing streetscape along both Levey Street and Innesdale Road.

Visual Privacy

Although the levels of the proposed building line up with those of the building to the east on the adjoining property at 26-32 Marsh St, the proposal does not comply with the minimum separation between buildings under Council's DCP for the five storey component fronting Innesdale Road. Despite this, the remaining parts of the proposed building do provide sufficient separation between units that face each other between the two structures. In this

regard, the separation is in excess of 15.5m while the proposed building contains the lobby areas, and stair wells between the two buildings, with only the northern most two units having balconies that face east. In this regard, the proposal contains sufficient separation to retain adequate privacy between the two buildings.

The proposal uses privacy measures such as appropriate location of openings, appropriate building forms, web walls between balconies, increased setbacks and landscaping elements to retain adequate levels of privacy within the development. As such, the proposal is considered to have adequate privacy measures and be of a design which is not considered unreasonable in respect to the resulting internal amenity and external privacy conditions for the site. The proposal is not likely to result in any significant privacy impacts on the proposed dwellings or the existing dwellings on the adjoining properties in the vicinity of the site. Similarly the proposal benefits from its relationship with the existing neighbours to the east. The proposal is consistent with the nature of the future design character of the area. As such the proposal is considered satisfactory in relation to amenity and privacy.

Safety and Security

Council and the Design Review Panel (DRP) have considered the safety and security of the proposal. In this regard, conditions of consent have been imposed in the draft Notice of Determination that addresses the safer by design principles. These conditions relate to a range of security matters and subject to compliance with these conditions, the proposal is considered satisfactory having regard to safety and security.

Traffic/Parking

Parking has been addressed previously in this report and is considered to be acceptable in that it satisfies the requirements of Councils' DCP in respect to the provision of on site car parking.

A Traffic Report was prepared by a traffic consultant and submitted with the development application. The report was considered by Council's Development Engineer and concluded that the development will result in an increase in traffic but the traffic and parking aspects of the proposal would be satisfactory. In this regard, the proposal is considered to be acceptable and not likely to result in any significant adverse impacts in respect to traffic or any significant reduction in road safety within the surrounding road network.

Council undertook its own assessment of traffic generation and concluded that the traffic generated by the development can be safely accommodated within the surrounding street network. Accordingly, the proposal is considered acceptable in respect to traffic matters.

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

Noise

An acoustic report has been submitted and the recommendations of the report have been included as conditions of consent. The proposal will increase the density of development on the site and will result in an increase in noise emissions. However, the anticipated increase in noise from the mixed use development is not considered to be unreasonable and would include noise normally associated with the redevelopment of the site for such a purpose which is permissible in the zone. Noise from the construction of the building is temporary and would end at completion of the development. Accordingly, the proposal is considered to be satisfactory in regard to noise emissions.

Views and Vistas

The subject site contains some views to the west and north over the Cooks River while the views to the east are blocked by the recently constructed multi storey mixed use development at 26-32 Marsh Street. The building on this adjoining property contains views to the west over the site, the north and east over the Kogarah Golf Course on the opposite side of Marsh Street. The proposal will benefit from increased views in all directions.

While the proposal will extend in height into the existing westerly views from the adjoining property, the proposed building steps down and is therefore not likely to unreasonably impact on the existing westerly views. While it intrudes into the westerly views, those to the north and east remain unaffected.

While the existing westerly views from the adjoining property will be adversely affected, the proposal is not considered unreasonable given they will not be completely removed and most of the existing views will largely be unaffected in all other directions. Notwithstanding, the proposal complies with the maximum height controls and steps down the site from 14 storeys to 5 storeys.

Accordingly, the proposal is not considered unreasonable in respect to its likely impact on the existing views and vistas.

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 and the design of waste storage areas within the upper basement car parking level.

Wind Impacts

A wind assessment report prepared by CPP Wind Engineering and Air Quality Consultants dated May 2013 submitted with the application concludes that the proposed development will have a minor influence in the local wind environment and does not include any specific recommendations. The wind conditions for pedestrians around the development and the users of the communal areas are considered to be acceptable, except in local areas along Levey Street near the corners of the building. At all other locations, the report states the proposal will have wind conditions similar to those currently experienced with some slightly windier conditions around the corners. Hence the proposal is considered acceptable in respect to wind conditions and the public access ways around the building are considered suitable for use.

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 there were six letters of objection received by Council in respect to the scheme. The issues raised in these submissions are addressed below.

Issue: There is no gap between the buildings proposed to be built in this precinct like the city centre; the building is too close to my own and there is a high density problem

Comment: The subject site is zoned B4 Mixed Use which is a high density zone under the Rockdale LEP 2011. Council has zoned the land for higher density development given its location adjacent to the park and that it is in close proximity to public transport which can safely accommodate this increase in density. As part of this higher density, mixed use developments can have nil setbacks to the sides and between buildings in order to maximise the use of space. In this regard, there will be no gap between any of the buildings on this street block and this is not considered unreasonable given the buildings follow a set footprint around the periphery of the street block. Accordingly, the proposal is not considered to be unreasonable despite there being no gap between buildings and the higher density.

Issue: Excessive construction noise and pollution that disturbs my family

Comment: Modern construction methods will be used on the site which will result in an increase in noise emissions but this will be limited to the construction process. The site will be managed appropriately in accordance with building legislation and the conditions of consent imposed relating to the development. In this regard, the proposal is not considered unreasonable in respect to the temporary inconvenience throughout the construction process.

Issue: Increasing traffic congestion and pollution

Comment: Traffic and parking have been addressed previously in this report. The likely increase in pollution from the proposed development is not considered to be significant and the proposed building includes air conditioning and mechanical ventilation systems to control and regulate pollution levels on the site. Accordingly, the proposal is not considered unreasonable in respect to pollution.

Issue: Overshadowing and loss of solar access

Comment: This has been addressed previously in this report.

Issue: Loss of privacy

Comment: The amended scheme has been designed with increased setbacks to the neighbouring development and compliant front and side setbacks to each street frontage. In this regard, the proposal will contain suitable setbacks, location of openings, balcony locations, landscape screening and privacy measures to retain adequate privacy between adjacent dwellings. The proposal will contain balconies to habitable rooms separated by a minimum of 15.634m away from each other over the rear boundary of the site. As such, the proposal is consistent with the objective of section 4.4.45 of Council's DCP and is considered acceptable in respect to privacy. .

Issue: The area should stay residential and not be mixed business

Comment: The site and lands bounded by the Mercure Hotel down to Innesdale Road are zoned B4 Mixed Use. This zone expressly allows the ground floor level to be commercial while residential units are constructed on the levels above. This zone is to enable small to medium commercial uses to support the residential ones and allow access to retail outlets in the precinct. As such, the proposal is consistent with the zoning of the land is therefore acceptable on the site.

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 existing structures and construction of a 14 storey mixed use development with two and a half basement parking levels. The proposal is consistent with the objectives of the controls under the Rockdale LEP 2011, Rockdale DCP 2011 and relevant state policies. As such, the application DA-2014/15 is recommended for approval.