

Joint Regional Planning Panel

(Sydney East Region)

Meeting Date: 14 August 2014

JRPP Number:	2013SYE107
DA Number:	DA-2014/194
Local Government Area:	ROCKDALE CITY COUNCIL
Proposed Development:	Integrated Development - Construction of a part nine (9) & part eleven (11) storey mixed-use development comprising of five (5) commercial/retail units occupying 308 square metres, 135 residential units and car parking at basement and ground levels for 193 vehicles
Street Address:	1-5 Gertrude Street & 10-18 Princes Highway, Wolli Creek NSW 2205
Applicant/Owner:	Phoenix Builders Pty Ltd
Number of Submissions:	One (1) against
Recommendation:	Deferred Commencement Approval
Report by:	Shaylin Moodliar – Senior Development Assessment Planner

Précis

The original proposal was for the construction of a part nine (9) & part eleven (11) storey mixed-use development comprising of six (6) commercial/retail units occupying 361 square metres, 146 residential units (1 x studio apartment, 61 x one-bedroom units, 82 x two-bedroom units and 2 x three-bedroom units) and car parking at basement and ground levels for 188 vehicles.

The application has since been amended. Further, deferred commencement conditions are recommended, which will reduce the number of residential units within the development by 11 units. As a result of the recommendations of this report, the proposal is for the construction of a part nine (9) & part eleven (11) storey mixed-use development comprising of five (5) commercial/retail units occupying 308 square metres, 135 residential units (1 x studio apartment, 48 x one-bedroom units, 76 x two-bedroom units and 10 x three-bedroom units) and car parking at basement and ground levels for 193 vehicles.

The subject site is zoned B4 Mixed Use and R4 High Density Residential under Rockdale Local Environmental Plan 2011 (RLEP 2011). The proposed mixed-use development is defined as 'commercial premises', 'residential flat building' and 'shop top housing', which constitutes permissible development only with development consent within the B4 zone. The proposal incorporates 'residential flat building' component, which is permissible development across both zones.

The floor space ratio (FSR) of the proposed development, as originally submitted to Council, exceeds the maximum floor space ratio permitted under Clause 4.4 of the RLEP 2011 across both zones by 538 sq.m. In addition, the proposal does not comply with either of the 28m or 29.5m maximum building height controls under Clause 4.3 of the RLEP 2011. The non compliances are in the order of 0.57-1.17m for the parapet and 3.97m for the top of the lift overrun structure on the roof top for the part of the building along Princes Highway adjacent to the site at 20-22 Princes Highway, Wolli Creek.

The part of the building located on the corner of Gertrude Street and Princes Highway within the B4 zone exceeds the maximum building height by 8.16 metres (including the lift overrun structure).

The building elements of the roof top terrace to the south-eastern portion of the building along Gertrude Street exceed the building height by 2.49m (to the top of the lift overrun structure).

The proposal is subject to Clause 4.6 variations to the height of the buildings and FSR standards. The proposed variations are supported in part, mainly for the building located on the B4 zone. However, the height and FSR variation for the building located in the R4 zone along Gertrude Street is not supported for the reasons outlined in this report. The proposed deferred commencement conditions will reduce the overall gross floor area to 11 043.7 sq.m. (compared to 11,406.4sq.m. as proposed) and the height of the building in Gertrude Street and will allow a development closer to compliance. Subject to compliance with the deferred commencement conditions, the proposal is consistent with the objectives of SEPP 65, the objectives of RLEP 2011 and the advice of the Design Review Panel.

The proposal generally complies with the requirements in Rockdale Development Control Plan 2011 (RDCP 2011) in respect to site planning and facilities and building design.

One (1) objection to the proposal has been received which relates to the sale of Council's easement and the stormwater drainage across the site and likely impacts within the surrounding properties. These issues raised have been addressed further in the report.

The development application is required to be referred to the Joint Regional Planning Panel pursuant to Clause 3 of Schedule 4A of the Environmental Planning and Assessment Act 1979 (EP&A Act) as the Capital Investment Value of the proposal exceeds \$20 million.

Officer Recommendation

i. That Development Application No.DA-2014/194 for the construction of a part nine (9) & part eleven (11) storey mixed-use development comprising of five (5) commercial/retail units occupying 308 square metres, 135 residential units and car parking at basement and ground levels for 193 vehicles be granted deferred commencement consent by the Joint Regional Planning Panel subject to the following deferred commencement conditions.

The consent shall not operate until you satisfy Council about the following matters:

1. *The submission of amended architectural plans showing:*
 - a. *The removal of apartment units C8.1, C8.2, C8.3, C8.4 & C8.5 from Level 8 (i.e. the ninth storey) along the Gertrude Street frontage; and*
 - b. *Relocate the bicycle spaces on the podium level to either the basement and/or ground floor level.*
2. *The submission of an amended landscape plan addressing the following:*

- a. Details to show landscape levels, planter details, proposed soil depths and a full plant schedule (including proposed plant numbers) as per the requirements of the RDCP 2011.
 - b. A garden maintenance storage area and amenities facilities for the residents to be provided within the communal open space area.
3. The submission of a complete schedule of finishes (including details where external louvers or screen panels to the windows/balconies are provided), render colours, balustrade colour/finishes, window frame samples and details, type of paving for the entry and balconies/courtyards, internal fencing/privacy screen details surrounding the open space on the ground floor apartments and paint colours/finishes.
4. The submission of an acid sulphate soil assessment and management plan.
5. As a result of point (1a), the submission of an amended BASIX Certificate reflecting the changes.
6. The easement at 1A Gertrude Street, Wolli Creek (Lot 56 in DP 4301) must be acquired from Rockdale City Council.

ii. That the NSW Department of Planning be advised of the Joint Regional Planning Panel's decision.

iii. That the objector be advised of the Joint Regional Planning Panel's decision.

Report Background

The specifics of the proposal (as amended by the proposed deferred commencement conditions) are as follows:

- Construction of a part nine (9) and part eleven (11) storey mixed-use development including:
 - 5 commercial/retail tenancies occupying 308m² of floor space;
 - 135 residential units (1 x studio, 48 x one-bedroom unit, 76 x two-bedroom units & 10 x three-bedroom units) across two separate buildings;
 - Basement and ground floor level car parking for 193 vehicles with vehicular access from Innesdale Lane; and
 - Electricity substation located at the northern end of Innesdale Lane.

In summary, the unit mix is spread across two (2) separate buildings above the podium in the following manner:

Floor level	Number of car spaces	Studio	1 bed	2 bed	3 bed	Total No. of units
Basement (RL -1.45)	136	-	-	-	-	-
Ground floor (RL 2.75 – RL 2.85)	57	1	4	-	-	5
First floor (RL 6.45)	-	-	5	10	1	16
Second floor (RL 9.45)	-	-	5	10	1	16
Third floor (RL 12.45)	-	-	5	10	1	16
Fourth floor (RL 15.45)	-	-	5	10	1	16
Fifth floor (RL 18.45)	-	-	5	10	1	16
Sixth floor (RL 21.45)	-	-	5	10	1	16
Seventh floor (RL 24.45)	-	-	5	10	1	16
Eighth floor (RL 27.45)	-	-	6	4	1	11

Ninth floor (RL 30.45)	-	-	1	1	1	3
Tenth floor (RL 33.45)	-	-	2	1	1	4
Total	193	1	48	76	10	135

The proposed development is described in detail below:

- *Basement Level (RL -1.45)*

136 residential car spaces (including 13 accessible spaces), 4 motorbike spaces for the residential occupants and storage cages with 4 lift cores.

- *Ground Floor level (RL 2.75 – RL 2.85)*

19 residential car spaces (including 2 accessible spaces), 4 motorbike spaces for the residential occupants and storage cages, 29 visitor car spaces (including 1 shared carwash/accessible car space), 9 commercial car spaces (including 1 accessible space), 1 motorbike space for the commercial/retail users, plant rooms, garbage rooms & fire stairs.

Five (5) commercial/retail tenancies occupying 308m² of floor space including separate male/female bathrooms adjacent to the lobby B area and a wrap around awning covering the footpath along Princes Highway and extending to the eastern boundary covering part of the ground floor apartment terraces.

The commercial/retail floor space of each tenancy is broken down in the following manner:

No. of commercial/retail tenancies	Size
1	46 m ²
2	46 m ²
3	50.5 m ²
4	53 m ²
5	112.5 m ²
Total commercial/retail floor space	308 m²

Five (5) residential units (1 x studio unit, 4 x one-bedroom units) with pedestrian and accessible entries from Gertrude Street, SRV/loading bay adjacent to the basement entry and garbage storage room, electricity substation at the end of Innesdale Lane.

- *First floor level (RL 6.45)*

16 residential units (5 x one-bedroom units, 10 x two-bedroom units and 1 x three-bedroom unit) accessible from the Princes Highway Building A lobby area and the lobby B & C areas along Gertrude Street.

Partly landscaped and partly paved communal open space at RL 6.35 accessible from private open courtyards of Units C1.4, C1.5, C1.1, B1.5, B1.6, A1.4 & A1.5, and also accessible from the fire stairs in ground floor level and all lobby areas. Partly landscaped and paved communal open space with two arbour structures, BBQ facilities, benches and storage for 21 bicycles under an awning at podium level. Landscaping is predominately provided at the podium level with mass planter edges located on the rooftop terraces of Building A and to the rooftop of the building accessible from the lobby C.

- *Second Floor level (RL 9.45)*

16 residential units (5 x one-bedroom units, 10 x two-bedroom units and 1 x three-bedroom unit) accessible from the Princes Highway Building A lobby area and the lobby B & C areas along Gertrude Street.

- *Third Floor level (RL 12.45)*

16 residential units (5 x one-bedroom units, 10 x two-bedroom units and 1 x three-bedroom unit) accessible from the Princes Highway Building A lobby area and the lobby areas B & C along Gertrude Street.

- *Fourth Floor level (RL 15.45)*

16 residential units (5 x one-bedroom units, 10 x two-bedroom units and 1 x three-bedroom unit) accessible from the Princes Highway Building A lobby area and the lobby areas B & C along Gertrude Street.

- *Fifth floor level (RL 18.45)*

16 residential units (5 x one-bedroom units, 10 x two-bedroom units and 1 x three-bedroom unit) accessible from the Princes Highway Building A lobby area and the lobby areas B & C along Gertrude Street.

- *Sixth floor level (RL 21.45)*

16 residential units (5 x one-bedroom units, 10 x two-bedroom units and 1 x three-bedroom unit) accessible from the Princes Highway Building A lobby area and the lobby areas B & C along Gertrude Street.

- *Seventh floor level (RL 24.45)*

16 residential units (5 x one-bedroom units, 10 x two-bedroom units and 1 x three-bedroom unit) accessible from the Princes Highway Building A lobby area and the lobby areas B & C along Gertrude Street.

- *Eighth floor level (RL 27.45)*

Subject to the satisfaction of the deferred commencement conditions, 11 residential units (6 x one-bedroom units, 4 x two-bedroom units and 1 x three-bedroom unit) accessible from the Princes Highway Building A lobby area and the lobby areas B & C along Gertrude Street.

- *Ninth floor level (RL 30.45)*

3 residential units (1 x one-bedroom unit, 1 x two-bedroom unit and 1 x three-bedroom unit) accessible from the Princes Highway Building A lobby area and the lobby areas B & C along Gertrude Street.

One (1) rooftop terrace at RL 30.35 to Building A accessible from the lift core servicing Building A or from the two lift cores servicing the building along Gertrude Street via a 2m wide link bridge between both of the buildings.

One (1) rooftop terrace at RL 30.45 to the building along Gertrude Street accessible from the lift cores servicing lobby areas B & C along Gertrude Street. Subject to the satisfaction of the deferred commencement conditions, this rooftop terrace will be located on the eighth floor level.

Landscaped mass planter edges are located on the rooftop terraces of Buildings A and C.

- *Tenth floor level (RL 33.45)*

4 residential units (2 x one-bedroom unit, 1 x two-bedroom unit and 1 x three-bedroom unit) accessible from the lobby area B along Gertrude Street.

PREVIOUS APPROVALS/ RELEVANT HISTORY

On 8 November 2013, Council held a pre-development application meeting (PDA-2014/11) for the demolition of existing structures and construction of a part 9 and part 12 storey mixed-use development consisting of 148 residential units, 6 retail/commercial tenancies and 197 parking spaces on land at 1-5 Gertrude Street & 10-18 Princes Highway, Wolli Creek. The applicant was advised that the Princes Highway and Gertrude Street corner of the site is visually prominent and a higher building at this corner of the site may be supported. The applicant was also advised that the building height along Princes Highway should step away from the Princes Highway and Gertrude Street corner and variations up to, and not exceeding, 29.5m may be supported. The applicant was advised that variations in the building height along the R4 zoned Gertrude Street cannot be supported. With regard to the FSR, the applicant was advised that the gross floor area is not to exceed the combined maximum floor space ratio permitted under Clause 4.4 of the RLEP 2011 across the subject site.

On 23 May 2014, Council granted delegated approval to Development Application No.DA-2014/171 for the demolition of all structures on the site.

EXISTING AND SURROUNDING DEVELOPMENTS

The subject site is irregular in shape and comprises eight (8) allotments and is located on the corner of Gertrude Street and Princes Highway between Brodie Sparks Drive further to the north, Innesdale Road to the south, Gertrude Lane to the east and Princes Highway abuts the western boundary.



Figure 1. Subject site (shown highlighted in red).

The site is legally formed by the following eight allotments:

Lot	DP	Address	Size
Lot A	DP 179727	10 Princes Highway, Wolli Creek	371.55 m ²
Lot B	DP 179727	12 Princes Highway, Wolli Creek	371.55 m ²
Lot 8	DP 4032	14 Princes Highway, Wolli Creek	556.17 m ²
Lot 100	DP 739489	16-18 Princes Highway, Wolli Creek	1113 m ²
Lot C	DP 179727	1 Gertrude Street, Wolli Creek	371.55 m ²
Lot 56	DP 4301	1A Gertrude Street, Wolli Creek(easement)	43.78 m ²
Lot 39	DP 4301	3 Gertrude Street, Wolli Creek	550.1 m ²
Lot 38	DP 4301	5 Gertrude Street, Wolli Creek	550.1 m ²
Total subject site area			3927.8 m²

The site has a total frontage to Gertrude Street of approximately 72 metres and 61 metres to Princes Highway. The depth of the site between both street frontages is from 45.165 metres to 61 metres. The site is flat with no noticeable fall apart from a slight fall in land of approximately 410mm from the south-western corner to the north-eastern corner of the site.

To the south, adjoining the site, lies No.20-22 Princes Highway is an eight-storey mixed use building consisting of ground floor level commercial/retail floor space and 42 residential units with two levels of basement car parking for 80 vehicles.

To the north west of the site lies a significant expanse of car yards with one-and-two storey buildings comprising of a mixture of building elements. Further to the north west of the site is the single storey Wolli Creek Woolworths and Dan Murphy's site with associated car parking. Wolli Creek Railway Station lies to the northwest of the subject site, and is approximately

580m walking distance taking the most direct route along Princes Highway and Brodie Sparks Drive.

To the north lies No.4-6 Princes Highway and No.4-10 Gertrude Street, which is currently occupied by a car sales yard, a single storey vacant dwelling, single and two storey industrial buildings. This property is the site of a development application (DA-2014/203) which is under assessment for another integrated development being the demolition of existing structures and construction of fourteen (14) storey mixed use development comprising 5 commercial units, 185 residential units and basement car parking for 250 vehicles.

To the east lies No.7, 9, 11 & 13 Gertrude Street which are currently occupied by building materials, an airport parking caryard and single storey buildings.

Further to the east of the site lies No.23 Gertrude Street, a residential flat building development nearing completion, comprising two buildings, 7 and 9 storeys in height with a total of 85 residential apartments and basement car parking for 88 vehicles.

The area is currently undergoing significant change to become a higher density residential and commercial area focused around the Wolli Creek Precinct. Development surrounding the site consists of mixed residential and commercial development. It must be noted that future redevelopments to the south and southeast of the subject site along Innesdale Road and Gertrude Street may consist entirely of residential apartment units as mixed use developments are prohibited within the R4 High Density Residential Zone.

The subject site is flood affected, potentially contaminated and is classified class 3 acid sulphate soils. The site is affected by a local road widening along Innesdale Lane, and is subject to the 51AHD obstacle limitation surface, given the proximity of the site to Sydney Airport.

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 pursuant to Section 91 of the EP&A Act as the development involves temporary construction dewatering and therefore requires approval from the NSW Office of Water. 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 513342M.

The commitments made result in the reduction in energy and water consumption shown below for the original proposal.

Reduction in Energy Consumption	25 (target 20%)
Reduction in Water Consumption	40 (target 40%)
Thermal Comfort	pass (target pass)

Given the current scheme has been revised without providing BASIX Certificates, an amended BASIX Certificate must be provided to Council, as part of the deferred commencement condition.

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

Council's records show that the land is identified as an 'Unhealthy Building Land'. A 'Detailed Site Investigation' report, prepared by Aargus Pty Ltd dated 11 November 2013 has been submitted. The report concludes that the soil on site, although it contains some contamination, it does not represent enough contamination to warrant a significant risk to human health.

Nevertheless, Council's Environmental Health Officer requested further documentation to ascertain whether the site is suitable for the development. As such, the applicant submitted a 'Remediation Action Plan', prepared by Aargus Pty Ltd dated 21 March 2014.

Council's Environmental Health Officer is satisfied that the land is suitable after remediation for the purpose for which the development is proposed to be carried out. The recommendations of the report by Aargus will form part of the conditions of consent. The application does not require further consideration under clause 7(1) (a), (b) and (3) of SEPP 55.

State Environmental Planning Policy (Infrastructure) 2007

The subject site is located at the intersection of Gertrude Street and Princes Highway in Wolli Creek, with the proposed vehicular entrance from Innesdale Lane. Princes Highway is a State road and is therefore within the jurisdiction of the Roads & Maritime Services (RMS). Correspondence received from RMS dated 14 January 2014 raised no objection to the proposed development, subject to recommendations, which will be required as conditions of consent.

The proposal has also been accompanied by an Acoustic Report, prepared by Acoustic Solutions Pty Ltd, dated 06/12/2013 which recommends appropriate design construction measures in order to ameliorate traffic noise and vibration. The recommendations of the report by Acoustic Solutions Pty Ltd will form part of the conditions of consent.

Based on the above, the application is considered acceptable in respect to the provisions of Clauses 101 & 102 of SEPP (Infrastructure) 2007.

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

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

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

The proposal was initially considered by the Design Review Panel on 4 February 2014 where the DRP noted that the original design was unsatisfactory. The applicant amended

the plans and the DRP reconsidered the proposal, who reiterated their concern to the development on the following grounds: building scale and height along Gertrude Street and Princes Highway, excessive building height and FSR along Gertrude Street, balcony projections on the upper floors overhanging the private open space of the courtyard apartments along Gertrude Street, density, inadequate landscaped areas within the site and the extent of the basement footprint, increasing the floor space of the commercial/retail tenancies and provide access to Lobby A the ground floor level car park.

Council has considered the advice of the DRP and requested the applicant to make further amendments addressing the concerns of the DRP. The issues raised by the DRP in regard to the building height and scale have been addressed by the deferred commencement conditions.

b. The design quality of the residential flat building when evaluated in accordance with the ten design quality principles

The ten design principles are addressed as follows:

Principle 1: Context

The site has been identified for significant high density redevelopment in accordance with the provisions for RLEP 2011 and Part 7.1 of the RDCP 2011.

The surrounding context consists of predominately industrial land uses, with a growing trend of mixed-use development similar to that of the proposal (to the rear No.20-22 Princes Highway, Wolli Creek and to the east at No.23 Gertrude Street, Wolli Creek). The proposal will provide a built form that is contextually envisioned along the Princes Highway, creating an active and appropriate setting for the site. On this basis, it is considered that the proposal within the B4 zoned portion of the subject site for the purposes of a mixed-use development is consistent with its context. However, the building located within the R4 zoned portion of the subject site is not consistent with the desired future character along Gertrude Street for the R4 Zone and it is recommended through deferred commencement consent to delete the five (5) apartment units within its ninth storey which will reduce the building height and FSR to comply with the principle development standards of the R4 Zone.

Principle 2: Scale

The scale of the proposed development complements the surrounding mixed use building developments located in close proximity to the site, particularly at No.20-22 Princes Highway, Wolli Creek.

The height and scale of the proposed development is generally consistent with the built form envisaged for the subject site under RLEP 2011 and RDCP 2011 in that a continuous podium is proposed to Princes Highway which is similar to other mixed-use developments. Subject to the satisfaction of the deferred commencement conditions the proposed scale of the building is considered satisfactory.

Principle 3: Built Form

The development form is appropriate with tasteful manipulation of building elements such as articulated and modulated facades, rendered and painted features, concrete roof and feature blades and concrete massing provides visual interest along the streetscape. Both Princes Highway and Gertrude Street have a presentation to their respective street frontages and articulation has been provided through three defined central lobbies, active Princes Highway street frontage and variation of solid and semi-transparent balcony balustrades.

The building is delineated in scale providing modulated surfaces and forms that give articulation and comprise a built form that is described as a contemporary face brick and wall cladding style with external elements providing visual interest. The overall built form is compatible with similar developments and the emerging character of the area as it undergoes redevelopment.

Principle 4: Density

Subject to the satisfaction of the deferred commencement conditions the proposed density of the building is considered satisfactory. The applicant has provided a revised Clause 4.6 variation to the FSR, which is discussed in further detail within this report.

Principle 5: Resource, energy and water efficiency.

The location, orientation and design of the development provides direct or diffused solar access and cross ventilation to all 135 residential units. The Residential Flat Design Code (RFDC) recommends that at least 60% of the proposed units shall achieve natural flow through ventilation with the proposal indicating 100% of proposed units able to achieve cross flow ventilation. The applicant has confirmed that all habitable spaces are adequately ventilated.

The RFDC recommends that in high density areas at least 70% of all proposed units living areas and balconies shall achieve 2 hours of direct sunlight during the period 9.00am and 3.00pm at mid-winter. The proposal has 31 out of 135 units with a southerly aspect which will not receive a minimum 2 hours direct sunlight during mid-winter to living areas and balconies, however, these will receive a minimum 2 hours diffused sunlight during mid-winter to living areas and balconies.

It is noted that all units within the development are designed with open layouts and private balconies or courtyards. BASIX Certificates have been submitted with the applications that demonstrate the development is capable of meeting thermal, energy, and water efficiency targets. Amended BASIX Certificates are recommended to ensure the latest design scheme satisfies this principle.

Principle 6: Landscape

A large communal area is provided to the south of the building fronting Gertrude Street. This space is located on the podium above the basement level car park and cannot provide provisions for deep soil planting, however, sufficient depth is proposed to ensure landscaping within the non-deep soil areas.

Additional communal paved areas are provided within the rooftops of both buildings, which also provide shade structures.

The DRP raised concern with regard to inadequate landscaped areas within the site and the extent of the basement footprint interfering with the plantings to the ground floor apartments along Gertrude Street. Notwithstanding, deferred commencement consent conditions pertain to the deletion of 5 apartments (units C8.1, C8.2, C8.3, C8.4 & C8.5) from the building along Gertrude Street, which will require an amended landscape plan for rooftop planting details.

Principle 7: Amenity

All units within the building achieve a satisfactory level of amenity with regards to privacy, ventilation, and direct/diffused solar access. The proposed design provides high levels of internal amenity to future residents, with the units ranging in size and number of bedrooms.

The room dimensions and layouts are appropriate for residential use and the maximum separation distance possible for the site has been achieved for visual outlook and privacy.

Private recreational areas are provided in the form of balconies/courtyards off the living areas and are supplemented by communal landscaped areas to ensure an overall quality of living for future occupants.

The proposal complies with disability access requirements and incorporates sufficient service areas as required. It is considered that the development satisfies the provisions with respect to layout and amenity, and therefore the development is consistent with this principle.

Principle 8: Safety and Security

The development provides for safe direct pedestrian access from Princes Highway and Gertrude Street. Casual surveillance to the communal open space area within the central courtyard is achieved with apartments overlooking the courtyard. Pedestrian and vehicular entries are clearly separated with well-defined active commercial street frontages along Princes Highway. Safe internal access is available from the basement car park directly into the buildings and the public/private domain is clearly distinguished. Security roller door access to the basement car park along with intercom entry to the lobby areas ensures the internal security of the residents.

Principle 9: Social Dimensions

The development provides a range of apartment style accommodation that is located within close proximity to public transport, recreation facilities, and shopping facilities. The subject site is located in an area identified for high-density residential and mixed-use redevelopment and is within 600m walking distance from Wolli Creek Railway Station. The applicant proposes a moderate mix of unit types, both in terms of layout and number of bedrooms that are likely to provide an appropriate style of dwelling for a variety of demographics. On this basis, the proposed development is considered to contribute to the social mix of the locality and provide housing that will enhance and provide for the local population.

Principle 10: Aesthetics

Particular emphasis has been placed on external appearance to enhance the streetscape and create visual interest in the architecture of the building for all elevations, along with a selection of appropriate finishes. The contemporary design of the building is compatible with the design and scale of the urban form for the locality.

c. The Residential Flat Design Code (RFDC).

The 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 relevant provisions in the RFDC as follows:

Requirement	Comments	Compliance with the requirement and objectives
Building Height		
Development responds to the desired scale and character of the street and local area	The building height to the corner of the Princes Highway/Gertrude Street building and to Building A does not adversely impact on the physical and	Considered satisfactory subject to compliance with

	visual amenity of the area. Subject to the satisfaction of the deferred commencement conditions, the building height within the R4 zoned portion of land along Gertrude Street will comply with the maximum building height.	deferred commencement conditions
Allow reasonable daylight access to all developments and the public domain	The proposal responds to the flat site topography. A reasonable level of solar access can be achieved from 1pm mid-winter to the southern adjoining property at No.20-22 Princes Highway, Wolli Creek. The proposed buildings cast lengthy shadows on the designated common open space above the basement level. The proposal provides 75% of apartments with minimum 2 hours sunlight during winter.	Considered satisfactory, considering adequate daylight and ventilation is achieved
Building Depth		
Maximum internal depth of building – 18m from glass line to glass line. Where greater than 18m depth, must justify how satisfactory daylight and ventilation is achieved	The building depth is greater than 18m (a maximum building depth ranges from 19.965 metres to the R4 zoned portion of the building along Gertrude Street to 23 metres to Building A) from the glass line to glass lines (excluding balconies). Adequate daylight access is achieved to south-facing apartments and the proposal has two rooftop terraces.	Minor variance, but considered satisfactory, considering adequate daylight and ventilation is achieved
Building Separation		
Building separation distances nine storeys and above: - 24m between habitable rooms/balconies - 18m between habitable rooms/balconies - 12m between non-habitable rooms five to eight storeys: - 18m between habitable rooms - 13m between habitable/balconies and non-habitable rooms - 9m between non-habitable rooms	There is a nil to 500mm separation from Building A to the No.20-22 Princes Highway boundary, which is considered satisfactory due to the B4 Mixed Use zone boundary. There is an internal separation ranging from 8.21-11.69m between the external walls of between both buildings, which are within the B4 zone. There is a 15m separation from the balconies of Building A to the north-facing balconies of No.20-22 Princes Highway. There is a 17.5-25.5m building separation between Building A and No.20-22 Princes Highway, Wolli Creek and a 41.5m separation between the balconies of the building along Gertrude Street and the balconies of the No.20-22 Princes Highway, building. Subject to the satisfaction of the deferred commencement conditions, the building height of along Gertrude Street will be reduced from 8 storeys from 9 storeys. Despite this recommendation there is a nil separation to the common R4 zone boundary between the building fronting Gertrude Street and No.7 Gertrude Street boundary.	Major variances required, but considered satisfactory within the B4 zone. Proposals along the R4 zoned lands along Gertrude Street are encouraged to provide a zero building separation envisaged within the Wolli Creek Special Precinct.
Deep Soil Zones		
Minimum 25% of open space area of a site should be deep soil zone – more is desirable	Approximately 52m ² of deep soil landscaping is proposed. The basement level is built to boundaries and reduces opportunities for deep soil landscaping. In flood affected properties and B4 Mixed Use zones, it is often unachievable to provide any deep soil zones.	No, but considered satisfactory within flood affected properties in B4 Zones
Fences and Walls		
Respond to identified architectural character for the street/area	Combination of obscure glass and solid balustrades proposed to the units. No long blank walls are proposed to the street.	Yes
Delineate public and private domain without compromising safety or privacy	Landscaping to Gertrude Street provides a soft delineation, whilst maintaining casual surveillance of both the public and private domain within the site.	Yes
Contribute to amenity, beauty and	Two rooftop terraces are proposed. Redesign of	Yes, subject to

useability of private and communal open space	these terraces/roof gardens is requested.	satisfying deferred commencement conditions
Retain and enhance amenity of the public domain	The proposal avoids continuous lengths of blank walls to both streetscapes	Yes
Open Spaces		
Communal Open space should be minimum 25-30% (981.95-1178.34 sqm) of site area	Adequate communal open space is located the south-west of the buildings at the podium level and on the two rooftop terraces.	Yes
Minimum private open space for ground level apartments is 25sqm with minimum 4m dimension in one direction	The five (5) ground floor apartment units all have private open spaces of less than 25m ² , however, all ground floor apartment units have greater than 4m balcony dimension.	No, but considered satisfactory
Apartment Layout		
Various	Plans indicate the provision of a range of unit types which do not specifically fall within the categories of apartment types nominated by the RFDC or RDCP 2011. Bedrooms, balconies, studies and dwellings do not therefore strictly comply with the numerical provisions of the RFDC. The proposed development provides for a range of unit sizes and types within the development ranging from studio to 3 bedroom dwellings. The configuration, layout and design of units, their overall size and spaces are practical and will allow future users to furnish their units in a variety of ways. Habitable areas, bedrooms, bathrooms, studies and balcony sizes are satisfactory in dimensions and are appropriately provided with ventilation, solar access and outlook in order to maximise amenity to future occupants.	No, but considered satisfactory
Single-aspect apartments should be limited in depth to 8metres from a window The back of a kitchen should be no more than 8metres from a window	Up to 65 single-aspect units have the back of the kitchen wall greater than 8m from a window. Minimal depth variation to apartments unlikely to result in adverse impacts.	No, but considered satisfactory
Balconies		
Where other private open space not provided, at least 1 balcony - primary balconies min. depth 2m, adjacent to living areas and accommodate dining table & 2 chairs (small unit) or dining table & 4 chairs (large unit)	All apartments provide a minimum balcony depth of 2m	Yes
Ceiling Heights		
Ceiling heights promote building flexibility over time to accommodate other uses where appropriate (i.e. retail/commercial)	All residential apartments have a minimum ceiling height of approximately 2.7m. Ground floor commercial/retail tenancies have minimum ceiling height of approximately 3.3m.	Yes, unlikely to use upper floors for commercial uses in the future
Storage		
Min 50% storage within apartment accessible from hall or living area Min. storage requirements: Studio/1 bed = 6m ³ 2 bed = 8m ³ 3 bed & above = 10m ³	Internal storage areas are not clearly defined.	Yes, subject to conditions
Storage not within units appropriately secured	Basement storage is provided.	Yes
Daylight Access		
Living rooms/private open spaces for at least 70% of units receive min. 3 hours direct sunlight b/n	Subject to the satisfaction of the deferred commencement conditions, 109 out of 135 units (80%) will receive the minimum 2 hours solar access	Yes

9am-3pm midwinter (possible reduction to 2 hours in dense areas)	in mid-winter. Ground floor level apartments C.01 & C.02 face north, however, direct sunlight is from 1.30-3pm mid-winter due to the proposal under DA2014/203	
Max. 10% single aspect units with southerly aspect (SW-SE)	A total of 31 of the proposed 135 units (23%) with southerly aspect (SW-SE)	No, but considered satisfactory
Natural Ventilation		
Min. 60% (81) units naturally cross ventilated	All apartments have natural ventilation	Yes
Min. 25% (34) kitchens access to natural ventilation	Most kitchens have natural ventilation; however, 65 single aspect units have a window greater than 8m from the back of the kitchen wall.	Satisfactory

Rockdale Local Environmental Plan 2011 (RLEP 2011)

The subject site is split across two zones: R4 High Density Residential and B4 Mixed Use zones under the provisions of RLEP 2011 (see table below). The proposed mixed-use development is defined as 'commercial premises', 'residential flat building' and 'shop top housing' which constitutes permissible development only with development consent within the B4 zone. The proposal incorporates 'residential flat building' component which is permissible development within the R4 zone.

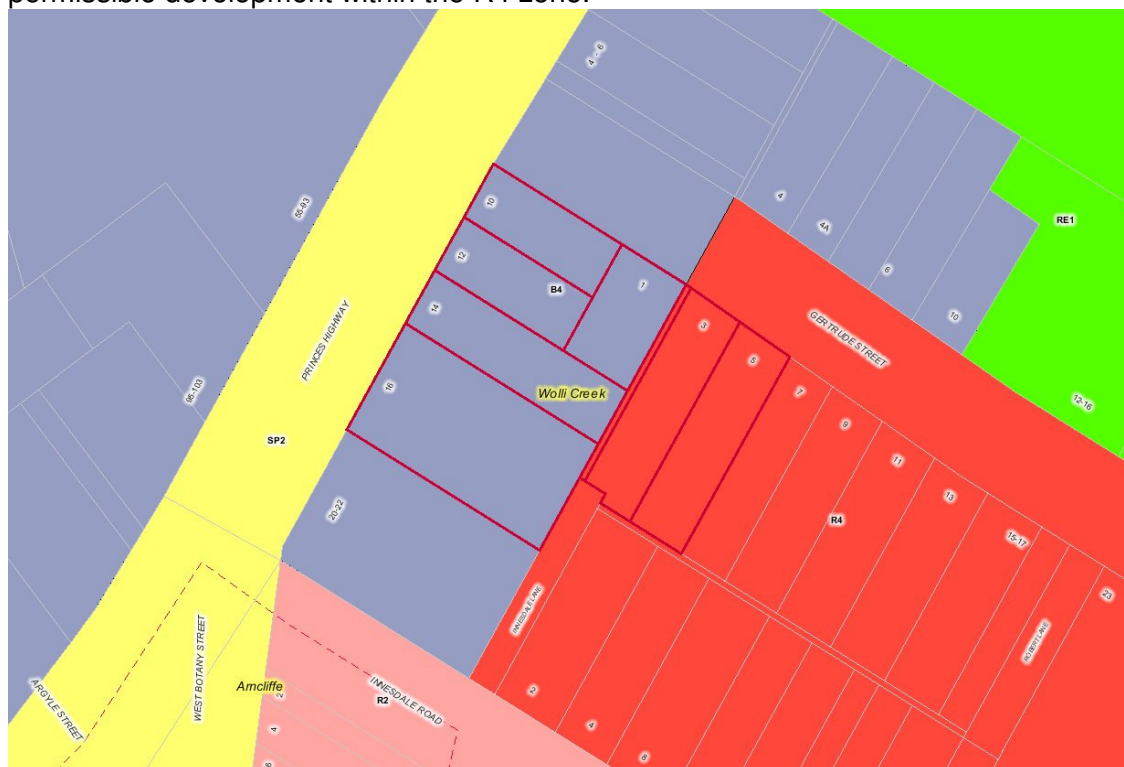


Figure 2. Zoning map of subject site (shown highlighted in red).

Lot/DP	Address	Zone	Maximum Building Height	Maximum FSR
Lot A in DP 179727	10 Princes Highway	B4	28m	3:1
Lot B in DP 179727	12 Princes Highway	B4	28m	3:1
Lot 8 in DP 4032	14 Princes Highway	B4	28m	3:1
Lot 100 in DP 739489	16-18 Princes Highway	B4	28m	3:1
Lot C in DP 179727	1 Gertrude Street	B4	28m	3:1
Lot 56 in DP 4301	1A Gertrude Street (easement)	R4	29.5m	2.2:1
Lot 39 in DP 4301	3 Gertrude Street	R4	29.5m	2.2:1
Lot 38 in DP 4301	5 Gertrude Street	R4	29.5m	2.2:1

The objectives of the R4 zone are as follows:

- *To provide for the housing needs of the community within a high density residential environment.*
- *To provide a variety of housing types within a high density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

It is considered that the proposed development within the R4 zoned portion of the building along Gertrude Street is consistent with these objectives.

The objectives of the B4 zone are as follows:

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*

It is considered that the proposed development is consistent with these objectives. The proposal incorporates a mixed-use commercial/residential development and is considered to be suitable for a site within close proximity to public transport.

Clause 4.3 – Height of Buildings

The highest points on the building are the tenth and eleventh storeys towards the Princes Highway/Gertrude Street corner and the associated lift overrun which are up to 36.16m, which equates to 8.16m above the maximum building height control for the B4 Zone.

The height of the parapet for the building located on the Princes Highway adjacent to 20-22 Princes Highway is 29.17m, which equates to 1.17m over the maximum building height control for the B4 Zone. The proposed height of the lift overrun structure and harbour structures to the rooftop terrace is 31.97m, which equates to 3.97m over the maximum building height control for the B4 Zone.

The applicant has submitted a Clause 4.6 variation request, which is supported in its current form across the length of the Princes Highway building façade within the B4 zone (see discussion below under Clause 4.6).

The south-eastern portion of the building along Gertrude Street located within the R4 zone has a proposed lift overrun structure height of 31.99m, which equates to 2.49m over the maximum building height control for the R4 Zone. The applicant has submitted a Clause 4.6 variation request, which is not supported in its current form across the length of the building façade within the R4 zone (see discussion below under Clause 4.6).

The proposed deferred commencement conditions will result in a proposal that complies with the maximum 29.5m building height control to the R4 Zone portion of the site which satisfies the objectives of Clause 4.6 of the RLEP 2011.

Clause 4.4 – Floor Space Ratio (FSR)

The B4 zone land at 10-18 Princes Highway & 1 Gertrude Street has a permissible maximum gross floor area of 8351.46 m², where the proposed FSR 3.10:1 (or 8643.6m²) is approximately 292.14m² (or 3.5%) over the maximum GFA and does not comply with the maximum 3:1 FSR. The applicant has submitted a Clause 4.6 variation request, which is supported in its current form within the B4 zone (see discussion below under Clause 4.6).

The R4 zone land at 1A, 3 & 5 Gertrude Street has a permissible maximum gross floor area of 2516.7 m², where the proposed FSR 2.41:1 (or 2762.8m²) is approximately 246m² (or 9.8%) over the maximum GFA and does not comply with the maximum 2.2:1 FSR. The applicant has submitted a Clause 4.6 variation request, which is not supported in its current form within the R4 zone (see discussion below under Clause 4.6).

The permissible gross floor area of the subject site is 10 868.2 m². The proposed overall gross floor area is 11 406.4m². Overall, the proposal exceeds the maximum gross floor area by approximately 538.2m² of GFA across both zones.

The deferred commencement conditions will result in an overall reduction of 362.7m² of gross floor area, or 11 043.7m² of GFA across both zones. Overall, the proposal as modified will exceed the maximum gross floor area by approximately 175.5m².

Clause 4.6 – Exceptions to development standards

The objection to the height and FSR controls have been assessed and the height and FSR variation request is supported within the B4 zone while the height and FSR variation request is not supported within the R4 zone portion of the subject site.

Clause 4.3 Height of Buildings

The applicant has provided the following justification for a variation to the height of buildings control:

- “i. The scale and form will still be visually consistent with the intent of Council’s control and will represent an appropriate transition in terms of bulk and scale given the site’s prominent location in Wolli Creek; and*
- ii. The additional height will not produce any detrimental impacts on the surrounding neighbour from additional overshadowing, environmental pollution or undue traffic impacts to a strict compliant proposal;*
- iii. The proposed outcome will be commensurate with the desired future character in this location and hence will relate to the future development on the other Gertrude Street/Princes Highway corner;*
- iv. The scale of the building will be visually reduced through the substantial setback of this corner element to the rear boundary;*
- v. All the amended are modulated and articulated to visually reduce the bulk and massing of the buildings;*
- vi. The amended photomontage displays the appropriateness of this proposal to the street frontages and the potential streetscape that will be available.*
- vii. The proposed development incorporates a stepped form given the difference in heights of the three buildings. This outcome will produce a stepping up to the corner to accentuate the good urban design proposed under this application.”*

The proposal breaches the building height across the entire frontage to Princes Highway and Gertrude Street. The applicant’s justification is not supported in its entirety in this instance.

Within the B4 zone, a variation to the current development standard is worthy of support in

the context of clause 4.6 for the following reasons:

- The advice from pre-development application was that the site is visually prominent. The urban planning intent of a higher corner accentuates the building and increases the importance of the site.
- The breach of the 28m building height across the Princes Highway and the B4 zoned portion along Gertrude Street is not considered a detrimental planning outcome to the adjoining properties, and does not result in significant loss of views or adverse privacy impacts on the streetscape from the bulk and scale of the buildings.
- The proposed development will provide sufficient residential amenity for its future occupants and as such, a request to vary the height control to the buildings within the B4 zone is appropriate in instances where significant amenity controls are not thwarted.
- The pergola/arbour structure on the roof top terraces contributes the non-compliance and this structure is not visible from the public domain and as such does not add bulk/scale to the building.
- It must be noted that there are slight legislative and local planning discrepancies across the subject site within the maximum height of the buildings and floor space ratio under the RLEP 2011 and the building height diagram of the Wolli Creek Special Precinct of the RDCP 2011.

The RLEP 2011 states a lower maximum building height of 28m with a higher maximum FSR of 3:1 within the B4 zone, while there is a higher maximum building height of 29.5m and a lower maximum FSR of 2.2:1 within the R4 zone. Further, the building height diagram within the Wolli Creek Special Precinct of the RDCP 2011 envisions a building height up to 8 storeys along Princes Highway within the B4 zone.

The building height diagram within the Wolli Creek Special Precinct of the RDCP 2011 envisions a building height of 9-13 storeys along Gertrude Street within the R4 zone. A building height greater than 9 storeys along Gertrude Street is unachievable as a maximum building height of 29.5m prevails within the R4 zone.

- Compliance with the development standard within the B4 zone in this instance is unreasonable and unnecessary given the above.

A variation to the current development standard is not worthy of support within the R4 zone in the context of clause 4.6 for the following reasons:

- The breach to the 29.5m building height across the R4 zoned portion along Gertrude Street by 2.49m is considered an inappropriate precedent to be set in an emerging high density character of re-development within the R4 zone of the Wolli Creek Special Precinct.
- The additional height along Gertrude Street would detract from the desired character of the area.
- With regard to the DRP advice, a reduction in the building height along Gertrude Street will achieve a greater distinction of the corner element as viewed from Gertrude Street and Princes Highway.
- Given the proposal provides relatively small public benefit, the additional building

height along the length of Gertrude Street cannot be supported.

Clause 4.4 Floor Space Ratio

The applicant has provided the following justification for a variation to the FSR control:

- i. The scale and form will still be visually consistent with the intent of Council's control and will also provide a more appropriate transition in terms of bulk and scale given the site's prominent location in Wolli Creek; and*
- ii. The additional floor space will not produce any detrimental impacts on the surrounding neighbour from additional overshadowing, environmental pollution or undue traffic impacts to a strict compliant proposal;*
- iii. The proposed outcome will be commensurate with the desired future character in this location and hence will relate to the future development on the other Gertrude Street/Princes Highway corner;*
- iv. The scale of the building will be visually reduced through the substantial setback of this corner element to the boundary;*
- v. All the elevations are modulated and articulated to visually reduce the bulk and massing of the buildings;*
- vi. The amended photomontage which accompanies this DA displays the appropriateness of this proposal to the street frontages and the potential streetscape that will be available.*

Within the B4 zone, a variation to the current development standard is worthy of support in the context of clause 4.6 for the following reasons:

- The proposal will create overshadowing to the middle-to-lower units of 20-22 Princes Highway, however, direct/diffused solar access within the site and to the middle-to-lower units of 20-22 Princes Highway is not deemed unreasonable in the emerging high density area.
- The proposed development provides a range of unit sizes and types (from studio to 3-bedroom units) within the development.
- The configuration, layout and design of units, their overall size and spaces are practical and will allow future users to furnish their units in a variety of ways.
- The proposed development provides a mixed-use development that facilitates the orderly and economic development of land in a manner that is appropriate in the Wolli Creek Special Precinct.
- A request to vary the FSR to the buildings within the B4 zone is appropriate in instances where significant amenity controls are not thwarted.
- The gross floor area within the B4 zoned land is a product of the considered site analysis and careful spatial arrangement of the built and landscape elements across the site as well as the re-development potential of the adjoining land to the southeast and east.
- Compliance with the development standard within the B4 zone in this instance is

unreasonable and unnecessary given the above.

A variation to the current development standard is not worthy of support within the R4 zone in the context of clause 4.6 for the following reasons:

- The breach to the 2.2:1 FSR across the R4 zoned portion along Gertrude Street by approximately 246m² or 9.8% is considered an inappropriate precedent to be set in an emerging high density character of re-development within the R4 zone of the Wolli Creek Special Precinct.
- Full numerical compliance within the R4 zone land would provide opportunities for additional benefit to the occupants of the building as well as not setting a precedent for future redevelopments within the R4 zone.
- The additional GFA increases the height of the building in Gertrude Street, which is not consistent with the desired future residential character and scale of Gertrude Street.

For the above reasons deferred commencement conditions are proposed to comply with the R4 zone, the reduction in the FSR is considered necessary in this instance to achieve the objectives of Clause 4.6 where a favourable planning outcome is being established within the R4 zone in the Wolli Creek Special Precinct and a reasonable degree of flexibility is being applied within the B4 Zone.

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

The subject site is affected by land marked as “Local road widening” within the B4 zone along the western side of Innesdale Lane and “Local road widening” within the R4 Zone along the eastern side of Innesdale Lane. The proposal includes a 2m dedication to each side of Innesdale Lane. All vehicular access to the subject site is from the north-western side of Innesdale Lane and the land dedication provided within Innesdale Lane will ensure there is improved access for the occupants/owners. Opportunities to provide public benefit within Innesdale Lane are limited, however, there is an opportunity to provide a footpath and/or light poles, along the eastern side of Innesdale Lane.

Clause 6.1 – Acid Sulphate Soils

The site is within an area classified as Class 3 in the acid sulphate soils map. The applicant provided a Detailed Site Investigation Report No. ES5618, dated 11 November 2013, prepared by Aargus Pty Ltd. This report stated that “*given the high probability of acid sulphate soils within the site and the proposed single level basement, an acid sulphate soil assessment and management plan is recommended.*” The development application has not been accompanied by an acid sulphate soil assessment and management plan, and as such, an acid sulphate soil assessment and management plan will be conditioned prior to any excavation commencing on the subject site.

Clause 6.2 – Earthworks

The proposal involves extensive excavation within the site to accommodate the basement level. The impacts of the proposed earthworks have been considered in the assessment of this proposal. Appropriate conditions of consent have been recommended to ensure minimal impacts on the amenity of surrounding properties, drainage patterns and soil stability.

Clause 6.4 – Airspace operations

The subject site is affected by the Obstacle Limitation Surface (OLS) Map that limit the height of structures to 51 metres OLS above the existing ground height without prior approval of the Civil Aviation Safety Authority. The mixed use building will have a height of up to AHD 36.16m. Sydney Airports Corporation Limited (SACL) reviewed the proposal and raised no objections, subject to recommendations, which will be required as conditions of consent.

Clause 6.6 – Flood Planning

The subject site is affected by flooding. The proposal incorporates a raised ground floor RL 2.85 which achieves the minimum habitable levels. A flood management plan will be imposed on the conditions of consent.

Clause 6.7 – Stormwater

Council's Development Engineer has reviewed the proposal and recommended deferred commencement conditions to satisfy the stormwater and drainage issues.

Clause 6.11 – Active Street Frontages

The proposal attracts pedestrian traffic to the ground floor commercial premises of Building A, which addresses Princes Highway. The proposal includes a wrap-around awning abutting the commercial/retail tenancies and provides protection in adverse weather conditions to pedestrians utilising the footpath along Princes Highway, as the awning projects 2m from the property boundary along Princes Highway.

Clause 6.12 – Essential Services

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

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

There are no Draft Environmental Planning Instruments applying to this proposal.

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

Rockdale Development Control Plan 2011(RDCP 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 RDCP 2011:

Part 4.3.1 Open Space and Landscape Design

A minimum of 10% (392.78m²) of the site is to be retained as landscaped area. The basement level is proposed to be constructed to the boundaries however there is a small

portion of landscaped not located above the basement (approximately 52m² or 1.3% of the site area), indicating a deficiency of 8.7% (340.78m²).

Given the subject site is affected by flooding, the above variation is considered to be satisfactory overall, given the appropriate management of stormwater on site, podium planting, two rooftop terraces proposed and the context of the mixed use zone, particularly within flood affected land.

Part 4.4.5 Acoustic Privacy

These provisions requires the construction of inter-tenancy floors and walls within the development to achieve a 5 star AAAC attribute and thus provide greater acoustic attenuation that would otherwise be afforded by the minimum requirements outlined within the BCA.

The proposal will be conditioned to ensure inter-tenancy walls and floors within the development are constructed so as to comply with the requirements of RDCP 2011.

Part 4.5.1 Housing Diversity and Choice

The following dwelling mix applies: 1 bedroom/studio (10%-30%), 2-bedroom (50%-75%) and 3-bedroom or more (10%-20%). With satisfaction of the deferred commencement conditions a total of 135 apartments are proposed, comprising of 49 x studio/one-bedroom units (36.3%), 78 x two-bedroom units (56.3%) and 10 x three-bedroom units (7.4%).

The above variation is deemed to be minor and is considered satisfactory given the unit mix is comparable to other mixed-use developments.

Part 4.6 Car parking, access and movement

With satisfaction of the deferred commencement conditions, the proposed development complies with the residential car parking spaces, however, the proposal provides eight (8) motorcycle parking spaces which comprises a shortfall of one (1) motorcycle parking space for the residential component. Further access to the twenty-one (21) bicycle spaces on the podium level within the communal open space area behind the lift core of lobby area B is not appropriately located.

In this regard, the deferred commencement condition to remove five (5) residential units will, create a surplus of car parking space, that will free up space within the basement and ground floor levels to provide one (1) additional motorcycle parking space and will also provide opportunities to locate all bicycle parking spaces within the basement and ground floor levels. The proposal, as amended, is satisfactory in regard to Part 4.6 of the RDCP 2011.

Part 4.6.11 Basement level

The basement level of the proposal extends outside the building footprint to the site boundaries. Given the context of the site, in a flood prone area, appropriate management of stormwater, extensive podium planting is proposed and the context of the mixed-use zone, the proposed basement footprint is considered acceptable in this instance.

Part 5.2.34 Lift Size and Access

Building A and the lobby area C to the building along Gertrude Street each have a single lift core. This is considered adequate given the link bridge on the ninth storey between Building

A and the lobby area B to the building along Gertrude Street, thus, providing access across all buildings via the rooftop terrace.

Part 5.3.14 Retail/commercial uses

A minimum of 10% of the gross floor area of the development to be provided for retail/commercial uses. Calculating only the GFA of the mixed-use component on the B4 zoned land, this provision would require a substantial component of the development, which equates to a minimum of 864.36m² floor space to be provided for commercial/retail uses.

The development provides for 3.5% (308m²) of the GFA for future commercial/retail uses, with a deficiency of 6.5% or 556m² of commercial/retail floor space uses. The proposal will introduce customers to activate the Princes Highway street frontage. Given the location of the site adjacent to the Wolli Creek Town Centre, the size of the commercial/retail tenancies as proposed is considered reasonable.

Wolli Creek Special Precinct

Part 7.1.7 Built Form: Building Heights and Density

As noted previously, there are slight legislative and local planning discrepancies across the subject site within the maximum height of the buildings and floor space ratio under the RLEP 2011 and the building height diagram of the Wolli Creek Special Precinct of the RDCP 2011.

As per building height diagram, developments within the subject site are envisioned to comprise of 8 storeys along Princes Highway and 9-13 storeys along the R4 zoned portion of land. A building height greater than 9 storeys along Gertrude Street is unachievable as the maximum building height of 29.5m prevails within the R4 zone. Subject to the satisfaction of the deferred commencement conditions the proposed development is 9 storeys along Princes Highway, up to 11 storeys at the corner of Princes Highway and Gertrude Street and 8 storeys along the remaining frontage to Gertrude Street.

Whilst the proposed development does not comply with the RLEP 2011 in terms of height, it is considered satisfactory with regards to architectural interest, bulk and scale along Princes Highway.

Part 7.1.8 Street Character and Setbacks - Highway Interface

As per the highway interface section diagram and the development setback and street character diagrams, developments within the subject site are envisioned to comprise of a nil ground floor setback to both the Princes Highway the portion of the Gertrude Street frontage which is zoned B4, with a 2.5m articulation zone, in order to provide a street edge building which reinforces the public domain and maximises passive surveillance of the street. On the upper floor levels the setback of up to 5m to the building line from the boundary is also required.

The development allows concessions for a 2.5m commercial ground floor setback to Princes Highway and a 3.58m ground floor setback to Gertrude Street. Upper floor level setbacks are provided and the requirement to safeguard the commercial floor space has been addressed. Given that the ground floor level is raised, a wrap-around awning abutting the commercial/retail tenancies is provided, appropriate provision is required in the form of steps and ramps in order to enable ground level pedestrian entry. As a result of the above access requirements, the development has been setback at ground floor level.

The upper floor levels provide the following building setbacks:

- Building A, Levels 1-4 provides building setbacks in the range of 2.9m-4.23m;
- Building at the corner of Princes Highway/Gertrude Street, Levels 1-4 provides building setbacks in the range of 3.39m-4.23m;
- Buildings along Princes Highway, Levels 5 and above, provides building setbacks in the range of 2.5m-4.23m.

The proposal has been designed to enable an active street edge along Princes Highway with a substantial commercial component fronting the Princes Highway. Furthermore, there are two identifiable lobby entries along Gertrude Street. Given the above, the ground floor and upper level setbacks as proposed are not unreasonable and are considered to satisfy the objectives of this provision.

Part 7.1.8 Street Character and Setbacks – Residential Street Frontage

As per the residential street interface section diagram and the development setback and street character diagrams, developments within the subject site are envisioned to comprise of a 5.5m setback to Gertrude Street which is zoned R4, with a 2.5m articulation zone, in order to provide a street edge building which reinforces the public domain and maximises passive surveillance of the street.

The upper floor levels provide the following building setbacks:

- Building along Gertrude Street, across all levels provides building setbacks in the range of 6.405-9m.

The development addressed the residential street frontage with balconies, building entrances and living rooms or bedrooms at ground & upper levels. The proposal has been designed with residential dwellings at ground level and complies with this requirement. The development has located vehicular basement entries from Innesdale Lane at the south-eastern portion of the site.

Given the above design features, the proposal provides an acceptable streetscape response to Gertrude Street at ground level and the upper floor levels in this location.

Part 7.1.8.14 Lane Frontage

As per the lane frontage section diagram and the development setback and street character diagrams, developments within the subject site are envisioned to comprise of a nil ground floor setback to the new Innesdale Lane frontage, with a 1m articulation zone, in order to provide a street edge building which reinforces the laneway and maximises passive surveillance of the street. On the upper floor levels the setback of up to 2m to the building line from the new boundary, with a 2.5m articulation zone, are also required.

Apart from the podium level communal open space there is no proposed building elements within the Innesdale Lane.

All vehicular access to the subject site is from the north-western side of Innesdale Lane and the 2m wide land dedication provided within Innesdale Lane will ensure there is improved access for the occupants/owners. Opportunities to provide public benefit within Innesdale Lane are limited, however, there is an opportunity to provide a footpath and/or light poles, along the eastern side of Innesdale Lane. Given Innesdale Lane is used for vehicular access to the subject site, the variation not to provide a dedicated footpath is considered satisfactory in this instance.

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))

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

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

Planning precedent

The proposal seeks a variation to the building height across both zones and to both Princes Highway and Gertrude Street frontages. It is acknowledged that the area is undergoing significant redevelopment from industrial land uses into an emerging character of residential flat buildings. The R4 zone portion of the subject site where the building is sited seeks a variation to the maximum building height of 29.5m by up to 2.49m across the R4 zone. Deferred commencement consent conditions are recommended to ensure there are no breaches to the maximum building height of 29.5m and the maximum 2.2:1 FSR by deleting 5 apartments (units C8.1, C8.2, C8.3, C8.4 & C8.5) from Building C. The deferred commencement consent conditions will ensure that future redevelopments within the R4 zone land of surrounding sites have no justifiable reason or other precedents to request a building height and FSR variation.

Overshadowing

The subject site is located on the southern side of Gertrude Street with Princes Highway abutting the western boundary. Properties to the south east include No.7 & No.9 Gertrude Street, No.2 & No.4 Innesdale Road to which there is no known pre-development application/s or development application/s.

Given the orientation and subdivision of the lots, should properties to the south-east and east be re-developed, it is inevitable that solar access to these properties will be reduced to some degree. The property to the south No.20-22 Princes Highway will result in additional overshadowing to the residential units located on the lower to middle levels. It is important to note that it is difficult to retain direct solar access at higher densities in particular when planning controls permit development to the north at a greater height and FSR, than those to south properties along Innesdale Road.

Notwithstanding, reasonable and varying levels of direct and diffused solar access are provided throughout the day to No.20-22 Princes Highway, given the height and design of the proposed development is similar in size and bulk.

In dense urban areas a minimum of two hours may be acceptable as noted in the RFDC. Given the above, the proposal is considered to perform adequately in terms of Solar Access.

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. There are no known major physical constraints, environmental impacts, natural hazards or exceptional circumstances that would hinder the suitability of the site for the proposed development.

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

The development application has been notified in accordance with Council's Development Control Plan 2011 and one (1) letter of objection has been received.



Figure 3. Subject site and the objector's properties to the south and south-east

The issues raised are addressed below:

Sale of 1A Gertrude Street

Comment: The objector suggests that Council is in the process of negotiating with the developer for the purchase of land from Council. Council does not engage in negotiations with developers, it is the developers who engage with Council. It must be noted that any developers who wish to purchase Council land, or in this instance, easements owned by Council, will have to liaise with Council's Property section. With regard to 1A Gertrude Street, this is a Council easement, which runs from the end of Innesdale Lane through the subject site and connects with the southern boundary of Gertrude Street. At the time of writing this report, Council's Property section has advised that Council has entered into a contract of sale with the owner/applicant over 1A Gertrude Street.

Stormwater drainage and easement

Comment: The objector claims that the sale of 1A Gertrude Street will create adverse flooding issues within Gertrude Street. Unbeknownst to the objector, Council has engaged in various flood studies within the Wolli Creek Precinct, which includes the subject site and

although there are options to dissolve stormwater easements with the Wolli Creek Precinct, Council has the legal obligation to assess stormwater drainage on land where a development application is submitted. In this instance with the option of stormwater drainage discharging along the south-eastern portion of the site, Council's Floodplain Engineer and Development Civil Engineer has reviewed the proposal and provided their recommendations. Conditions of consent will be imposed ensuring adequate on-site stormwater drainage measures are taken.

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.

Although the proposed building height along Gertrude Street is not generally supported by the DRP, the application has been amended to address the recommendations of the DRP and Council, and therefore, subject to the satisfaction of the deferred commencement conditions being met, the proposal is considered to be satisfactory in considering the advice of the DRP. It must be noted that the proposal is generally in accordance with the provisions of SEPP 65 and will provide a visual interest along the Gertrude Street streetscape which is not yet developed to its full potential as envisioned under the relevant planning controls and legislation.

The proposed development appropriately responds to its site location and is generally consistent with the relevant planning controls and objectives. Furthermore, the proposal is not considered to result in unreasonable impacts to surrounding properties. As such it is considered that the development application is in the public interest.

CONCLUSION

In accordance with Clause 3 of Schedule 4A of the Environmental Planning and Assessment Act, the application is referred to the Sydney East Region Joint Regional Planning Panel (JRPP) for determination.

Non compliances are acknowledged within the current proposal; these have been discussed within this report. A merit assessment of the application has determined that the proposal will be satisfactory and does not result in unreasonable impacts to surrounding properties, subject to the satisfaction of deferred commencement consent.

The application was the subject of one (1) objection and the matters have been addressed in the body of the report. It must be noted that the area is undergoing a transition from an industrial to high density mixed use area containing retail, commercial and residential uses to take advantage of the proximity to Wolli Creek railway station.

The proposal has been assessed in accordance with Section 79C of the Environmental Planning and Assessment Act 1979 and the RLEP 2011. The proposal is permissible across both the R4 and B4 zones, and is considered to result in a development, which is suitable in the context.

As such, it is recommended that the Panel grant deferred commencement approval to the application subject to the attached conditions.