

# Joint Regional Planning Panel

(Sydney East Region)

*Meeting Date: 28 October 2014*

<b>JRPP Number:</b>	2014SYE039
<b>DA Number:</b>	DA-2014/283
<b>Local Government Area:</b>	ROCKDALE
<b>Proposed Development:</b>	Demolition of existing structures and construction of a part 7, part 6 and part 5 storey mixed use development, including 4 retail shops, 87 residential units, two basement levels comprising 120 parking spaces, front fencing, lap pool and strata subdivision creating 93 lots
<b>Street Address:</b>	286A, 294-298 Forest Road & 159 Frederick Street, BEXLEY NSW 2207
<b>Applicant/Owner:</b>	Mr C Johnston – Fox Johnston Architects
<b>Number of Submissions:</b>	4 during the first notification period Nil during the second notification period
<b>Regional Development Criteria (Schedule 4A of the Act)</b>	Development that has a capital investment value of more than \$20 million.
<b>List of All Relevant s79C(1)(a) Matters</b>	<p>List all of the relevant environmental planning instruments; s79C(1)(a)(i):</p> <ul style="list-style-type: none"> <li>Environmental Planning and Assessment Act 1979</li> <li>SEPP 65 – Design Quality of Residential Flat Development</li> <li>SEPP 55 – Remediation of Land</li> <li>SEPP Infrastructure 2007</li> <li>Rockdale Local Environmental Plan 2011</li> </ul> <p>List any proposed instrument that is or has been the subject of public consultation under the Act and that has been notified to the consent authority: s79C(1)(a)(ii);</p> <ul style="list-style-type: none"> <li>SEPP 65</li> </ul> <p>List any relevant development control plan: s79C(1)(a)(iii);</p> <ul style="list-style-type: none"> <li>Rockdale Development Control Plan 2011</li> </ul> <p>List any relevant planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F s79C(1)(a)(iv);</p>

	<ul style="list-style-type: none"> <li>N/A</li> </ul> <p>List any coastal zone management plan: s79C(1)(a)(v);</p> <ul style="list-style-type: none"> <li>N/A</li> </ul> <p>List any relevant regulations; s79C(1)(a)(iv) e.g. Regulations 92, 93 94, 94A, 288;</p> <ul style="list-style-type: none"> <li>Environmental Planning and Assessment Regulations 2000</li> </ul>
<b>List all documents submitted with this report for the panel's consideration</b>	Section 79C Planning report including draft conditions of consent.
<b>Recommendation:</b>	Approval subject to conditions
<b>Report by:</b>	Michael Maloof – Senior Development Assessment Planner

## Assessment Report and Recommendation Cover Sheet

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## **Precis**

The proposal is for a mixed use development which includes a part 7, part 6 and part 5 storey building containing 4 ground floor retail shops and 87 residential units above and two basement car parking levels containing 120 parking spaces, front fencing and strata subdivision creating 93 lots.

The site is currently zoned B4 Mixed Use under Rockdale Local Environmental Plan 2011 (RLEP 2011). The proposal is defined as a mixed use development with a residential flat building and commercial premise in the B4 Mixed Use zone. This zone permits the construction of a mixed use development with residential flat building and commercial premise with Council consent under the provisions of Rockdale Local Environmental Plan 2011 (RLEP 2011).

The proposal complies with requirements in Rockdale Local Environmental Plan 2011 (RLEP 2011) apart from height and a clause 4.6 variation has been submitted with the application. The proposal complies with the objectives of Council's DCP 2011 notwithstanding some numerical departures with respect to minimum corridor width, apartment size, private open space and housing diversity. The proposal is considered acceptable in respect to these matters which have been addressed in more detail later in this report.

The proposal has a Capital Investment Value greater than \$20 million (i.e. \$22,478,500) and as such the development application is referred to the Joint Regional Planning Panel (JRPP) for determination. The recommendation is for approval.

## **Officer Recommendation**

1. That the Joint Regional Planning Panel supports the variation to the building height contained in clause 4.3 of Rockdale Local Environmental Plan 2011 in accordance with the clause 4.6 justification submitted by the applicant.
2. That the applicant submits to Council the following information:
  - a) The consent of Sydney Airport Corporation Limited (SACL) for the proposed building height.
  - b) A Stage 2 Detailed Site Investigation report prepared by a suitably qualified and experienced environmental consultant in accordance with 'Guidelines for Consultants Reporting on Contaminated Sites' published by NSW EPA. The report must clearly state the site's suitability for the proposed use and satisfy the requirement of Clause 7 of SEPP 55.
3. That upon receipt of confirmation from Council that the above matters have been addressed satisfactorily, the JRPP grants consent to development application DA-2014/283 for the demolition of the existing structures and construction of a part 7, part 6 and part 5 storey mixed use development, including 4 retail shops, 87 residential units, two basement levels comprising 120 parking spaces, front fencing and strata subdivision creating 93 lots pursuant to Section 80(3) of the Environmental Planning and Assessment Act 1979 and subject to the conditions attached to this report.
4. That the Department of Planning and Infrastructure be notified of the Joint Regional Planning Panel's decision.
5. That the objectors be notified of the Joint Regional Planning Panel's decision.

## Report Background

### BACKGROUND

On 10 July 2009 a development application (DA-2008/246) advice letter was granted by the Land and Environment Court for the demolition of the existing structures and construction of a 3 storey mixed retail, commercial and residential development including 10 residential units and 193 car parking spaces on the site. This application included a large supermarket (2,613m<sup>2</sup>) and additional retail component (1,561m<sup>2</sup>) with units above.

On 4 October 2012 a pre development application (PDA-2013/5) was issued by Council which involved the demolition of existing buildings and construction of a mixed use development up to 7 storeys in height comprising 102 residential units, ground floor retail space and basement parking for 134 cars on the subject site. The Pre DA was previously considered by the DRP on 13 December 2012. The letter outlined issues including the isolation of the adjoining lots at 288, 290 and 292 Forest Road, building height, streetscape to address the corner of the intersection, building setbacks at the front to be consistent with each street and rear setbacks, legibility of pedestrian entry points, shadows, building separation, housing mix and the future use of the right of way at 286A Forest Rd. These matters have been addressed later in this report in relation to the current proposal.

### PROPOSAL

The proposal will involve the following building works:

- demolition of the existing structures
- construction of a part 7, part 6 and part 5 storey mixed use development, including 4 retail shops, 87 residential units and two basement levels comprising 120 parking spaces,
- construct front fencing and
- strata subdivision of the development creating 93 strata lots.

The proposed development includes one new building aligned with the front boundary of the site along the corner of Forest Road and Frederick Street that increases in height up to 7 storeys at the corner and steps down to 5 storeys along each street frontage. The building contains shops fronting Forest Road and residential dwellings fronting Frederick Street. The original scheme was amended to remove the residential dwellings to the rear and incorporate them into one building at the front to retain open space to the rear of the site. The open space to the rear contains a barbeque area with a 2.2m high open timber pergola over it adjacent to a 16.6m long lap pool.

Vehicular access is provided to the basement car parking level from Frederick Street at the south eastern end of the site. The front fencing includes brick walls along Frederick Street between 1m and 1.5m in height with landscaping behind for the residential dwellings.

### EXISTING AND SURROUNDING DEVELOPMENT

The site has an irregular shape and comprises ten lots which combine with a frontage of approximately 55.175m to Frederick Street and approximately 39.52m to Forest Road. The site benefits from a right of way separated by 286 and 288 Forest Road. This right of way adds an additional 3.94m to the Forest Rd frontage. The site has an irregular shape with 294-298 Forest Road being regular lots with the front boundary at an angle, 286A Forest Road being two battle axe lots and 159 Frederick St being perpendicular at the rear. The total area of the site is 3,100m<sup>2</sup> (this excludes the ROW at 286A Forest Road as it will not

be built upon). The subject site primarily comprises single and two storey older style commercial / retail buildings with varying tenancies fronting Forest Road. Single storey garages and sheds also exist on the site to the rear of 290 and 292 Forest Road. The principal building currently on site is the 'Barclay Lounge' at the corner which operates as a function centre. A sewer line traverses the eastern boundary of the site. There is one mature tree on site, a Liquid Amber, located in the rear north western corner of 159 Frederick Street. This is proposed to be removed. There is no other significant vegetation on site.

The existing development on land adjoining the site along Forest Road is characterized by a low to medium density retail strip being to the north of the Bexley Shopping Centre. It comprises a mix of predominantly two storey developments with shops at street level and flats or commercial uses above. This type of two storey commercial development is also on the opposite side of Forest Road to the north west of the site.

The subject site lies at the northern end of the Bexley Shopping Centre retail strip. On the opposite corner towards the south is a Shell petrol and car service station and then further to the south is a public school. Further south, the southern end of the retail strip is commercially more dominant.

Towards the south and east the site adjoins lower density residential development primarily comprising single dwelling houses. These development types directly adjoin the subject site within Frederick St along its southern and eastern boundaries. The development adjoining the site to the north comprises two storey shops with a flat above. Further to the north are more single and two storey dwelling houses.

## **PLANNING CONSIDERATION**

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

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

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

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

The applicant has submitted a BASIX Certificate for the proposed development. The Certificate number is 531852M\_03.

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	20% (target 20%)
Reduction in Water Consumption	40% (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 contamination. However, the site contains two industrial buildings to the rear of No. 286A Forest Road. A preliminary environmental site assessment report prepared by Environmental Investigations Australia

has been submitted with the application. The report states that there are no signs of any contamination and given the history of residential and commercial uses on the site, it is considered that any contaminants, if present, would be confined to the upper superficial material and any associated impacts would be minimal. The report concludes that the site is suitable for the proposed residential purposes provided a detailed investigation is performed once the site is vacated.

The applicant has been advised that to satisfy the requirements of SEPP 55, a Stage 2 Detailed Site Investigation Report is required. The applicant has informed Council that the report is currently being undertaken.

At the time of writing this report, the Stage 2 Detailed Site Investigation Report has not been submitted to Council. Subject to submission of this report and a Remedial Action Plan (RAP) if require, to the satisfaction of Council's Environmental Health officer, the proposal would meet the requirements of SEPP 55.

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

Clause 45 of the ISEPP requires consultation with electricity supply authorities. Energy Australia was notified of the proposed development and to date, no response has been received in respect to the scheme. Notwithstanding this, conditions of consent are proposed to be imposed to ensure that the applicant consults with utility providers to determine any additional requirements.

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

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

The subject site comprises a northwestern facing frontage to Forest Road (a Classified Road) and a southwestern frontage to Frederick St. The proposal seeks to provide direct vehicular access from Frederick Street via a driveway along the southwestern side boundary. As such, the proposal meets the above requirement in providing access via another road.

The proposal has been accompanied by an Acoustic Report prepared by Acoustic Logic dated 27 February 2014. The report considered the impact of external noise intrusion into the development, including traffic and aircraft noise and any noise emission from the proposed development to any affected neighbours.

The report concludes that the proposed development is acceptable provided that noise control measures as outlined in the Acoustic Report are incorporated into the construction of the development. The proposal will be conditioned to ensure the acoustic treatments are incorporated in the construction of the development.

### ***Clause 104 – Traffic Generating Development***

Pursuant to schedule 3 of the SEPP, the proposed development contains 87 residential units (more than 75) and 120 on site car parking spaces (more than 50 spaces) and therefore is classified as traffic generating development under the SEPP.

The application was referred to the Roads and Maritime Services (RMS) who raised no objections to the proposal subject to the imposition of conditions of development consent. The conditions relate to redundant driveways being removed, a licence being obtained for any works that may impact on Forest Road, road noise attenuation measures and other matters. All of these conditions have been imposed as required by RMS.

The current application was referred to the Rockdale Traffic Development Advisory Committee on 14 May 2014. The committee resolved the following:

- 1 That this Development Application be referred to the RMS as it is fronting a State Road and RMS will provide comments accordingly.
- 2 That the developers be required to fund the installation of a pedestrian refuge island in Frederick Street immediately east of Forest Road.
- 3 That the proposed relocation of a bus stop in Frederick Street be referred to STA and also Transport for New South Wales for consideration.
- 4 That waste collection be carried out on site and the length of the garbage vehicle shall not block the footpath.
- 5 That loading and unloading activities shall be carried out on site.
- 6 That the proposed landscaping kerb blister islands should be removed.
- 7 That onsite loading be provided for a MRV and sweep path be provided.
- 8 That a pedestrian warning system be installed for vehicles exiting the car park.
- 9 That the shop awning be constructed at least 600 mm from the kerb line and 4.5m minimum height clearance from the footpath level and all future maintenance and liability will rest with the building strata.
- 10 That one parking space be marked exclusively for use by delivery vehicles.

The application was referred to the RMS for consideration and their comments have been included in the draft recommendation including conditions of development consent. The application was also referred to the State Transit Authority (STA) and Transport NSW on 24 May 2014. The STA have stated that the bus stop is required to remain in the street (i.e. it will not be removed) and that they raise no objections to the proposal. Transport NSW also stated that they raise no objections to the proposal. Conditions have been imposed in relation to the installation of a pedestrian refuge island in Frederick Street, deletion of the landscaping kerb blister islands from the plans, pedestrian warning system for vehicles exiting the car park and the awning being setback a minimum of 600 mm from the kerb line with minimum height clearance. The proposal includes provision of one loading bay within basement parking level 1 for use by delivery vehicles.

The proposal includes suitable bin storage areas at ground and basement level with waste collection occurring along the Frederick Street frontage. In this regard, the waste collection vehicles do not need to enter the building and the proposal complies with Council's requirements in respect to waste collection.

The RMS, RTDAC, Transport for NSW and Council's Development Engineer have not stated that the bus stop is required to be relocated further to the south east along Frederick Street. This is despite the exit driveway being blocked by the rear half of a bus picking up patrons - Note the entry driveway would still be accessible behind the bus. In this regard, the STA raised no objection to the proposal and stated that the bus stop could be relocated if necessary but fell short of requiring it to be so. Council's Development Engineer has stated that the amended scheme contains only one 5.6m wide driveway which is narrower than the original scheme and has less affectation on the operation of the bus stop. In the worst case, during peak periods approximately 2 to 3 cars would be required to queue on the driveway for several minutes whilst exiting the site waiting for the bus to move off. This inconvenience would be significantly less than relocating the bus stop given the location of properties, trees and driveways further along Frederick Street. In addition, the STA have requested any relocation of the bus stop should not be far from its current location. As such, it is

considered that relocation of the bus stop is not mandatory and the inconvenience to motorists exiting the site is not unreasonable.

Accordingly, the proposal is considered to satisfy the requirements of the ISEPP 2007 and RTDAC.

***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 to the Design Review Panel twice on 6 May 2014 and then again on 3 July 2014. The final comments from the Panel advised that *"The design cannot be supported in its present form and should be amended as outlined above for reconsideration by the Panel."* The application has since been amended to relocate the dwellings from the rear of the site to on top of the corner element at the panel's request in order to address the concerns raised by the panel. Notwithstanding, the panel raised the comments as outlined below.

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

The 10 design quality principles have been considered in the assessment of the proposal and are found to be satisfactory as indicated below.

**Principle 1 - Context**

The DRP stated:

Increased setback and stepping the proposal back from 157 Frederick St  
Increasing the rear setback greater than 4.5m from the rear boundary  
Providing ground level access to the units fronting Frederick St

**Comment:** The proposal has been setback a minimum of 6m from the property at 157 Frederick Street with the upper levels setback further. The rear building has been relocated to above the corner of the front building so that the rear setback has been increased from 4.5m to 14m. The units fronting Frederick Street have been provided with direct pedestrian access from Frederick St and have an appropriate setback to the street.

**Principle 2 - Scale**

The DRP stated:

The rear boundary setback of 4.5m should be increased to 14m to provide an appropriate transition to the existing and future development pattern.

**Comment:** The proposal has been improved with an increased rear setback and is satisfactory.

**Principle 3 - Built Form**

The DRP stated that some units should be re-orientated to improve privacy and overlooking issues and improve solar access with an increase in the rear setback to 12m. This could also be undertaken by relocation of the rear units to the front corner of Forest Road and

Frederick Street. The increase in height is a better design outcome with two levels on top of the corner.

**Comment:** The applicant has made substantial amendments to the scheme to undertake these changes requested by the DRP. The units are now on top of the building at the corner and comply with the DRPs request. The scheme has improved privacy, solar access and increased the rear setback to 14m.

#### **Principle 4 - Density**

The DRP stated that the proposal is consistent with the density controls under RLEP 2011 and Council confirmed the access handle is excluded from the FSR.

The proposal has not addressed irregular geometry of some apartments makes it difficult to arrange furniture functionality.

**Comment:** The amended scheme is considered acceptable in respect to furniture functionality and will provide more usable spaces within apartments.

#### **Principle 5 - Resource, Energy and Water Efficiency**

The BASIX Certificate demonstrates that the proposal meets the targets of the SEPP. The DRP stated that solar access and cross ventilation to the units is still to be confirmed. The 5000 litre rainwater tank is too small and requires review for a site of this size with additional information to be provided.

**Comment:** The amended scheme includes at least 65 units (74.7%) that have direct solar access in accordance with the RFDC while the applicant states the proposal has 80%. The proposal has 54 units (62%) that have cross flow ventilation while the applicant states that the proposal has 74%. Notwithstanding, the proposal complies with the requirements of the RFDC in respect to solar access and cross ventilation. The applicant has increased the size of the rainwater tank to 50,000 litres.

Accordingly, the proposal is acceptable in respect to resources, energy and water efficiency.

#### **Principle 6 - Landscape**

The DRP stated that the proposed landscaping does show additional private and communal open space to the north. However, the built form compromises the solar access to the central courtyard area. The cross fall of accessible paths of travel in the communal areas complies with AS1428.1. The location of the G8 planting areas should be reviewed as they appear to be overshadowed by adjacent buildings. The Panel believes that street trees to Frederick Street would significantly improve the amenity of apartment outlook.

There is inadequate treatment shown to achieve privacy between communal areas and private open spaces of units AG01, BG01, BG04, BG05 and BG10. This has been provided through fencing and planting and reconfiguration of the building. The planters have increased widths and improve privacy between private and communal open space.

Lawn areas provided for small private courtyards are inappropriate due to difficulty in maintenance. This has been improved with deck areas and planters being provided for the units at ground level.

**Comment:** The rear building has been relocated and the amended scheme allows ample solar access to the central courtyard. This area now forms one large communal area which

is more usable and a significant improvement on the site. The existing tree to the adjoining property is to be retained. The G8 planting areas have been relabelled as G7 (now screening mix) and vice versa. Both have been relocated to the areas that receive direct sunlight on the northern side of the building G7 and further north to the common lawn area G8 (swale planting). The application was referred to Council's Landscape Architect who raised no objections to the proposal subject to conditions. The conditions include submission of a detailed landscape plan with specifications and are to include provision of street trees within Frederick Street. This has been addressed through the imposition of a condition of development consent.

Based on the above the proposal is considered acceptable and is a significant improvement in respect to landscaping.

### **Principle 7 - Amenity**

The DRP stated that the amended plans have addressed the issues relating to the storage area in the units and reduced shadows over the house at 157 Frederick St. However, issues still exist being the following:

- a) small kitchens with insufficient bench space in several units,
- b) a high percentage of single aspect one bedroom units with bedrooms being deep set into the plan and using borrowed light across living areas and
- c) poor amenity with privacy impacts between private and communal areas.

Comment:

The amended plans include additional kitchen bench space with increased dwelling size. While some units are small, their respective bench size is considered to be sufficient. While the arrangement of bedrooms still have deep set bedrooms in some dwellings, the number of these dwellings containing this arrangement have been reduced with more dwellings having increased natural lighting. The poor amenity and privacy impact between private and communal areas has been resolved with the relocation of the dwellings from the rear to the front of the site.

The proposed lobby adjacent to the intersection of Forest Road and Frederick Street could be increased in size to minimum dimensions of 5.7m and 6.7m with a small reduction in the plant room adjacent to the lifts. This has been addressed through the imposition of a condition of development consent.

Accordingly, the amended scheme represents a significant improvement in respect to amenity.

### **Principle 8 - Safety and Security**

The proposal achieves a good level of safety and security. The DRP stated they would like a service lift and corridor to be provided at the rear of the commercial premises. The pedestrian entry spaces at the corner and within Frederick St should be reconfigured to provide a means of passive surveillance.

**Comment:** The amended scheme provides a corridor to the rear of the commercial premises. A lift is not considered to be necessary for 4 modest retail premises. The pedestrian entry spaces have been reconfigured and the application addresses the passive surveillance issue.

## **Principle 9 - Social Dimensions**

The DRP reiterated their concerns about conflicts from the private and communal domains referring to both open space areas and walkways at ground level and breezeways above. The DRP did not raise any objection to the proposed housing mix.

**Comment:** The amendments to the scheme included relocating the dwellings from the rear to the front in order to open up communal areas at ground level and better distinguish the private and communal domains. As such the amended proposal is considered acceptable and is supported in regards to social dimensions.

## **Principle 10 - Aesthetics**

The proposal incorporates contemporary architectural elements in the facade, which provide a satisfactory architectural expression. Despite this the DRP stated that there is insufficient detail on the façade treatment on Forest Road. A 3D visualisation is required.

**Comment:** An amended photomontage has been provided for each frontage and the scheme includes sufficient details on the façade treatment along each street frontage. In this regard, the proposal is considered acceptable in respect to its aesthetics and provides an appropriate external appearance to each street frontage.

### **c. The Residential Flat Building Code.**

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

The amended proposal has been significantly improved and complies with nearly all of the requirements of the Residential Flat Design Code apart from the following matter which is discussed in more detail:

The RFDC states that ground level apartments should have a private open space area of 25m<sup>2</sup> with a minimum dimension of 4m. The proposal complies with the minimum area but does not comply with the minimum dimension of 4m and has been reduced to 2m in places. This is not unreasonable given the large provision of communal open space well in excess of the minimum dimension and area.

Accordingly, the proposed development is considered acceptable in respect to the requirements of the RFDC.

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

The site is zoned B4 Mixed Use under the provisions of RLEP 2011. Development for the purpose of mixed use development with a residential flat building is permissible with Council consent. The proposal is consistent with the objectives of the zone. The relevant clauses that apply to the proposal are below.

### ***Clause 4.3 - Height of buildings***

The maximum permitted height under this clause is 16m and the proposal will include a maximum height of 22.23m which does not comply with this control. This has been addressed in more detail under the section titled *Clause 4.6 - Exceptions to Development Standards* later in this report.

#### *Clause 4.4 – Floor Space Ratio (FSR)*

A maximum floor space ratio (FSR) of 2:1 is permitted on the site. The proposal will result in a maximum gross floor area of 6186m<sup>2</sup> which represents a FSR of 1.99:1 for the site, which complies with this requirement pursuant to clause 4.4.

#### *Clause 4.6 - Exceptions to Development Standards*

A written request has been made by the applicant seeking a variation to the height control. The building has a height above the maximum of 16m for levels 5 and 6 being the two uppermost floors. The applicant has sought to justify the variation by demonstrating:

- (3)(a) that compliance with the standard is unreasonable or unnecessary in the circumstances of the case, and*
- (3)(b) that there are sufficient environmental planning grounds to justify the variation.*

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

- 4(a)(i) the applicant's written request is satisfactory in regards to addressing subclause (3) above, and*
- (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives of the relevant zone.*
- 5(a) The consent authority must also consider whether contravention of the development standard raises any matter of significance for State or Regional environmental planning, and*
- 5(b) The public benefit of maintaining the development standard.*

The applicant has submitted a detailed justification to the proposed variation to the development standard for the height control. It is stated that the proposed variation is justifiable as it involves the relocation of dwellings from the rear of the site to the front corner and will drastically reduce the privacy and amenity impact on the adjoining properties to the rear. In addition, the extra height will provide enclosure to the corner of Forest Road and the building steps down to the side boundaries in sympathy with neighbouring development. The variation to the development standard being sought will not have any effects outside the immediate area of the site for either State or Regional significance.

The applicant argued that if the development complied with the height control, it would have an increased detrimental impact on the amenity of the adjoining properties and the site would be unnecessarily limited from realising its full development potential, and in this regard prohibit the orderly and economic use of the land.

The applicant's submission for the variation under clause 4.6 includes the following reasons:

- The proposal will replace the unsightly and dilapidated structures which are adjacent or on the perimeter of the site with 87 residential units and 4 ground floor commercial units on a site accessible to public transport, employment, parks and general services, which is a better planning outcome for the subject site.
- The lack of external impact to surrounding properties in regard to overshadowing, visual and acoustic privacy and loss of views provides further justification for the proposed height.

- The proposed distribution of floor space on the site has been provided in an appropriate and skilful manner by the architect.
- The proposed height is supported by the comments provided from the Design Review Panel dated 2 July 2014:
 

“ . . . the Panel would support relocating these units to the corner of Forest Road and Frederick Street. The Panel notes previous advice by Council discouraged additional height but after reviewing the design proposal twice the Panel thinks that a better design outcome would be achieved based on this re-distribution. This could be achieved by relocating the equivalent floor space over up to a maximum of two (2) levels at the Forest Road and Frederick Street corner”.
- The sites opposite the subject site have a maximum height limit of 13m and the surrounding sites have a maximum height limit of 8.5m. The proposed development steps down from 7 storeys at a maximum height of 22.23m at the corner of Forest Road and Frederick Street down to 5-storeys along Forest Road and 4 storeys along Frederick Street. This stepping down provides a transition in development form to the adjoining land use zone boundaries.
- In accordance with the letter from Council dated 23 July 2014, the additional floor levels located above the maximum permitted height control are set well back from the side boundaries of the buildings, i.e. Level 5 is setback 2.4m – 7.7m and Level 6 is setback 15.9m – 21.8m from the boundary adjacent to No. 292 Forest Road and Level 5 is setback 20.8m and Level 6 is setback 46.8m from the boundary adjacent to No. 157 Frederick Street. The parts of the building closest to these boundaries are only 4 storeys (and 5 storeys on Forest Road), thereby reducing the bulk and scale to neighbouring properties.
- As demonstrated in the accompanying architectural plans and photomontages, the recessing of Levels 5 and 6 result in these levels not being visible from Frederick Street. The density of the additional height is concentrated in the front corner of the development. The floor area of Level 6 is very minimal.
- The corner presentation of the proposed development is improved by the additional height compared to a complying development, which would be built to the boundaries of the site.
- It is noted that the transition of the development, i.e. the stepping down from 7 storeys to 4 storeys can only be perceived from looking at the development from the service station to the west of the site and when walking down Frederick Street.
- The proposed development includes generous separation distances to the adjoining neighbours. In accordance with the comments provided from the Design Review Panel dated 2 July 2014, the proposal provides deep setbacks to the south-eastern (6m) and north-eastern (12 m – 18.8 mm) boundaries to allow for a transition to the adjoining existing and future low density development pattern.
- The landscaped and deep soil setbacks will create an interface and an effective transition to the adjoining lower scale development and provide the adjoining neighbours with an improved and pleasant outlook compared to the existing dilapidated structures currently on the subject site. The landscaped areas provide for a vegetated outlook for the units within the site.

- The overall scale and form of the proposed development is consistent with that envisaged by the LEP FSR control, with the proposal achieving an FSR of 1.99:1, which is less than the permissible 2:1 FSR for the site.
- The units will achieve a high standard of accommodation given they outperform solar access, unit size, ventilation, storage, separation distances, deep soil areas and communal open space requirements.
- The proposal provides for high quality residential units which include a variety of housing types to suit the needs of potential occupants ranging from singles, couples and small families. The proposal also provides affordable housing to suit its locality.
- The proposed landscaping will enhance the environmental amenity of the site and streetscape and provide a vegetated buffer to the adjoining developments.
- There are no adverse or unreasonable view, shadow or privacy impacts generated by the additional height. The proposal maintains the visual and acoustic privacy of surrounding neighbours through the recessed nature of the upper levels of the development, the deep setbacks from the boundaries of the adjoining properties and the deep soil landscaping along the perimeter of the site which will allow for the planting of large trees.
- The surrounding road network can accommodate the proposed vehicles generated by the proposed development whilst the nearby parks, shops and public transport are further indicators that the proposed height and density is suited to the subject site.
- The design of the proposal will positively contribute to the transitional nature of the locality. The articulated nature of the built form and high standard of colours, finishes and materials assists in providing a high quality streetscape presentation and urban design outcome.
- The additional height is indiscernible as a compliant height would have no different visual or amenity outcomes.
- The numeric height provision is one of many standards which indicate whether a proposal is an over-development. In this instance, achievement of the objectives of the standard, high internal environmental performance and lack of external impact combine to demonstrate that the variation is warranted and that the proposal cannot be considered to be an over-development.
- Council has suitably applied a flexible approach to the maximum height standard in accordance with the intent of the Standard LEP format. Given the environmental benefits of the proposal and the lack of external environmental impacts, the proposed variation is considered to be appropriate in this instance.
- The proposal is located at an intersection with very wide roads which permits the proposal to fit in comfortably without appearing bulky or overdeveloped with respect to its neighbours and surrounding development.

Pursuant to clause 4.6 (4) of the RLEP 2011, the applicant's written request to vary the control as stated above adequately justifies that compliance with the standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify contravening the development standard. Furthermore, the proposal is consistent with the objectives of the height standard and the mixed use zone applying to the site.

Based on the above, the applicant's submission is supported and the proposed variation is acceptable given the constraints of the site. Accordingly, the proposal is not likely to result in any significant precedent in the locality.

#### *Clause 6.1 – Acid Sulphate Soils*

The site is within an area classified as Class 5 in the acid sulphate soils map. The applicant has submitted an Acid Sulphate Soils Investigation Report. The recommendations of the report state that the site presents a very low risk of the presence of acid sulphate soils. As such, the preparation of an acid sulphate soil management is considered to be unwarranted. Accordingly, the proposal is consistent with the objectives and requirements of clause 6.1.

#### *Clause 6.2 – Earthworks*

The proposal involves extensive excavation within the site to accommodate the two basement car parking levels. In this regard, the proposal is not likely to have any detrimental impact on the environmental functions and processes, neighbouring uses and features of the surrounding lands. Conditions of development consent have been imposed in relation to the soil conditions and to ensure the earthworks will not have any adverse impacts on the future use of the land. Accordingly, the proposal is acceptable and as conditioned, complies with the requirements of clause 6.2 in relation to earthworks.

#### *Clause 6.3 – Development in areas affected by aircraft noise*

The site is located 220m away from the 20 ANEF contour for 2023/24. As such, the property is not affected by the ANEF. Despite this, an Acoustic Report has been submitted by the applicant. The report recommends acoustic measures to comply with the relevant standards as required by clause 6.3 for aircraft noise. A condition of consent is proposed to ensure that the recommendations of the report are carried out within the development.

#### *Clause 6.4 – Airspace operations*

The site is affected by the 7.62m building height Civil Aviation regulation. Both the original proposal and amended scheme were referred to Sydney Airport Corporation Limited (SACL) for comment. SACL approved the original proposal subject to conditions. However, SACL has verbally given in principal approval but is yet to confirm in writing the approval for the amended scheme which is two floors higher. Accordingly, the proposal is recommended to be approved once SACL confirms in writing that the proposed height is acceptable.

#### *Clause 6.6 – Flood Planning*

The site is not affected by flooding and as such the proposal complies with the requirements of this clause.

#### *Clause 6.7 – Stormwater*

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

#### *Clause 6.12 – Essential Services*

Services are generally available on the site. Additional conditions of consent are proposed requiring consultation with relevant utility providers to ensure appropriate provision of

services on the site. Accordingly, as conditioned, the proposal satisfies the requirements of clause 6.12 in relation to 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 State Environmental Planning Policy (SEPP) 65 is currently on public exhibition by the NSW Department of Planning. This document makes amendments to the Residential Flat Design Code (RFDC) and is to be renamed as the Draft Apartment Design Guide. The amendments are on public exhibition from 27 September 2014 until 27 October 2014.

As the current application was lodged on 20 March 2014 and there were no draft instruments at that time, the proposal is considered acceptable in respect to 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 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.

*Minimum Corridor Width*

The proposal contains two main pedestrian entry points which have a frontage of between 3m and 4m which is highly visible from the street. However, the corridor width after the main lobby for each pedestrian entry point within the building has been reduced at some points down to 2m while the corridor width on the upper levels varies from 2m to 1.8m and then 1.6m in some places. While this is less than the 2m minimum under Council's DCP, the location of these widths are for the residential component only and are not located in front of any lifts or main trafficable areas. The variation is not considered unreasonable given the design and layout of the corridors and that larger areas in excess of 2m are provided at the junctions on each floor.

*Apartment Size*

Council's DCP 2011 refers to the Residential Design Flat Code (RDFC) in respect to the minimum unit sizes. In this regard, the proposal will comply the apartment size requirements in the RDFC apart from the 4 x 3 bedroom units (92-107m<sup>2</sup>) and 9 x 2 bedroom units (72-79m<sup>2</sup>). Although the unit area provided for these units do not comply, they are considered to be reasonable given their design and layout and usability of space. The proposal is consistent with the objectives of the minimum apartment size control which state:

*To improve the range and quality of housing and residential environments that meet the diversity of peoples' needs and community expectations about health, safety and amenity.*

*To accommodate a range of different household types within each development*

Accordingly, the proposal is considered acceptable in respect to apartment size.

### *Private Open Space*

Council's DCP 2011 refers to the Residential Design Flat Code (RDFC) in respect to the minimum provision of private open space for each unit. The amended plans contain seven dwellings on each of levels 1 and 2 totalling 14 units which have balcony sizes that are just under the minimum areas for their dwelling type. The dwellings require 10m<sup>2</sup> or balcony area while the units provide between 7.5m<sup>2</sup> and 9m<sup>2</sup> on average. This is not considered unreasonable given the design and layout of the balcony space as well as the large provision of communal open space area on the site. The remaining units comply with the minimum private open space area requirements.

The proposal is consistent with the objective of the private open space requirement which states the following:

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

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

### *Acoustic Treatment*

An acoustic report prepared by Acoustic Logic, dated 27 February 2014 has been submitted with the application and the recommendations of the report have been included as conditions of consent. The report considered the impact of external noise intrusion into the development, including traffic and aircraft noise and any noise emission from the proposed development to any affected neighbours. In this regard, the proposal includes acoustic treatments to ensure minimal interior noise levels for the future occupants of the units.

The proposal includes acoustic treatments such as appropriate dwelling design, appropriate location of openings, sufficient landscape elements and web walls. However, the proposal does not comply with section 4.4.5 of Council's DCP 2011 in that it does not provide a five star acoustic treatment between floors and walls in accordance with the standards of the Association of Australian Acoustical Consultants (AAAC). The applicant has indicated that the development would be equivalent to a four star acoustic treatment and that additional work to provide a five star acoustic treatment is very expensive and not appropriate given the location of the site.

Council's DCP stipulates a minimum five star acoustic treatment for new apartments and this has been addressed in a condition of development consent. As conditioned, the proposal complies with Council's requirements and is considered acceptable in respect to acoustic treatment.

### *Ceiling Height*

Clause 4.4.3 of Council's DCP 2011 stipulates a minimum floor to ceiling height of 3.3m for both the commercial floor level and first floor of a mixed use development. The clause seeks to improve natural lighting and ventilation whilst encouraging the use of the first floor for commercial purposes such as home office suites and the like. The proposal has a floor to ceiling height of 3.06m on the ground floor and 2.7m on the first floor.

The Statement of Environmental Effects submitted with the application states that the proposal complies with the minimum floor to ceiling height of 2.7m stated in the RFDC and is therefore acceptable in this regard. It is noted that the site is not located within the Bexley

Town Centre and benefits from direct solar access due to its orientation. As such, the proposal is generally consistent with the objectives of the standard and strict compliance with the floor to ceiling heights is not warranted in this instance.

#### *Housing Diversity and Choice*

The proposal will provide the following housing mix:

	<b>Proposal</b>	<b>Council's DCP</b>	<b>Compliance</b>
3 bedroom or more	4 (4.6%)	10-20%	No
2 bedroom	24 (27.6%)	50-75%	No
1 bedroom	21 (24.1%)	10-30%	No
Studio	38 (43.7%)		
Subtotal	59 (67.8%)		
Total	87 (100%)		

The proposal does not comply with required housing mix under Council's DCP 2011. However, given the proposal includes a variety of bedroom units including 3 bedroom units, the proposal is not unreasonable. Although it will provide mostly smaller size units the applicant has shown that these are in high demand within the Bexley precinct. The DRP did not raise any objections to the proposal in respect to housing diversity. Accordingly, the proposal is considered acceptable in respect to housing diversity and choice.

#### *Strata Subdivision*

The proposal includes the strata subdivision of the development into 93 lots. The applicant has submitted a strata plan of subdivision which is consistent with the architectural plans for the redevelopment of the site subject to the conditions of development consent. In this regard, the strata subdivision will allow separate ownership of the commercial and residential units and management of the entire site by way of an owner's corporation.

The plans include 2 strata lots (comprising 2 car spaces within each lot) which the applicant has indicated are to be given to the owners of the adjoining two commercial properties at 290 and 292 Forest Road Bexley. This is because the proposal will prevent any vehicular access to the rear of these lots from the site which is currently accessed via the right of way. The surveyor has submitted information confirming that the 4 car spaces can be provided on the strata plan and does not require the provision of any easements over the site. In this regard, a condition of consent has been imposed requiring proof of registration of an 88B instrument with the Land and Property Information office that relates to the operation of the spaces on the strata plan and prevents them from being sold off separately. Council has received information from the owners of the adjoining properties consenting to the proposal and acceptance of the parking spaces.

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

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

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

#### **Provisions of Regulations (S.79C(1)(a)(iv))**

Clauses 92-94 of the Regulations outline the matters to be considered in the assessment of a development application. Clause 92 requires the consent authority to consider the

provisions of AS 2601:1991 - Demolition of Structures when demolition of a building is involved. In this regard a condition of consent is proposed to ensure compliance with the standard.

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

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

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

#### *Character / Streetscape / Density / Bulk / Scale*

The proposal complies with the maximum permitted floor space ratio (FSR) applying to the site under Council's LEP 2011. The amended plans include dwellings that have been relocated from the rear of the site to the corner of Forest Road in order to reduce amenity impacts and overshadowing. As such, the proposal exceeds the maximum height control on levels 5 and 6 at the corner with a variation of up to 6.23m for this part of the building. While this represents an increase in building height, it is for a limited length and is largely the result of efforts to comply with the recommendations of the DRP to reduce privacy and amenity impacts at the rear. Had the dwellings not been relocated, the proposed development would comply with the maximum height control of 16m but have greater adverse impacts to the rear. The relocation of dwellings is a significant improvement to the scheme and contributes to the reduction of impacts in the redevelopment of the site.

Even though the proposed development will have a height and scale greater than that of any of the surrounding developments, it is considered that the building has been suitably designed and contains sufficient setbacks capable of minimising impacts on the adjoining properties. Furthermore, the proposal is consistent with the zoning of the land (B4 Mixed Use) which is also different to the zone of the surrounding lands (low density R2 zone and opposite B1 Neighbourhood Centre opposite). In this regard, the building will conform to the current zone of the site even though it is more dense than those developments on land immediately adjoining it.

Notwithstanding the above, the proposal has a density, bulk and scale that is reasonable and consistent with the future desired character of the precinct.

The building has been designed to step down the site away from the corner with a massing that relates to the development on the adjoining properties. Each frontage has been designed to address the existing streetscape and includes an appropriate fenestration, variation of materials and modulation to break up the bulk of the building. As detailed in the photomontages submitted with the application, the proposal responds to the site context and will provide a reinforced corner element with a greater sense of enclosure to the adjacent intersection.

Based on the above the proposal is acceptable in respect to its density, bulk, scale and external appearance.

#### *Visual Privacy*

The proposal has been amended to relocate the dwellings from the rear of the site to the top of the building at the front corner. This amendment was made and the amended plans

renotified by Council. The changes made effectively reduce overlooking to the rear adjoining properties to a minimal degree and is a vast improvement for the development of the site. The amended scheme provides increased setbacks to the adjoining properties to the north east (rear 14m) which exceeds Council's minimum setback requirements and south east (side 6m) which complies.

The proposed dwellings have been oriented away from the dwellings on the adjoining properties using a large rear setback and limit overlooking to the common open space areas within the site. The dwellings have been designed with balconies off living areas that provide a usable internal amenity for the future occupants. The proposal uses landscape screening, web walls for horizontal separation between units and retains adequate privacy.

The proposal complies with Council's DCP in respect to setbacks, landscaping and communal open space area. In this regard, overlooking has been significantly reduced and the proposal is now acceptable in respect to affording adequate privacy within the site and between adjacent dwellings.

#### *Overshadowing*

The amended scheme has substantially reduced the extent of overshadowing likely over the adjoining property to the south at 157 Frederick Street through the relocation of the rear building and increase in setback to the south. In this regard, the proposal will cast the majority of its shadows over the street frontage and complies with the minimum direct solar access requirements for the adjoining properties.

The scheme provides sufficient access to the natural light for the proposed dwellings and complies with Council's DCP 2011 in this regard. As such, the proposal is acceptable in respect to overshadowing.

#### *Safety and Security*

The proposal has been referred to the NSW Police. To date, Council has not received any response from the NSW Police. Notwithstanding this, conditions of consent are recommended to be imposed in line with the safer by design principles and address security matters in respect to the scheme. Subject to compliance with these conditions, the proposal is satisfactory having regard to safety and security.

#### *Traffic/Parking*

The application has been accompanied by a Traffic Report prepared by Transport and Traffic Planning Associates. The report states that the proposal will satisfy Council's DCP in respect to the number of off street car parking spaces and concludes that design of the development in terms of vehicle access, circulation and parking is appropriate and that there will not be any adverse traffic impacts on the road system serving the site.

The proposal complies with the minimum required on site car parking requirements under Council's DCP 2011 and includes appropriate access to the basement car parking levels that can comply with AS2890.1. The application was referred to Council's Development Engineer who raised no objections to the proposal subject to the imposition of conditions of development consent. The conditions relate to access and parking and compliance with Council's Technical Specification.

The proposal was also considered by the Rockdale Traffic Development Advisory Committee, who made the recommendations that have been outlined previously in this

report (refer to the section headed State Environmental Planning Policy (Infrastructure) 2007).

As such the proposal is acceptable in respect to traffic and parking.

#### *Noise*

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

As indicated, an acoustic report prepared by Acoustic Logic, dated 27 February 2014 has been submitted with the application. The report considered the impact of external noise intrusion into the development, including traffic and aircraft noise and any noise emission from the proposed development to any affected neighbours. However, it does not demonstrate that the proposal will comply with the minimum 5 star acoustic treatment specified in Council's DCP. Accordingly, this has been addressed by way of a condition of development consent.

The proposal is likely to result in an increase in noise emissions from the site given the increase in density. However, it is anticipated to an increase that would ordinarily be expected within a high density residential zone. Accordingly, the proposal is considered to be satisfactory in regard to noise.

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

#### *Views and Vistas*

The proposal represents an increase in building height in the locality and will be visible street blocks away to the north east and south west along Forest Road. This street has a small rise to the north east up to approximately 2m above the level of the site with highest point along Forest Road. Notwithstanding this, the proposal is not likely to interrupt any iconic or pristine view corridors of esteemed value to any significant degree. Views out to the east to the airport and the bay, as well as south would simply include the proposed building. However, this will represent a small angle in an existing wide view corridor which extends from the airport to the east down to the Kurnell Headland to the southeast. As such, the existing views are not likely to be dominated by the proposal and the degree of view intrusion into the existing views is not considered to be significant. Accordingly, the proposal is considered acceptable in respect to views.

#### *Management of Waste*

The applicant has been in consultation with Council officers in regards to the provision of on site garbage collection facilities. The proposal includes an appropriate bin storage rooms at both ground level and within the basement. The application was also referred to Council's Waste Management officer who raised no objections to the scheme. In this regard, the proposal complies with Council's requirements and is satisfactory in regards to waste management.

### *Wind Impacts*

A Wind Assessment Report prepared by WindTech Consultants Pty Ltd was submitted with the original application which involved a five storey development on a corner surrounded by two storey developments. The report states that the proposal will benefit from shielding from an awning over the footpath along Forest Road and Frederick Street. Further, it states that trees used in the communal open space area can act to mitigate any north easterly winds but should be at least 5m high with a minimum spread of 4m being an evergreen species to ensure effectiveness all year round.

Based on the above, the report concludes that the proposed development will have a minor influence in the local wind environment subject to the above recommendations. The wind conditions for pedestrians around the development and the users of the communal areas are acceptable. The plans currently being considered include an awning along Forest Rd and partly along Frederick Street. This is considered acceptable and generally complies with the recommendation in the Wind Report. The remaining requirement in relation to trees can be addressed by way of a condition of development consent. Accordingly, the proposal is considered acceptable in respect to any wind impacts.

### *Swimming Pool*

The amended proposal includes the construction of a 16.6m long lap pool in the common open space area to the rear of the site. The pool will include appropriate safety fencing and comply with the requirements of AS 19626 – Swimming Pool Safety. This has been addressed by way of a condition of development consent.

The swimming pool has a setback to the rear boundary of 2.2m with dense landscape elements in between. The pool has been located and designed such that it is not likely to result in any significant noise or amenity impacts on the private open space areas of the dwellings on the adjoining properties. In this regard, it is a 3m wide lap pool rather than a large open form pool. The pool is considered to be acceptable as it is consistent with the objectives under clause 4.3 of Council's DCP 2011.

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

The relevant matters pertaining to the suitability of the site for the proposed development have been considered in the assessment of the proposal. Additional conditions of consent are proposed to further minimise any impacts on neighbouring properties. There are no known major physical constraints, environmental impacts, natural hazards or exceptional circumstances that would hinder the suitability of the site for the proposed development.

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

The development application has been notified twice in accordance with Council's Development Control Plan 2011. The first notification period was from 27 March 2014 to 17 April 2014 and four letters of objection were received by Council during this period. The second notification period for the amended plans was from 13 August 2014 to 28 August 2014 and no submissions were received by Council during this period. The issues raised in the 4 submissions are addressed below.

Issue: Overall height and bulk  
Out of character

**Comment:** This has been addressed previously in this report (refer to the section headed "Impact of the Development").

Issue: Overshadowing

**Comment:** This has been addressed previously in this report (refer to the section headed "Impact of the Development").

Issue: Loss of privacy

**Comment:** The amended plans have substantially reduced overlooking to the adjoining properties and improved privacy between adjacent dwellings. In this regard, the proposal is acceptable in respect to privacy. This has been addressed in more detail previously in this report (refer to the section headed "Impact of the Development").

Issue: Loss of views

**Comment:** This has been addressed previously in this report (refer to the section headed Views and Vistas).

Issue: Reduction in height of rear building required N/E corner  
Increased setback to southern side boundary

**Comment:** The amended scheme relocated the entire rear building to the front of the site increasing the rear setback to 14m and also increased the setback to the southern side boundary to 6m. In this regard, the proposal constitutes a significant improvement and is acceptable as it complies with Council's DCP 2011.

Issue: Loss of property values

**Comment:** No information has been submitted with the application to substantiate this claim.

Issue: Increase in noise generation from the site

**Comment:** This has been addressed previously in this report (refer to the section headed "Impact of the Development").

Issue: Increase in traffic congestion on the site and at the corner with Forest Rd  
Increase in pedestrians to and from the site  
Increase in on street car parking  
The intersection may require traffic lights

**Comment:** The proposed development is likely to increase trips to and from the site both vehicular and pedestrian. The application was referred to Council's Development Engineer who raised no objections in respect to traffic and parking subject to conditions being imposed. The proposal complies with Council's traffic and parking requirements and is not likely to result in any significant adverse impacts in this regard. The surrounding street network is capable of accommodating the likely increase in vehicular activity and the proposal is not considered likely to reduce road safety within the surrounding street network.

While the previously approved commercial development which involved a large supermarket required the provision of lights to manage the adjacent intersection, the current scheme does not. The proposal was referred to the RMS and RTDAC both of whom did not require the installation of traffic signals at the adjacent intersection. Accordingly, the proposal is considered acceptable in respect to traffic and parking.

### **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 any 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 demolition of the existing structures and construction of a part 7, part 6 and part 5 storey mixed use development, including 4 retail shops, 87 residential units, two basement levels comprising 120 parking spaces, front fencing and strata subdivision creating 93 lots. The proposal is consistent with the objectives of the controls under RLEP 2011, DCP 2011 and relevant state policies. As such, the application DA-2014/283 is recommended for approval.