

	2015SYEI69
	227/2015
	Demolition of existing structures and the construction of a mixed use development consisting of ninety-five (95) apartments, basement carparking and ground floor commercial/retail tenancies.
	Primus DMS Pty Ltd
	Bernard Moroz, Senior Planner, Georges River Council

Development Approval

That Council as the Consent Authority pursuant to Section 80(1)(a) Environmental Planning & Assessment Act 1979, grant consent to Development Application No 227/2015 for the demolition of the existing structures and the construction of a mixed use residential development consisting of ninety-five (95) residential apartments, basement car parking and ground floor commercial/retail tenancies at No 365-377 Rocky Point Road Sans Souci, subject to conditions.

Report Summary

Proposal

Council is in receipt of an application for the demolition of the existing structures and the construction of a mixed use residential development consisting of ninety-five (95) residential apartments, basement car parking and ground floor commercial/retail tenancies.

Site and Locality

The subject site is located on the western side of Rocky Point Road on the intersection of Bonney Street. The site is irregular in shape, has a total area of approximately 4,099m² and contains a single dwelling house, a retail building formerly occupied by a newsagency and Sans Souci Shopping Village, a local shopping complex containing a cafe, bakery and greengrocer. The site is located in an area that presents a variety of building types and scales ranging in scale from single storey residential to five storey shop top development.

Zoning and KLEP 2012 Compliance

The site is zoned B1-Neighbourhood Centre Zone under KLEP 2012 and the proposal is a permissible form of development with Council's consent. The proposed development satisfies all relevant clauses contained within KLEP 2012.

Kogarah Development Control Plan 2013 (KDCP 2013)

The proposed development generally satisfies the provisions of Council's DCP. Areas of non-compliance are discussed in more detail in the body of this report.

Submissions

Twenty-seven (27) submissions were received raising the following concerns:

- Privacy /overlooking
- Overshadowing
- Property values decreased
- Height and Scale of development for context and New City Plan planning controls and the impact on remaining low density residential
- Traffic and Parking Impacts and reasoning as to why access is not provided off both Newcombe and Bonney Street.
- Noise from delivery trucks, burglar alarms, garbage collection, vehicles entering and exiting the development and shoppers
- Lack of facilities to cater for proposed number of residents
- This development will set an unreasonable precedent for high rise development
- Significant overdevelopment in comparison to that approved at 528-538 Rocky Point Road (The Jameson) within the Rockdale LGA
- Removal of trees on the site
- Light nuisance and air pollution
- The proposal must comply with the New City Plan maximum controls
- Narrowness of Bonney Street to cater for this scale of development

Conclusion

Having regard to the Heads of Consideration under Section 79C (1) of the Environmental Planning and Assessment Act 1979 and following a detailed assessment of the proposal Development Application No. 227/2015 should be approved subject to conditions.

Report in Full

Proposal

Council is in receipt of an application for the demolition of the existing structures and the construction of a mixed use residential development consisting of ninety-five (95) residential apartments, basement car parking and ground floor commercial/retail tenancies.

Specifically, the proposal includes:

- Three (3) retail/commercial tenancies, with a total floor area of 472m² located on the ground floor level fronting Rocky Point Road;
- A total of 95 apartments, comprising 53 x 1-bedroom, 32 x 2-bedroom units and 10 x 3 bedroom units; and
- 167 off-street car parking spaces in 2 levels accessed via Bonney Street.

The Site and Locality

The subject site is located on the western side of Rocky Point Road on the intersection of Bonney Street. The site is irregular in shape, has a total area of approximately 4,099m² and contains a single dwelling house, a retail building formerly occupied by a newsagency and Sans Souci Shopping Village, a local shopping complex containing a cafe , bakery and greengrocer. The site itself is relatively level and is vegetated throughout.

The site is adjoined to the immediate west by dwelling houses, with frontages to both Bonney and Broughton Streets. The site is adjoined to the immediate east by Rocky Point Road. On the opposite side of Rocky Point Road (within Rockdale LGA), the streetscape is characterised by one (1) and two (2) storey buildings while to the south east of the site, a recently constructed five (5) storey shoptop development is presented.

The site is adjoined to the south by No. 379 Rocky Point Road, which is a strata subdivided two (2) storey retail/commercial building. Further south is No. 381 Rocky Point Road, which is a strata subdivided three (3) storey shoptop housing building. The site is adjoined to the immediate north by Bonney Street where the streetscape is characterised by retail, commercial and shoptop housing buildings ranging in scale from one (1) to three (3) stories.



Background

On 30 October 2015 the Development Application subject of this report was lodged with Council.

On 3 December 2015 the application was reviewed by the St George Design Review Panel.

From 16 December 2015 to 18 January 2016 the application was advertised and neighbour notified concurrently.

On 5 February 2016 the applicant was sent a letter advising of a number concerns with the application. These concerns included those raised by the St George Design Review Panel. The following issues were to be addressed:

- Bulk and scale and building separation
- Design issues raised by the St George Design Review Panel – particularly with respect to building separation, density, and other minor design issues
- Traffic and Parking, vehicular access, carpark and driveway design
- Tree removal and retention
- Waste management design issues
- Stormwater issues

On 1 April 2016 plan amendments inclusive of supplementary information were lodged with Council.

From 13 April to 28 April 2016 the amended plans and supporting information were advertised and neighbour notified concurrently.

On 8 June 2016 the applicant submitted further amended plans. These plans were a reduction in the overall scale of the building and addressed issues that were raised during the notification period and initial assessment. As a result, these plans did not require re-notification or advertising. These plans and associated information are relied on for this assessment.

Section 79C Assessment

The following is an assessment of the application with regard to Section 79C (1) of the Environmental Planning and Assessment Act 1979.

(1) *Matters for consideration – general*

In determining an application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

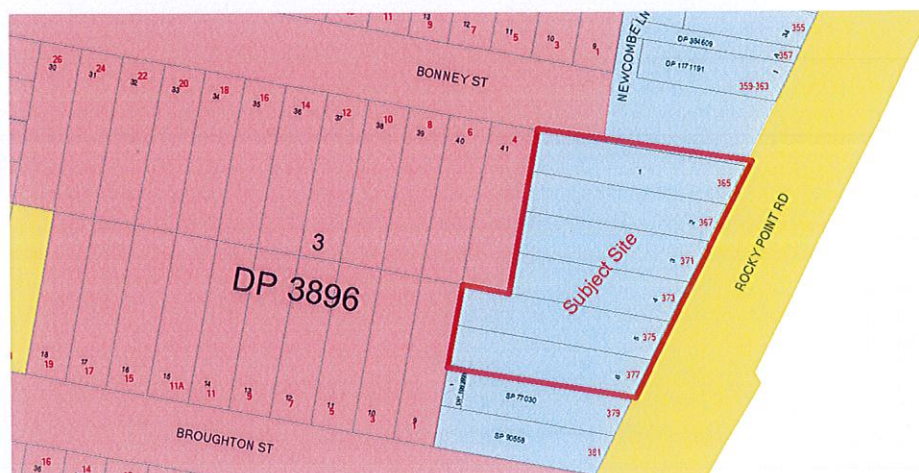
- (a) *the provision of:*
- (i) *any environmental planning instrument,*

Kogarah Local Environmental Plan 2012 (KLEP 2012)

Part 2 – Permitted or Prohibited Development

Clause 2.1 – Land Use Zones

The site is zoned B1-Neighbourhood Centre Zone under KLEP 2012 and the proposal is a permissible form of development with Council's consent. The proposed development satisfies all relevant clauses contained within KLEP 2012.



Part 5 – Miscellaneous Provisions

Clause 5.9 – Preservation of Trees or Vegetation

The proposed development involves the removal a number of trees and vegetation on the site.

The application is accompanied by an Arboriculture Impact Assessment (prepared by Stuart Noble Arboriculture), dated 31 March 2016, that provides an assessment of all trees on the site and surrounds.

The application was referred to Council's Parks and Recreation Coordinator who raised no issue with the removal of a number of trees on the site subject to replacement planting. It was also recommended that a number of trees on both the subject and neighbouring sites be preserved and protected in accordance with the Arboriculture Impact Assessment. These are as follows:

Tree Species	Location of Tree/Tree No	TPZ
Banksia Integrifolia	365-377 Rocky Point Road/ Tree 1	4.8 metres
Angophora hispida	365-377 Rocky Point Road/ Tree 2	3.6 metres
Syzygium australe	365-377 Rocky Point Road/ Tree 3	2.4 metres
Populus nigra "italic"	4 Bonny Street / Tree 12A	9.6 metres
Liquidamber orientalis	4 Bonny Street / Tree 12B	4.8 metres
Populus nigra "italic"	4 Bonny Street / Tree 12C	9.6 metres

Clause 5.10 – Heritage Conservation

The subject site is not listed as a heritage item in Schedule 5, is not within a Heritage Conservation Area, nor are there any heritage items located nearby.

The nearest heritage item is the Roman Catholic Church located at No.21 Broughton Street, Sans Souci. The proposal is well removed from the item and is not considered to result in any impacts thereto.

Part 6 – Additional Local Provisions

Clause 6.1 – Acid Sulfate Soils

The subject site is not shown as being affected by acid sulfate soils as identified on the Acid Sulfate Soil Map.

Clause 6.2 – Earthworks

The application is accompanied by a Geotechnical Investigation Report (prepared by Aargus), dated 7th October 2015. This report concluded that the ground conditions are generally suitable for the proposed development subject to the recommendations made in the report being adopted. These recommendations will be imposed as development consent conditions.

In summary, the proposed earthworks are considered acceptable having regard to the provisions of this clause as the works are not likely to have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

Clause 6.3 – Flood Planning

The subject site has not been identified as a flood planning area on the Flood Planning Maps.

Clause 6.4 – Limited Development on Foreshore Area

The subject site is not affected by a foreshore building line and therefore provisions of this clause are not applicable.

Clause 6.5 – Airspace Operations

The proposed development will not penetrate the Limitation or Operations Surface for both Sydney and Bankstown Airports and therefore provisions of this clause are not applicable.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

A BASIX Certificate has been issued for the proposed development and the commitments required by the BASIX Certificate have been satisfied.

State Environmental Planning Policy (Infrastructure) 2007

In accordance with Clause 101, development with a frontage to a Classified Road needs to ensure that new development does not compromise the effective and ongoing operation and function of classified roads or prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads. The application was referred to Roads and Maritime Services for comment who raised no objection to the proposal on these grounds subject to the imposition of a number of conditions. Consent conditions will be imposed as part of any development consent in accordance with the Roads and Maritime response dated 21 January 2016.

With respect to Clause 102 and the impact of road noise or vibration on non-road development, this clause applies to development for the purpose of a building for residential use that is on land in or adjacent to the road corridor for a freeway, a tollway or a transitway or any other road with an annual average daily traffic volume of more than 40,000 vehicles (based on the traffic volume data published on the website of the RTA) and that the consent authority considers is likely to be adversely affected by road noise or vibration.

Before determining a development application for development to which this clause applies, the consent authority must take into consideration any guidelines that are issued by the Director-General for the purposes of this clause and published in the Gazette.

If the development is for the purposes of a building for residential use, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded:

- (a) in any bedroom in the building—35 dB(A) at any time between 10.00 pm and 7.00 am,
- (b) anywhere else in the building (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.

The application is accompanied by an Acoustic and Vibration Report prepared by Renzo Tonin & Associates (dated 29/10/2015) stating that, “*windows opened criteria cannot be achieved for habitable rooms facing Rocky Point Road where the only openable windows face Rocky Point Road*” and that, “*further assessment of internal noise levels with windows opened is required at detailed design*”. This application was referred to Council’s Environmental Health Officer who recommends that further acoustic assessment be undertaken prior to issue of CC stage.

It is considered that the above may be resolved by way of imposition of conditions.

Clause 104 applies to Traffic Generating Development resulting in a:

(a) new premises of the relevant size or capacity, or
(b) an enlargement or extension of existing premises, being an alteration or addition of the relevant size or capacity. In this clause, *relevant size or capacity* means:

(a) in relation to development on a site that has direct vehicular or pedestrian access to any road—the size or capacity specified opposite that development in Column 2 of the Table to Schedule 3, or
(b) in relation to development on a site that has direct vehicular or pedestrian access to a classified road or to a road that connects to a classified road where the access (measured along the alignment of the connecting road) is within 90m of the connection—the size or capacity specified opposite that development in Column 3 of the Table to Schedule 3.

Column 3 of the Table to Schedule 3 outlines that a site with access to a classified road or to a road that connects to a classified road (if access within 90m of connection, measured along alignment of connecting road) which is applicable in this case, is defined as a Traffic Generating Development if it will comprise of 75 or more dwellings. In this case, 95 dwellings are proposed. As such, Clause 104 is applicable.

Before determining a development application for development to which this clause applies, the consent authority must:

- a) give written notice of the application to the RTA within 7 days after the application is made, and
- (b) take into consideration:
 - (i) any submission that the RTA provides in response to that notice within 21 days after the notice was given (unless, before the 21 days have passed, the RTA advises that it will not be making a submission), and
 - (ii) the accessibility of the site concerned, including:
 - (A) the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and
 - (B) the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and
 - (iii) any potential traffic safety, road congestion or parking implications of the development.
- (4) The consent authority must give the RTA a copy of the determination of the application within 7 days after the determination is made.

The proposal was referred to Roads and Maritime Services with a response received on 21 January 2016. RMS advised that the application was reviewed and that concurrence would be provided under Section 138 of the Roads Act 1993 subject to the imposition of a number of conditions being included with any development consent. The recommended conditions of consent outlined in the RMS response letter dated 21 January 2016 will be imposed as part of any development approval.

In order to analyse any potential traffic safety, road congestion or parking implications of the development, Council conducted an independent traffic count in Bonney Street outside number 15. This was conducted from 2pm Wednesday 11 May 2016 until 2pm Wednesday 18 May 2016 to obtain 7 days of data. The results from the traffic counter indicated that the average weekday peak periods occurred between 8am and 9am and 3pm to 4pm in Bonney Street. The average hourly traffic volume in these periods was determined to be 158 vehicles and 130 vehicles respectively. The counts show that the daily average number of vehicles is 1,286.

R.O.A.R Data has conducted a traffic count for the applicant on Monday 29 February 2016 at the existing driveway for the retail shops on Bonney Street. This was conducted from 7am to 9am and from 4pm to 6pm with the peak hour for the morning between 8am – 9am and afternoon from 4:15pm – 5:15pm which are similar to the result from Council's traffic counter. The existing retail component is 845m².

From these counts, the existing traffic generation of the site was calculated to be as follows:

AM	PM
114 vehicle trips per hour (vtph)	92 vehicle trips per hour (vtph)

The development proposes the construction of a 5 storey mixed use building containing 472m² of commercial / retail floor space on the ground level and 95 residential units on the upper levels (53 x 1 bedroom unit, 32 x 2 bedroom unit and 10 x 3 bedroom units). It is noted that the proposed retail component is 373m² smaller than the existing site which is a 44% reduction. The on-site parking rates and traffic generation of the development are calculated using the Roads and Maritime Services "Guide to Traffic Generating Developments, Version 2.2, October 2002" document which is NSW wide. The Council Development Control Plan 2013 is also used to calculate the parking rates.

The traffic generation rates of the development will be broken up into 2 uses, being retail and residential. Council will be calculating the traffic generation rate of the residential component using the RMS "Guide to Traffic Generating Developments" document as a "Medium Density Residential Flat Building" as it has a higher generation rate than a "High Density" building. As per the RMS Document (Section 3.3.2), the following traffic generation rates are to be used for a medium density residential development:

Traffic Generation Rates	
Daily Vehicle Trips	Peak Hour Vehicle Trips
<i>Up to 2 bedrooms</i>	
4-5 / dwelling	0.4-0.5 / dwelling
<i>3 bedrooms or more</i>	
5-6.5 / dwelling	0.5-0.65 / dwelling

Applying the above higher rates to the new development for Residential (53 x 1 bedroom unit, 32 x 2 bedroom unit and 10 x 3 bedroom units) is:

Daily Vehicle Trips	Peak Hour Vehicle Trips
$(85 \times 5) + (10 \times 6.5) = 425 + 65$	$(85 \times 0.5) + (10 \times 0.65) = 43 + 6.5$
TOTAL = 490	TOTAL = 50

As previously noted above, the proposed RETAIL component of the development is 44% smaller than the existing size and therefore would generate 44% less traffic as per the below table:

AM	PM
EXISTING RETAIL = 114 vtp	EXISTING RETAIL = 92 VTPH
PROPOSED RETAIL = 44% SMALLER	
$114 \times 0.44 = 50.16$	$92 \times 0.44 = 40.48$
TOTAL = 114 - 50.16 = 64 vtp	TOTAL = 92 - 40.48 = 52 vtp

Therefore the AM and PM peak periods for traffic generation of the residential and retail components are calculated by adding the traffic generation rates together:

AM	PM
Residential = 50 vtp	Residential = 50 vtp
Retail = 64 vtp	Retail = 52 vtp
TOTAL = 114 vtp	TOTAL = 102 vtp

The difference in traffic generation of the existing use to the proposed development mixed use is calculated as:

AM	PM
Existing site = 114 vtp	Existing site = 92 vtp
Proposed site = 114 vtp	Proposed site = 102 vtp
DIFFERENCE = (114-114) = 0 additional vtp	DIFFERENCE = (112-92) = 10 additional vtp

As a result, there will be a maximum of 10 additional vehicles (1 extra vehicle every 6 minutes) in the PM peak period as a result of the construction of the new development.

The worst case scenario of the development is that 100% of these 10 extra vehicles turn left out of the driveway to the development and travel down Bonney Street towards The Promenade. In reality it could be assumed that about 50% of the vehicles (5) turning out of the driveway would head in a westerly direction with the other 50% (5) turning towards Rocky Point Road. However for calculations, Council will use 100% (10) in Bonney Street to determine the traffic impact on the street. The results from Councils traffic counter indicated that the maximum average hourly traffic volume in the peak period was 158 vehicles. So if the additional 10 vehicles from the development travel down Bonney Street the average hourly traffic volume will be $(158 + 10) = 168$ vehicles.

As per the RMS Document (Section 4.3.5), the Environmental Capacity on Local Residential Streets is:

Road Class	Road Type	Maximum peak hour volume (veh/hr)
Local	Street	200 environmental goal
		300 maximum

As the calculated worst case scenario of the additional traffic using Bonney Street will be 168 vehicles in peak hour, this is well below the RMS performance standard environmental goal of 200 vehicles per hour for a local street. The additional 10 vehicles (ie 1 extra vehicle every 6 minutes) will have no significant impact on any surrounding intersections.

In summary, as the existing retail site in this location generates a high number of vehicles already, the demolition of this and the construction of the mixed use development will cause only a minor increase in traffic, however as shown in the tables above, this will be well within the acceptable volume as required by the RMS.

ON-SITE PARKING CALCULATIONS

The on-site parking calculations are determined using Council's Development Control Plan 2013, Part B – General Controls – B4 Parking and Traffic:

Use / Activity	Minimum numbers of Car Spaces Required	REQUIRED SPACES
	1 bedroom unit = 1 space / unit	$53 \times 1 = 53$
	2 bedroom unit = 1.5 spaces / unit	$32 \times 1.5 = 48$
Residential Flat Building	3 bedroom unit = 2 spaces / unit	$10 \times 2 = 20$
	1 visitor space / 5 units	$96 / 5 = 19.2$
	1 designated car wash bay which may also be used as visitor	
Retail Component	1 space / 25m ²	$472 / 25 = 19$
		TOTAL REQUIRED = 53 + 48 + 20 + 19.2 + 22.6 = 160 spaces

In accordance with the DCP, the development requires 160 car parking spaces within the site. The development proposes 167 on-site car parking spaces and is in excess of the requirement.

As a summary, based on the expected traffic generation volume and on-site parking numbers, the Traffic Section has no reason to reject the application for the construction of the mixed use residential development and ground floor commercial / retail at 365 – 377 Rocky Point Road, Sans Souci.

The RMS will be forwarded a copy of the determination of the application within 7 days after the determination is made.

State Environmental Planning Policy No 55 – Remediation of Land

The application is accompanied by a Preliminary Site Investigation (prepared by Aargus), dated 9 October 2015, that provides an assessment of any potential onsite contamination.

The report was referred to Council's Environmental Health Officer for comment who outlined the following:

“The Preliminary Site Investigation identified that contaminants may be present in some areas of the site and that a Detailed Site Investigation is required to confirm the presence and extent of contamination, and that remediation and validation be undertaken should it be required. The report also states that a Detailed Site Investigation must be undertaken and that after remediation and validation, if required, the site will be suitable for its intended use”.

It was recommended by Council's Environmental Health Officer that prior to demolition and any excavation, the person with the benefit of the consent is to undertake a Stage 2 Detailed Site Investigation in accordance with the *Contaminated Lands Management Act 1997*, SEPP 55– Remediation of Land and NSW EPA's "Sampling Design Guidelines for Contaminated Sites".

If the Stage 2 Detailed Site Investigation report identifies that remediation works are required, a Remediation Action Plan (RAP) is to be prepared by a suitably qualified person, submitted to the Principle Certifying Authority (PCA) and the RAP must be implemented according to the *Contaminated Lands Management Act 1997* & SEPP 55 – Remediation of Land. On completion of the remediation works identified in the Stage 2 Detailed Site Investigation, a validation report shall be prepared by a suitably qualified person and be submitted to the Principle Certifying Authority. The Validation report shall be prepared in accordance with the *Contaminated Lands Management Act 1997* & SEPP 55 – Remediation of Land.

It is considered that the above may be resolved by way of imposition of conditions of consent.

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

The proposed development is subject to the provisions of SEPP No 65, which aims to improve the quality of residential flat design in NSW.

The application has been accompanied by a design verification from a qualified designer that verifies that:

- a) *He or she designed or directed the design of the modification, and*
- b) *The modifications achieve the design quality principles as set out in Part 2 of SEPP No 65, and*
- c) *The modifications do not diminish or detract from the design quality, or compromise the design intent of the approved development.*

The application was referred to the St George Design Review Panel for consideration at their meeting of 3 December 2015. The following comments were provided with respect to the design quality principles set out in the Policy:

Context and Neighbouring Character

This section of Rocky Point Road in Sans Souci is evolving from a very low scale suburban character into a medium density and medium rise area. Opposite sides of the road are under the controls of separate Councils, and a five storey development was recently completed diagonally opposite the subject site inside the Rockdale LGA. This has set a precedent for development of this scale, which although currently not permissible under the Kogarah LEP, will be allowed when the drafts new controls are introduced. This will include density of 2.1 and height limit of 15m.

The site immediately adjoins a low scale residential area to the west raising issues about the interface between the two zones.

Officer Comment

The Panel's comments on the current and changing context are concurred with. The site is located within a mixed use area that forms the interface between the local centre and lower density residential area. The proposed development is compatible with the recently constructed five to six storey shoptop housing development located to the south-east within the Rockdale LGA.

In respect to the building interface with the adjoining low scale residential area to the west, the amended design has incorporated additional setbacks and the deletion of a number of units on the upper most levels of the building. This design outcome has resulted in built form being significantly scaled down on approach to the western side of the site and the interface between the two zones.

Built form and Scale

Although the setbacks of 9m from the western end of the two wings are satisfactory, the setback of the southern block from the residential property immediately to the north is inadequate. This also should be increased to 9m requiring the section of the building to be re-planned.

The small exceedance of the 15m height control for the main building could be accepted, but the structure over the roof-top communal area is far too assertive. This should be redesigned and well setback from the building frontages.

The roof lights on level five in the center of the block are also too prominent and would read as an additional floor from Rocky Point Road.

Officer Comment

The southern block provides setbacks that range from 7m-9m that are in accordance with the ADG guidelines. Modifications were carried out to the design primarily to the upper levels of the building along the western side where setbacks ranging from 12m to 17m are incorporated and the overall numbers of apartments have been reduced from 101 to 95. These design outcomes provide further separation between the subject building and the low density residential interface where the building now incorporates a notable stepping down to the neighbouring low scale properties. The amended design has also reduced the size of balconies along the western building's façade that again will assist in reducing the visual scale of the proposal when viewed towards this elevation.

While a non-compliance is presented with the minimum required setback of the terrace areas associated with Units 4-16 and 4-17 which present a setback of 6m in place of the required 9m, the height of this development in this location in comparison to that of the neighbouring building to the south will ensure that no unreasonable impacts result from this non-compliance.

Further, as the property located at 381 Rocky Point Road has recently been developed as a low scale shop top housing development, the probability of this site being demolished and amalgamated with the directly neighbouring site at 379 Rocky Point Road is improbable. It is therefore anticipated that the directly neighbouring site to the south would not be capable of being developed to a height or scale reflective of that being proposed. As a result, the shortfall in separation away from the ADG controls in respect to the uppermost level is supported.

The proposed roofs over the communal terraces have been designed as floating elements, setback from the perimeters of the building to minimise their visual impact. They provide "bookends" to the proposed building, which are appropriate given the site's location at the southern end of the Sans Souci shopping strip.

While the proposed roof lights have been treated with a different colour to the levels below, they do unreasonably add to the perceived visual scale of the building. In this case, the roof lights are considered to be too visually prominent and are not supported in either their form or location. A consent condition would be imposed with any development consent requiring their deletion.

Density

The FSR under the new planning control is proposed to be 2:1. The density in the application is 2.166:1 (680m² over). There is no public benefit offered to justify such excess, which cannot be supported.

Officer Comment

The proposed development has been amended to achieve an FSR of 2:1.

Sustainability

No comment made

Landscape

Open space amenity should be continued to the streetscape edge. Consideration should be given to the main entries from Rocky Point Road and Bonney Street. It can be interpolated by creating more amenity to the building entrance. The internal open space to the south west corner of the site should be increased to provide additional landscape buffer to balconies and private living spaces, particularly adjacent to the single storey brick residence to the north of this area.

The site plan A-DA-030 shows green space to Rocky Point Road. This is not reflective of the landscape plan and actual proposed site conditions.

Officer Comment

The communal open space in the SW corner of the site has been enlarged with the redesign of the SW corner of the proposed building. A revised landscape plan has been submitted. The proposed site plan and landscape concept plans have been amended.

Amenity

The SEE asserts that 69% of the apartments achieved acceptable solar access. This was explained as being achievable by way of roof lights to the top level apartments, but no details were provided as to whether this was a realistic proposal.

Full details will need to be provided to demonstrate that satisfactory solar access could be achieved to these units. Provide roof lights/vents to top level internal bathrooms and provide natural light to basement car park also by way of roof lights integrated into the landscape zone. There is inadequate separation between several of the bedrooms and the living rooms at internal corners of the plan. This could be accepted provided that satisfactory screening is included.

Clear glass balustrades to balconies; particularly at lower levels is questioned. Provide adequate privacy and enhance usability of balconies by way of more solid balustrading and/or adjustable sliding screens. The amenity and security of the three ground floor units facing Bonney Street are problematic, with insufficient depths or setbacks of the living rooms and bedrooms from the street boundary.

Officer Comment

The applicant has confirmed that 70% of dwellings achieve the minimum required solar access and have also provided details demonstrating how solar access calculations have been undertaken. Skylights are proposed to the uppermost level, as recommended. Voids have been provided within the ground level communal open space allowing for natural light and ventilation to the proposed basement level 01. Privacy screens have been provided to Units 104, 105, 123, 204, 205, 223, 304, 305, 323 and 404 to minimise cross-viewing, as recommended. The proposed balconies comprise a mix of solid, glazed and metal balustrades. Privacy screens have also been incorporated as an additional measure to maximise amenity.

The ground floor level dwellings fronting onto Bonney Street have a similar front setback to No. 6 Bonney Street. The proposed boundary fences to the dwellings have been increased in height and landscaping is provided within the courtyards to provide additional privacy and amenity.

Safety

The three main entrances to the residential units are deeply recessed and would be unsafe, particularly at night. Entrance doors should be moved closer to the street frontages.

Officer Comment

Open security gates are proposed close to the Rocky Point Road entrances to provide security and sightlines into the site from the public domain. The main enclosing security doors are located further into the site. This affords a naturally ventilated open character to the main entrances, linking the private and public areas in these zones.

Gates of this nature have not been provided off the Bonney Street entrance. A consent condition will be imposed with any development approval requiring that open security gates are provided to the pedestrian entrance along Bonney Street consistent with those proposed along Rocky Point Road.

Housing Diversity and Social Interaction

The roof top common space as indicated should be an attractive amenity but it would be desirable to also include a small enclosed room with service facilities. A second similar communal space should be provided at the roof top served by the elevator in the southern block of units. A path between the two elevators could be provided to allow access from one to the other in the case of breakdown of an elevator.

The three residential entrances should be generous enough in size to allow space for a small sitting/landscaped area.

Officer Comment

Details in relation to the furnishing of the roof terraces are provided on the amended landscape plan. A second roof terrace is proposed at the southern end of the building both of which are served by a fire stair in the event of a lift breakdown. The proposed residential entries are sufficiently large to accommodate a small sitting area in the future.

Aesthetics

Generally satisfactory

Deemed State Environmental Planning Policy – Georges River Catchment

All stormwater from the proposed development can be treated in accordance with Council's Water Management Policy and would satisfy the relevant provisions of the Deemed State Environmental Planning Policy – Georges River Catchment

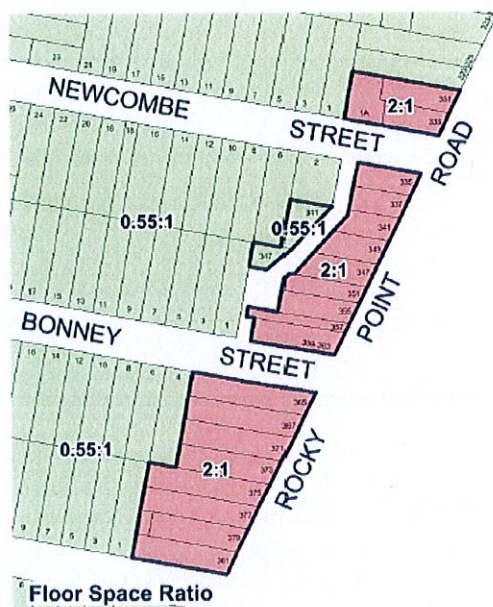
- (ii) **any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority, and**

A Planning Proposal for the New City Plan to amend Kogarah LEP 2012 was placed on exhibition from Monday 30 March 2015 until Friday 29 May 2015.

The New City Plan includes changes to zoning and the introduction of development standards in parts of the City to deliver a range of new housing options.

Specifically, the New City Plan proposes to maintain the BI – Neighbourhood Centre Zone.

The New City Plan incorporates Floor Space Ratio (FSR) controls and height limits on the site of 2:1 and 15m respectively.



A density of 2:1 is proposed complying with the New City Plan.

The proposed development does not comply with the above draft standards in relation to overall height.

The New City Plan proposes a height limit of 15m. This equates to a scale of around five storeys. The proposed development marginally exceeds the 15m height limit where the following heights are proposed:

- Southern lift overrun (RL 29.9) = 19.63m
- Southern roof terrace roof (RL 29) = 18.73m
- Northern lift overrun (RL 29.9) = 19.21m
- Northern roof terrace roof (RL 29) = 18.44m
- Bonney Street lift overrun (RL 27.25) = 16.5m

- Parapet (RL 26.6) = 15.2m – 16.45m (Bonney Street)
- Parapet (RL 26.6) = 16.45m – 16.56m (Bonney Street)
- Roof lights (RL 27.39) = 17.29m – 17.67m (Rocky Point Road)

The proposed height is acceptable for the following reasons:

- The lift overruns are centrally located, resulting in minimal impact.
- Provision of a high quality rooftop communal open space results in the need for parapet walling and lift overruns encroaching the height limit. The benefits conveyed by the space outweighs the impact presented.
- The building observes generous separation from the interface with the low density residential uses to the west. The height non-compliance along the Rocky Point Road elevation is not considered to unreasonably add to the visual scale of the building and will be visually consistent with the recently constructed building to the south-east of the site on the opposite side of Rocky Point Road within the Rockdale LGA. This building (referred to as the Jameson) comprises of an overall height of 18.85m
- The proposed roofs over the communal terraces have been designed as floating elements, setback from the perimeters of the building to minimise their visual impact. They are considered visually appropriate given the site's location at the southern end of the Sans Souci shopping strip.
- The proposal maintains a 5 storey scale which is consistent with the desired scale for development on the site under the New City Plan.
- The built form is articulated and separated into lower profile elements that reduces massing and consequent impacts on adjoining properties.
- A consent condition is being imposed in relation to the deletion of the roof lights along Rocky Point Road which will assist in reducing the building's perceived scale.

(iii) any development control plan,

Kogarah Development Control Plan 2013 (KDCP 2013)

The proposed development is subject to the provisions of the Kogarah Development Control Plan 2013 (KDCP2013). The following comments are made with respect to the proposal satisfying the objectives and controls contained within the DCP.

Part D1 - Development in the B1 Neighbourhood Centres & B2 Local Centre zones

The proposal does not satisfy all the requirements outlined in Section D1 of the DCP given that it has been designed having regard to the provisions having regard to the provisions of Council's Draft New City Plan along with SEPP 65 and the Apartment Design Guide. Notwithstanding, Section D1 of DCP 2013 continues to apply to the proposal, and consideration of the relevant aspects are discussed below.

Streetscape

Infill development is to respect and maintain consistency with the established rhythm and scale of existing shopfronts.

Facades are to be ordered and articulated to visually break up the building massing, for example through materials, colour and the design of openings. Large areas of glass curtain walling and blank walls are to be avoided.

Enhance pedestrian amenity through the provision of continuous awnings for weather protection.

Promote safety and security by providing a high level of activation to the street, employing clear and direct lines of sight between the street and building entries, and using appropriate signage and lighting to enhance the amenity of the public domain.

Site and design vehicular access (driveways, parking facilities, service access and garages) away from the main street frontage, from rear lanes or secondary streets.

Officer Comment

The proposal incorporates a street level address which complements the existing pattern of small shops with awnings above. Columns within the shop frontages are provided to break up the horizontality of the elevation to relate appropriately to smaller shops in the locality. A parapet is proposed while the Rocky Point Road façade comprises four distinct elements separated by recessed glazed elements which create depth and articulation.

The four (4) elements comprise:

- a prominent corner element at the intersection of Rocky Point Road and Bonney Street;
- the Bonney Street elevation also comprises a distinct corner element with a clearly residential character, broken down into a series of vertical elements.
- The uppermost element adjacent to the western boundary has an open character to reduce the apparent bulk and scale at this point; and the remaining elevations are also designed to incorporate a range of discrete elements, which are articulated and modulated to minimise the perception of bulk and scale.

An awning is proposed along the Sans Souci frontage, wrapping around onto Bonney Street, adjacent to the proposed retail/commercial tenancy. Activation of the public domain is provided with a mix of residential and non-residential uses at ground floor level. Passive surveillance of the public domain is provided from balconies and habitable rooms on the upper levels. Vehicular access is provided from Bonney Street in a location similar to the existing main driveway. Pedestrian access is provided from both street frontages to maximise amenity and convenience for future residents.

Building Heights

The proposed building height is generally consistent with the Locality Controls. Buildings are massed towards the street frontage and step down towards the rear, to be in keeping with the existing retail/commercial built form pattern.

Where allotment adjoins a low density residential area, buildings should be reduced in height in accordance with the locality and setback from the adjoining property boundary.

The height of new development at the street boundary is to be no more than the prevailing height of the parapets of any adjacent and neighbouring heritage buildings.

Floor to ceiling heights should be a minimum of 3m at ground floor level, to allow for a range of uses including retail, commercial offices and home offices.

Floor to ceiling should be a minimum of 2.7m at the upper storeys of the building, to allow for a range of uses, and to improve the environmental performance and amenity of the building.

Officer Comment

The proposed heights are generally consistent with those outlined in the New City Plan. Non-compliances with maximum heights do arise; however, reasons as to why the height non-compliance is acceptable were discussed earlier in this report. The building provides its massing to the Rocky Point Road elevation and then it steps down towards the western side of the site where an interface with low density residential exists. Floor to ceiling heights within the retail/residential tenancies are 3.3m. The residential properties at ground floor level, fronting onto Bonney Street are 2.7m, which is considered acceptable, as these properties provide transition to the neighbouring residential area, where non-residential uses would be less desirable. All residential levels have a minimum 2.7m floor to ceiling height.

Setbacks

Buildings adjacent to public roads are generally to align with and be built to the street frontage to provide continuity in the streetscape and encourage active frontages to ground level.

Street setbacks at ground level are permitted only:

- (i) Where the existing footpath is narrow and the provision of additional pedestrian space is desirable*
- (ii) Where the established pattern is setback (for example where there are residential buildings within the locality)*
- (iii) Where the setback enables or enhances visual appreciations of adjacent heritage items.*

Side setbacks are generally not permitted in order to maintain the continuity of active street frontages

Where the locality abuts a residential zone and/or a residential allotment, the side setbacks are generally to be a minimum 3m, except where the locality character is established by the existing footprints and the allotment capacity of the locality would be unreasonably constrained.

Rear setbacks are determined by the context including the amenity of neighbouring residential uses and the amenity of any rear lanes. .

Setbacks on corner blocks are to enable sufficient sightlines

Upper level street setbacks are required to any residential component above retail/ commercial uses together with building design and apartment layout that satisfactorily mitigates the impacts of noise, fumes and vibration on major roads.

Officer Comment

Minimal front setbacks are proposed to provide an active streetscape presentation. A colonnade is proposed to provide opportunities for outdoor dining, which will further enliven the public domain. A southern side setback has been proposed as an easement burdens the site along the southern side. The development incorporates generous setbacks from the interface with low density residential development while the ground floor has been splayed on the intersection of both Bonney Street and Rocky Point Road. Upper levels are setback from Rocky Point Road and wintergardens are proposed to private open spaces to maximise useability and amenity in these areas of private open space.

Building Facades

Where appropriate, integrate buildings into the streetscape by adopting a modular form, which reflects the underlying narrow shop width of older buildings. Use vertical elements, such as vertically proportioned windows, exposed party walls, vertical balustrades, attached fins to express this modulation and rhythm. Use horizontal elements such as roofs, parapets, balconies and balustrades to align the building with its neighbours.

Ensure that the facade clearly expresses a bottom, middle and top related to the overall proportion of the building.

Incorporate design characteristics such as projecting fins, corbelling, balconies with variable materials and finishes, punctuated walls with visually recognisable patterns, decorative features, rhythm and texture and a variable colour palate to achieve façade modulation and articulation.

Avoid curtain walls, large expanses of glass and large expanses of concrete as these do not create well-articulated and harmonious façades.

Express important corners by giving visual prominence to parts of the façade, including changes in articulation, material or colour, roof expression or increased height (where identified in the Locality Controls in Part D2).

Provide a greater proportion of solid areas to void areas on all façades and incorporate non-reflective materials.

Use non-reflective glass or recess glass behind balconies to minimise reflectivity.

Windows and openings are to be generally of a vertical character and located within vertical bays.

Air-conditioning units/fans/vents/stacks/hoods etc are to be inconspicuously located so as not to be visible from the shopping street and any other major side street.

Officer Comment

The proposal is considered to appropriately respond to the controls as outlined above. This was discussed in detail above under Streetscape. A prominent corner treatment is proposed that reinforces the corner elements while the solid to void areas are appropriately balanced.

Active Frontages

Provide direct visual connections between footpaths and shops.

Wrap shop fronts around corners into side streets to increase the area of active frontage.

Design building openings at the ground floor to be in keeping with the overall building and bay scale and proportions. For cafe/dining uses, provide openable window areas in association with seating overlooking the street, to create the effect of outdoor dining.

For commercial uses, avoid blank walls, dark or obscure glass to the street frontage.

Incorporate continuous, independent and barrier free access to ground floor commercial entries, including effective signage, sufficient illumination, tactile ground surface indicators and pathways with limited cross-falls, sufficient width, comfortable seating and slip-resistant floor surfaces.

Open grilles or see-through security screens are preferred to shutters, to optimise the openness of windows and any spill lighting of the footpath. Shutters, if provided, must be minimum 65% visually permeable.

Pedestrian access to upper level uses is preferred from the side street or rear lane. If provided from the main street, openings for access are to be between 1.5m and 3m wide.

Recessed shop frontages are not permitted except in the cases of heritage buildings where the recess is sympathetic to the building character.

Officer Comment

The glazing associated with this proposal has been designed to allow for direct visual sightlines while the proposed non-residential floorspace wraps around the north-eastern corner of the site. Currently, no particular uses have been identified for the non-residential tenancies; however, provision has been made within the design for an outdoor covered dining area should a café occupy one or more of the proposed tenancies.

Glazing has been incorporated along the street frontages in order to maximise sightlines while disabled access has been incorporated into the design which has been outlined in more detail in the Access Report prepared by (City Plan Services), dated 29 October 2015.

Given the sites dual street frontage and overall length along Rocky Point Road, the provision of two access points from Rocky Point Road and one from Bonney Street is considered a suitable design outcome. Given the length of the development, the proposed openings for access are not considered excessive or visually intrusive. In respect to the proposed shopfronts, they have been recessed into the façade for the purpose of allowing covered outdoor seating adjacent to the commercial uses if required.

Awning/Balconies

Awnings should retain any original awning features present that contribute to the desired locality character while awnings should wrap around the corners of the main commercial street onto side streets.

Design awnings in the high range 3.6m – 4m and no higher or lower than adjoining awnings.

Provide awnings flat or near-flat in shape (not tilted upwards away from the facade), and opaque in finish.

Each apartment is to have at least one primary balcony and primary balconies are to have a minimum depth of 2.5m and a minimum size of 10m².

Design balconies that are recessed into the wall or enclosed with walls, columns or roofs to provide sufficient enclosure and visual firmness.

Design balustrades that allow for views into, and along the street and employ juliet balconies and French windows to articulate facades with architectural detail and vertically proportioned windows.

Locate balconies adjacent to main living areas to expand the living space of units, where possible.

Balconies are to be designed to respond to the local context. In this regard, special attention should be paid to the design of balconies for buildings situated on busy roads and/or adjacent to railway lines. This may be achieved by:

- (i) layering and recessing balconies to increase noise buffering from busy roads and railway lines;*
- (ii) grouping balcony openings;*
- (iii) providing balconies with operable screens, windows, or operable walls/sliding doors with a balustrade;*
- (iv) recessing balconies in response to acoustic and visual privacy issues; and*
- (v) ensure the privacy of occupants, neighbours, and public is taken into account by careful design and balustrades with a balance of transparent and solid materials*

Officer Comments

The proposed awning suitably relates to the non-residential tenancies. The awnings are of a minimum height of 3.6m and are of a flat finish. In respect to the provision of balconies, all units do propose a useable balcony space where a minimum area of 10m² is proposed. The balconies have been suitably incorporated into the building facades where they have been located adjacent to the main living areas. In respect to the balcony locations along Rocky Point Road, wintergarden acoustic treatments have been provided to the balconies while glass acoustic baffles have also been incorporated. In respect to the proposed balustrades, a mix of both solid and transparent material has been incorporated ensuring both the privacy of occupants while also assisting in creating visual interest to the building facades.

Materials and finishes

Utilise high quality and durable materials and finishes and combine different materials and finishes to assist building articulation and modulation.

Where the Locality includes a significant facade or streetscape, materials and finishes are to compliment the existing streetscape and avoid large unarticulated expanses of any single material to facades.

Officer Comment

The submitted materials and finishes have been identified on the submitted material perspective. Overall, the range and detail of the finishes proposed will aesthetically add to the visual appearance of the building ensuring that visual interest is created.

Mobility and Access

New development and refurbishments are to comply with the requirements of the Building Code of Australia (BCA) and the Australian Standards.

All buildings with a residential component that have access to more than two storeys are required to have lift access.

Officer Comment

A BCA and Access report prepared by (City Plan Services), dated 29 October 2015 has been submitted outlining compliance with the relevant standards. Lift access has also been provided that services all levels.

Roof forms and parapets

Variation to the existing pattern of roof forms may only occur where the parapet line is not disrupted and where the new roof is not visible from the street below or adjacent public areas.

Minimise the bulk and mass of roofs and their potential for overshadowing and design roofs to generate a visually interesting skyline and minimise apparent bulk.

Conceal lift over runs and plant equipment within well designed roofs. Roof fixtures (such as roof vents, chimneys, aerials, solar collectors, mobile phone transmitters, satellite dishes) are to be inconspicuously located so as not to be visible from the street (including side streets).

Television antennae are to be located within the roof space.

Officer Comment

A flat roof form is proposed with a defined corner element which is not anticipated to impact on any future character. The roof treatment is consistent with the design outcomes outlined in the Apartment Design Guide where it will minimise any overshadowing while creating visual interest and provide a clear definition of the site. Proposed services are centrally located in order to reduce their visual presence from the public domain.

Dwelling Design-Apartment Mix and Dwelling size

Provide a mix of studios, 1, 2 and 3 or more bedroom apartments in varying layouts.

Dwellings within the residential component of a mixed development must have the minimum internal floor areas (IFA):

- Studios - minimum IFA of 40m²
- 1 bedroom unit - minimum IFA of 60m²
- 2 bedroom unit - minimum IFA of 85m²

- 3 bedroom unit - minimum IFA of 100m²

In all instances the first bedroom is to maintain an internal floor area of 15m² and the second bedroom is to maintain a minimum internal floor area of 12m².

Officer Comment

A mix of one, two and three bedroom apartments have been proposed while apartment sizes are consistent with the minimum sizes outlined within the Apartment Design Guide.

Storage and clothes drying

All developments must provide a designated secure storage space (in addition to any areas set aside for off street parking) to a minimum floor area of 4m² for each dwelling or unit.

The storage space may be incorporated as part of the garage.

Maximise opportunities for the use of sun and wind for drying clothes and provide external clothes drying facilities.

Officer Comment

Storage areas have been provided both internally within the apartments and also in the basement. An external clothes drying areas has also been incorporated on the ground floor within the communal area.

Visual and Acoustic Privacy

Design building separation for parallel ranges of buildings to at least the following standards for the residential component:

- 12 metres between habitable rooms/the edge of their balconies
- 9 metres between habitable rooms/the edge of their balconies and non-habitable rooms
- 6 metres between non-habitable rooms

Offset facade openings from existing openings in adjacent development to minimise direct overlooking of rooms and private open spaces.

For street wall buildings, design zero side setbacks to result in zero building separation, providing dual aspect commercial or residential uses with openings to the front (street) and the rear.

For ground floor retail/commercial uses, provide appropriate rear and side setbacks to adjacent residential uses, and design building layout to avoid overlooking of private spaces.

Utilise design elements to increase levels of privacy such as landscaping, screening, offset windows, recessed balconies, louvres, planter boxes, pergolas or shading devices.

Development adjacent to the Railway Line or adjacent to road corridor with annual average daily traffic volume of more than 40,000 vehicles.

Design and site buildings adjacent to noise generating land uses to minimise noise impacts, for example through building layout and location and size of openings.

Where appropriate locate individual buildings and groups of buildings to act as barriers to the noise and utilise the site and building layout to maximise the potential for acoustic privacy by providing adequate building separation within the development and from neighbouring buildings.

Locate and design all noise generating equipment such as mechanical plant rooms, mechanical ventilation from car parks, driveway entry shutters, garbage collection areas or similar to protect the acoustic privacy of workers, residents and neighbours. The noise level generated by any equipment must not exceed an L_{Aeq} of 5dBA above background noise at the property boundary.

Development is to meet or exceed the sound insulation requirements between separating walls and floors of adjoining dwellings. With particular regard to timber flooring in the residential component of developments, appropriate insulation between floors is to achieve a minimum sound attenuation of (50Rw).

Where development is proposed adjacent to the railway line or a classified road corridor compliance with the requirements of the ISEPP.

Officer Comment

The building separations incorporated are consistent with those outlined within the Apartment Design Guide. Façade openings have been suitably offset from neighbouring properties, particularly the remaining low density residential to the west, while a range of devices have been proposed in order to maximise privacy for both future residents of the subject building and neighbouring properties.

Wintergardens have been proposed along Rocky Point Road in order to minimise noise impacts while the submitted Acoustic report outlines the design outcomes required to be achieved in order to ensure any noise transfer between floors is minimised.

Safety and Security

Maximise passive surveillance by orienting buildings towards the street, such that building frontages and entries overlook and are clearly visible from the street and provide a sense of address and visual interest.

Avoid blank walls addressing streets and any public plazas or pocket parks and clearly design buildings and spaces, and the entries to buildings, to delineate public from private space to provide a clear sense of ownership, minimise ambiguity and discourage illegitimate use.

Delineate public, semi public and private space through the use of barriers, such as low fences or landscaping, post boxes, lighting and signage.

Avoid building recesses, alcoves or dense landscaping in places where concealment is possible and design and place facilities such as toilets and parents rooms to maximise opportunities for casual surveillance.

Place services such as Automatic Teller Machines (ATMs) and public telephones in highly visible locations and be accessible and well lit at night.

Solid roller shutters are not permitted as security devices on shop fronts (windows and doors). Open grille security devices may be used on shop fronts if such devices are necessary but should be unobtrusive and sympathetic to the character of the building and the streetscape, with minimum transparency of 65% to provide light spill to the pavement and create a sense of openness to the street.

Development applications for mixed developments containing more than 10 units are required to be referred to the NSW Police Service. (10) Provide sufficient lighting of public areas, footpaths, and laneways in accordance with the relevant Australian Standard.

Provide sufficient lighting of shopfronts and the area under awnings, in accordance with the relevant Australian Standard.

Officer Comment

The proposal was reviewed by NSW Police for comment where no objection was raised.

Open Space and Landscaping

Retain existing, and incorporate new indigenous trees, shrubs and ground cover where appropriate and maximise deep soil zones to provide for substantial landscaping and mature trees. Submit a landscape plan prepared by a qualified landscape architect.

Where development is proposed adjacent to low density residential development, an appropriate landscape buffer is to be planted to provide separation and screening between the proposed development and the existing low density development (Refer to Locality Controls). These areas should be deep soil areas so as to allow for the planting of large/medium trees.

Officer Comment

A detailed landscape plan was submitted with the proposal that was reviewed by Council's Parks and Recreation Coordinator. No objection was raised to this plan.

D2-Commercial Locality Guides (Sans Souci North)

Desired Character

The locality will retain a mix of smaller scale retail/commercial uses with residential development possible above ground level. The scale of buildings should be limited to three-storeys, stepping down to the rear of the site so as to reduce the impact on the adjoining low-density residential development. New buildings should be designed to retain a two-storey street wall height and upper levels, particularly for residential uses, should be set back from the street to provide improved amenity to future residents. Future development in this Locality should be of a high design standard, in particular with regard to residential amenity within the development and for existing neighbours. Internal building design, particularly for the residential component of buildings, should provide appropriate acoustic treatment and screening to provide acoustic privacy from Rocky Point Road.

Where new development 'turns the corner' from Rocky Point Road into side streets it should make an appropriate transition in scale and massing to the existing single-dwelling neighbourhood character, with a reduction in height and generous setbacks.

Vehicular access and off-street parking should be from side streets rather than Rocky Point Road and development should take advantage of the existing rear lane, which once completed will provide access from Newcombe Street to Bonney Street.

Officer Response

The proposal incorporates residential accommodation above retail floorspace, within a form which steps down to provide transition to the residential properties to the west. The proposed upper levels are setback from Rocky Point Road so as to minimise their streetscape impact and provide a high level of residential amenity, particularly in terms of acoustic amenity. The development has been designed to step down with generous setbacks provided along the western elevation to the zone transition with neighbouring residential properties in Bonney Street while vehicular access is provided from Bonney Street rather than Rocky Point Road.

In respect to the existing rear lane and the future extent of this lane from Bonney Street to Newcombe Street, the site amalgamation which has incorporated both 375 and 377 Rocky Point Road has negated the need for the provision of this lane as access to these sites will be provided from Bonney Street as part of this development. Additionally, the proposal was referred to Council's Traffic Engineers for review in respect to any benefits the continuation of this lane may have from Bonney to Newcombe Street. The response received was as follows:

"In regards to the access from Broughton Street, with parking on both sides of the street, only one vehicle travel lane is available. As the school is located at the intersection of Broughton Street and The Promenade, traffic in this street at 9am and 3pm on school days is at a low LOS. It would not be appropriate to have an access driveway from Broughton Street to the development. Traffic queuing could result back onto Rocky Point Road and it is more appropriate from Bonney Street which has wider travel lanes as parking is provided off street within the parking bays"

As a result, the continuation of this lane currently located behind 379 and 381 Rocky Point Road along the western side of the subject site to Bonney Street is not considered necessary.

Height

Maximum number of levels = 3.

Maximum overall height (to the uppermost habitable part of the building) – 10.2m.

The total overall building height (including roofs and any projections such as plant, lift overruns, blades or the like) shall not exceed 2m above the habitable part of the building.

No development is permitted in the roof void.

Officer Comment

The proposed building does not comply the above noted DCP controls as it has been designed having regard to the building height controls contained in Council's New City Plan. This was discussed in detail earlier in this report.

Preferred Land Use

The preferred land use within this locality are as follows:

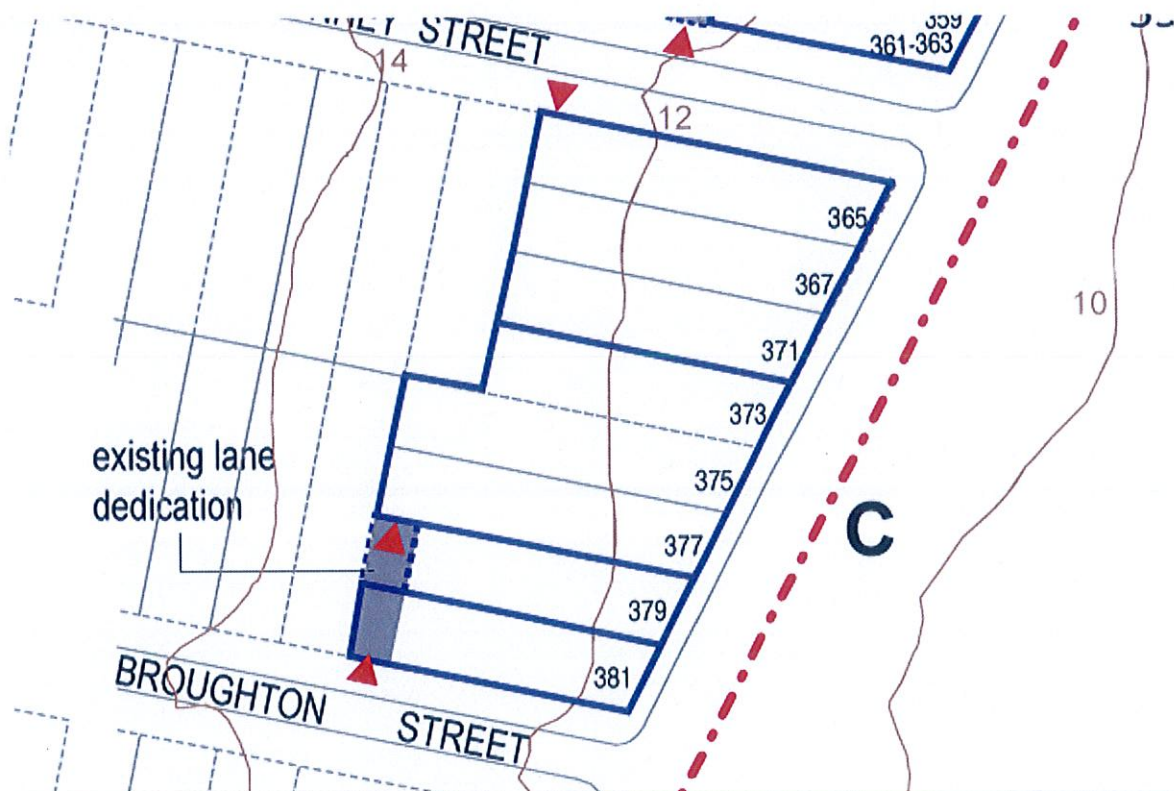
- Ground floor (Level 1) Retail/Commercial
- First Floor (Level 2) Commercial and or residential
- Second floor (Level 3) residential and or Commercial

Officer Comment

The proposal incorporates retail/residential accommodation on Rocky Point Road at ground floor level, wrapping around onto Bonney Street where ground floor residential is proposed to provide a transition to the neighbouring residential properties to the west. Upper levels are residential. The proposed land use is considered the most appropriate, given the context of the site.

Amalgamation

All sites are required to be amalgamated as identified below



Officer Comment

The proposal incorporates consolidation consistent with the DCP.

Density

Density should fit within the required building setbacks

Officer Comment

The proposed density is consistent with that contained in Council's New City Plan.

Pedestrian entry

Pedestrian entries are to be provided from both street frontages

Officer Comment

Pedestrian entries are provided off both Rocky Point Road and Bonney Street

Vehicle Access

Vehicular access should be obtained from side streets and rear laneways

Officer Comment

Vehicular access is provided off Bonney Street

Car Parking

Off-street parking is to be provided for any new development underground or at the rear of the properties.

No part of the basement is to be elevated above ground level fronting Rocky Point Road.

Where a basement is provided this is not to protrude more than 1.0m above natural ground level.

Officer Comment

Basement parking has been proposed which will be visibly unapparent from the public domain.

Block C – Block bounded by Bonney Street, Rocky Point Road and Broughton Street

The front setback to Rocky Point Road being as follows:

- Ground floor (Level) Build to Boundary

- First floor (Level 2), Commercial - build to boundary and residential - minimum 6m; however, buildings should be massed up to the full two-storey height at the street frontage.
- Second floor (Level 3), Commercial - minimum 6m and residential - minimum 6m. The 6m may include a maximum 3m wide balcony, which should appear to the street as a solid element.
- The setback to Bonney Street and Broughton Street being as follows:
- Ground floor (Level) build to Boundary
- First floor (Level 2), Commercial - build to boundary and residential - minimum 3 metres. The 3m may include a maximum 3m wide balcony
- Second floor (Level 3) Minimum 3m

The rear setback (after laneway dedication) being as follows:

Ground floor (Level) Minimum 3m (from 6.1 m rear lane dedication) where applicable

First floor (Level 2) Minimum 6m (from 6.1 m rear lane dedication) where applicable

Second floor (Level 3) Minimum 6m (from 6.1 m rear lane dedication) where applicable

Officer Comment

The proposed building setbacks are generally consistent with the DCP controls. A rear lane setback is not required for the site. The proposed rear setbacks are in excess of the minimums required by the DCP, and have been determined on the basis of the Apartment Design Guide.

Balcony Design

Balconies should be minimised along the rear setback to No. 1 Broughton Street and No. 4 Bonney Street. Where balconies are proposed facing No. 1 Broughton Street and No. 4 Bonney Street, these should be designed to minimise overlooking.

Officer Comment

Privacy screens and offsets are proposed to minimise overlooking impacts. Screen planting will also provide additional privacy control.

Dedication of land for rear lane

Upon redevelopment of No. 381 Rocky Point Road, a laneway at the rear of the property, a minimum width of 6.1m, is to be dedicated, at no cost to Council, to allow vehicular access to the development site at Nos. 373-377 Rocky Point Road.

Council will condition any redevelopment of No. 381 Rocky Point Road, to ensure that laneway access is maintained at no cost to Council.

Officer Comment

Not applicable. This was discussed in detail earlier in this report.

Temporary vehicular access

Temporary vehicular access may be provided from Rocky Point Road for Nos. 373-377 Rocky Point Road. The temporary vehicular access is to be in accordance with the provisions of Part D1 Section 3.7 Vehicular Access and Parking.

A condition will also be placed on any consent requiring that a Section 88B restriction be imposed on the title of Nos. 373-377 Rocky Point Road requiring the removal of the temporary access from Rocky Point Road once laneway access has been provided from Broughton Street.

Officer Comment

Not applicable

Section 94 Contributions

The proposed development requires payment of \$816,749.31 in Section 94 contributions based on the provisions of the Section 94 Contributions Plans for Precinct Four.

The contribution amount is based on the provision of 53 x 1-bedroom, 32 x 2-bedroom units and 10 x 3 bedroom units with a concession provided for three non-commercial lots. No credit is given for the lots in which a commercial use is currently provided.

(iv) any matters prescribed by the regulations, that apply to the land to which the development application relates,

Not applicable.

(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,

The proposed development is of a scale and character that is in keeping with other dwellings being constructed in the locality. Accordingly, the proposal is not considered to have a significant impact on the natural and built environment of the locality.

(c) the suitability of the site for the development,

It is considered that the proposed development is of a scale and design that is suitable for the site having regard to its size and shape, its topography, vegetation and relationship to adjoining developments.

(d) any submissions made in accordance with this Act or the regulations,

In accordance with the provisions of Section A2 – Public Notification of KDCP 2013 the application was concurrently neighbour notified and advertised from 16 December 2015 to 18 January 2016. As a number of substantial design changes were carried out, the application was again concurrently neighbor notified and advertised from 13 April to 28 April 2016. The proposed amendments to the application did not resolve the majority of issues raised by the objectors. The objections raised to the proposal are as follows:

Privacy

A number of the objections are raised by residents from within Bonney Street to the privacy impacts that would be incurred from the development. The proposal has incorporated a number of design outcomes in order to ensure the privacy of neighbouring properties is maintained particularly where a transition to low density residential is resulting. These include generous building separation from along the western side boundary where the proposal adjoins low scale residential dwellings.

The number, overall size and separation of any proposed balconies particularly from the upper levels along the western side of the building where they are orientated towards the low density buildings are considered appropriate in both form and scale. Generous deep soil zones have been provided along the western side of the site which will allow for the planting of large trees providing a landscape buffer between the site and neighbouring residential properties. The two rooftop communal areas have been provided along Rocky Point Road with an orientation to the east. These areas are set well away or located well above any neighbouring properties where no adverse impacts are anticipated to result.

In respect to the neighbouring development to the south of the site, this development provides a commercial component on the ground floor that will be entirely obscured from the slab overhang of the floor above from the proposal. In respect to the first floor residential level of this building, the northern façade of the building contains glazing of a glass brick form where no overlooking into these windows is possible. In respect to the front balcony area off this unit facing Rocky Point Road, no south facing balcony has been incorporated within the proposal along the south-eastern corner of the site which would result in the potential for overlooking into this neighbouring property. Balconies along the south-eastern corner of are proposed from level three and above as they are located well above the neighbouring balcony area where no overlooking is anticipated.

Overshadowing

While a number of residents along Bonney Street raised concern to overshadowing, the shadow diagrams submitted indicate that all properties along this street will be largely unaffected from the proposal. The most significantly affected property is located at 379 Rocky Point Road which is located to the south of the site. A detailed elevation shadow diagram has been submitted on the impact this proposal would have on this building. The diagrams indicate that the eastern façade of this building, both commercial and residential, would receive solar access from 9am to 10am on 21 June. From 10am onwards, the shadow would begin being cast over this building with this facade being entirely shadowed by 11am. Amendments which provide minor, though appreciable, benefits were made resulting in the south-eastern corner of the building being marginally cut back to increase separation to the adjoining building.

Given the anticipated scale of development for the site under the New City Plan and the orientation of adjoining property to the south of the site, which currently is void of any appreciable glazing along its northern elevation apart from the provision of a number of glass block windows, the level of impact is considered acceptable.

Further modification or refusal of the application on the grounds related to solar impacts is not warranted.

Property values decreased

A number of residents along Bonney Street made claim to the fact that the proposed development would result in a decrease in their properties worth or value. This claim cannot be substantiated.

Height and scale of development respect to the local context and disagreement to the heights and densities proposed under the New City Plan. The development will set an unreasonable precedent

As discussed in the body of this report, the bulk and scale of the proposal is considered acceptable as it provides a “stepping down” to the rear where it adjoins the interface with low density residential. The New City Plan was a detailed planning strategy that appropriately provided density and height outcomes which were considered to provide the required amount of future housing while resulting in the least amount of impact to the existing building scales in both immediate and local contexts. Further, the proposal was reviewed by the St George Design Review Panel who noted the recently approved shop top housing development across from the site within the Rockdale LGA. The Panel noted that this development has set a precedent for development of this scale.

Overall, the proposal is consistent with the desired future scale envisaged under the New City Plan and adopts a design that satisfies the provisions of SEPP 65 and the Apartment Design Guide.

The proposal is supported and refusal is unwarranted in this instance.

Traffic and Parking Impacts and reasoning as to why access is not provided off both Newcombe and Bonney Street. Narrowness of Bonney Street to cater for this scale of development

A detailed discussion was provided in the body of this report in relation to the suitability of Bonney Street being the primary access point and as to why an extension of the rear lane currently observed behind 379 and 381 Rocky Point Road was not required in order to provide vehicular access off both Newcombe and Bonney Streets.

Noise from delivery trucks, burglar alarms, garbage collection, vehicles entering and exiting the development and shoppers

A number of residents from Bonney Street raised concern to the potential adverse noise impacts that may result from the proposal. While it is acknowledged that there will be a substantial increase in the number of residents, currently a fruit world, deli, bakery and café occupy the site where all deliveries are currently carried out within the at grade carpark along Bonney Street. Any deliveries being carried out in the future in relation to the proposed development would be within a basement carpark that would generate far less noise impact than that being currently observed. Additionally, the proposed development orientates the majority of its commercial floorspace to Rocky Point Road which again is anticipated to reduce the level of noise from shoppers in comparison to that is currently occurring. The development provides a commercial/retail garbage area within the basement.

Standard conditions relating to general noise and amenity impacts will be imposed.

Lack of facilities to cater for proposed number of residents

The proposed development is located on the edge of the Sans Souci Shopping strip where access to a number of facilities is provided. The claim that an inadequate number of facilities have been provided cannot be substantiated.

Significant overdevelopment in comparison to that approved at 528-538 Rocky Point Road (The Jameson) within the Rockdale LGA

Upon review of Rockdale Council's DA 2011/308 determined by the JRPP during its meeting held on 14 July 2011, related to the construction of four(4) residential floors containing 72 units above the retail podium in lieu of the two commercial office levels previously approved by Council in DA-2007/123 at 528-538 Rocky Point Road, the building comprised of a maximum height of 18.85m and a total gross floor area of 10,868m², which when compared with a site area of 5,499 m² results in an FSR of 1.98:1. As a result, the height and density of the two building is comparable and consistent.

Removal of trees on the site

As discussed in the body of this report, tree removal was reviewed by Council's Parks and Recreation Coordinator who raised no objection to the removal of a number of trees on the site subject to replacement planting. It was also advised that a number of trees be preserved and protected. This was discussed in more detail in the body of this report.

Light nuisance and air pollution

Light and air pollution is not considered substantial. The issue is unreasonable and unsubstantiated.

The proposal must comply with the New City Plan maximum controls

As acknowledged in the body of this report, the proposal fails to comply with the maximum height controls as proposed within the New City Plan. Having said this, no adverse impacts are anticipated to result from the non-compliance. This was discussed in more detail in the body of this report.

Mediation/Public Meeting

A number of telephone conversations have been held with objectors throughout the assessment process. No onsite mediation has been undertaken.

The issues are unresolved.

(e) the public interest.

The proposed development is of a scale and character that does not conflict with the public interest.

Conclusion

The application has been assessed having regard to the Heads of Consideration under Section 79C of the Environmental Planning and Assessment Act 1979, the provisions of KLEP 2012 and KDCP 2013.

Following detailed assessment it is considered that Development Application No 227/2015 should be approved subject to conditions.



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