



5 April 2017

The General Manager
Cumberland Council
1 Susan Street
Auburn NSW 2144

Attention: Pascal Van de Walle, Senior Assessment Officer

**Request for Information – DA-2016/420 –
Mixed Use Residential Flat Building - 397 Princes Highway, Rockdale**

Dear Pascal,

I refer to your request to the applicant, Rockdale One Pty Ltd, to respond to issues identified in Council's assessment of this application.

Council's comments have been reviewed and the proposed development has been modified to address matters raised, as reflected in resubmitted plans, while additional information is provided as requested. These are described in the responses below and in the attached statements from the architects, landscape architects, and traffic and civil engineers: Fuse, Black Beetle, Varga and S & E Ivanov Consultancy.

1. External Agencies

The additional information sought by the RMS has been provided and the matters raised are discussed in the context of the responses to traffic and parking matters below.

2. SEPP 65 / ADG / Design Review Panel

Please refer to the architectural statement provided by Fuse as summarised and elaborated upon as follows.

(a) Street Interface/ Princes Highway setback

Architectural plans amended to achieve level interface as requested.

(b) Deep Soil/ Planting within the Green Gateway

Amendments have been made to the treatment of planting and soil as described in the relevant statements. Better use of the rear deep soil is now proposed and more significant soil depth for the two 'green gateway' trees will be achieved by setting back the level 1 basement 3m as shown on the revised landscape plans.

However, it appears that Council is misapplying the ADG deep soil provisions to this mixed use development. The ADG is unambiguous in this regard and Council's attention is drawn to the following statement at page 61:

"Achieving the design criteria [for deep soil] may not be possible on some sites including where:

- the location and building typology have limited or no space for deep soil at ground level (e.g. central business district, constrained sites, high density areas, or in centres) ^[SEP]*
- there is 100% site coverage or non-residential uses at ground floor level ^[SEP]*

Where a proposal does not achieve deep soil requirements, acceptable stormwater management should be achieved and alternative forms of planting provided such as on structure"

The proposed development is at a location within a 'centre', on a 'constrained site' and is of a building typology with 'non-residential uses at ground floor level'. (It may also be argued that the development is within a 'high density area' but the ADG provides no guidance at what that constitutes.)

The ADG requirements for acceptable stormwater management and suitable alternative forms of soil provision for planting are considered to have been achieved.

Great effort has been undertaken to optimise the extent and use of deep soil while responding to the context and planning objectives for the site and is considered to satisfy the objectives and guidance of the ADG in this regard.

(c) Communal Open Space

Additional and improved communal open space has been provided in the revised architectural plans as described in the Fuse response.

In particular, a new area of communal open space has been introduced to level 4 in lieu of an additional 'roof top' area on level 10 as suggested by the design review panel (refer to comments 3(c) below), while the rear communal open space has been landscaped and provisioned for better useability.

In response to Council comments, it is worth noting that the role of communal open space under the ADG is multifaceted including the provision of landscaping and publically accessible areas as set out in the definition and Objectives 3D-1 and 3D-2 as follows.

"Communal open space: outdoor space located within the site at ground level or on ^[SEP] a structure that is within common ownership and for the recreational use of residents of the development. Communal open space may be accessible to residents only, or to the public.

Objective 3D-1 An adequate area of communal open space is provided to enhance residential amenity and to provide opportunities for landscaping.

Objective 3D-2 Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting.

The ADG further acknowledges the need for adaptability "*where developments are unable to achieve the design criteria, such as ... sites within business zones, or in a dense urban area*" (p55) and that "*Some communal open space is accessible and usable by the general public*" and provides for "*social interaction*" p54.

Notwithstanding this clarification, the proposed development now provides communal open space in a variety of areas:

- the 'principle useable' parts are within levels 1 and 4 with areas of 218 m² and 146 m² respectively totalling 21.5% of the site area; and
- a secondary communal open space comprising ground level turfed areas and landscaping of 83 m² at the rear of the building to increase the total to 26.4% of the site area.

When combined with the publicly accessible setbacks to the streets of 141 m², which is mostly to be used for social interaction and landscaping, the total communal open space as defined by the ADG may be considered to be as high as 35% of the site area.

The communal open space at level 4 will enjoy views to Botany Bay and be provided with BBQ facilities with significant landscape elements and improved solar amenity. It is more suited to social activity without disrupting resident amenity while the level 1 area provides a garden setting suited for more personal recreation.

An updated breakdown of the communal open space areas and deep soil zones are provided in the resubmitted architectural drawing DA005.

While winter solar access will still be limited, it will be available to level 4 in the morning and the rear turfed area during midday as well as the level 1 space in the afternoon to minor degrees.

It is accepted that a roof top location on Level 10 achieves superior winter solar access but it would be subject to significant aircraft noise being directly under the east-west runway flight path and sufficiently close to aircraft for the SAA to preclude any additional structures above Level 11.

While it is acknowledged that aircraft movements on this flight path has decreased in recent years, this is a result of public policy and operational preference that may change significantly over the life of the building without any mechanism to mitigate its effect.

Accordingly, apart from solar access limitations, the provision of communal open space is in accordance with the ADG's definitions, design criteria and design guidance especially in consideration of the site and its circumstances and without taking into account the publicly accessible landscaped setbacks.

(d) Light Well Veil Detailed Design

Refer to comments by Fuse. Please note that new drawings DA803, DA804 have been provided to demonstrate the commitment of achieving an appropriate design outcome and a suitable condition of consent is acceptable should Council require it.

(e) Unit Mix

The ADG design guidance for apartment mix states as follows:

The apartment mix is appropriate, taking into consideration:

- *the distance to public transport, employment and education centres* <sup>L
SEP</sup>
- *the current market demands and projected future demographic trends* <sup>L
SEP</sup>
- *the demand for social and affordable housing* <sup>L
SEP</sup>
- *different cultural and socioeconomic groups* <sup>L
SEP</sup>

As outlined in the response by Fuse, it is noted that the proposed mix was unchanged from the design competition.

Importantly, larger dwellings are over represented in the broader Bayside Council context in that:

- the housing mix is currently skewed towards separate houses, with 45.4% of dwellings being of that type; and
- the bedroom mix of all dwellings in the LGA is imbalanced with more than 48% of the total dwellings having 3 bedrooms or more. (Fuse)

The proximity of shopping, public transport to employment, constrained external environment of the site and limited nearby facilities for younger children suggest smaller households would likely be more suited and attracted to the location. This is supported by market demand analysis undertaken by the applicant which indicated a demand for smaller apartment sizes.

Notwithstanding, to help satisfy Council's concern, an additional 3 bedroom apartment has been provided as previously discussed by consolidating a 2 bedroom apartment with the remaining area from the Level 4 communal open space. This reduces the total number of apartments to 91 and brings the number of 3 bedroom apartments within the proposal to 4.4%.

(f) Building Separation Distance

As discussed with Council, the balconies to apartments 208 and 308 have been extended to the balcony walls of adjacent units 209 and 309 making for a larger balcony and improved outlook from within those apartments while improving apartment amenity overall. Apartment 408 has now been utilised for communal open space.

In regard to the JBA submission, it is noted that since it was made, the draft Arncliffe and Banksia Rezoning Report has been released by the Department of Planning and Environment and has identified the adjoining site currently zoned B6 Enterprise Corridor to remain unchanged. This is despite identifying other nearby B6 lands on Princes Highway as having *"future opportunities for mixed use development"* (Area 3 at p21). Therefore, the submission's premise requiring the sharing of residential building separation needs is unfounded.

Notwithstanding, it should be recognised that the proposed building has been setback 3m from the laneway for building separation. Should the adjoining site be redeveloped for residential purposes in the long term, there is no constraint to accommodating

suitable setbacks (including further lane widening if needed) and arranging habitable rooms to meet the development standards of the day.

(g) Natural ventilation of Kitchens¹⁷

A window has been added to the kitchens of apartments U104, 205-1005 providing increased opportunity for cross ventilation and improved amenity while apartment U409 has been deleted for the creation of a new communal open space.

(h) Conflicting information

Fuse has advised that the ADG compliance table stating 70.7% achieving solar compliance and 90% natural cross ventilation was correct and that the documentation has been amended accordingly.

3. ROCKDALE LEP 2011

(a) Height

As noted, the development as currently proposed exceeds the maximum height of building (HOB) development standard of 34m permitted under RLEP 2011 by between 0.14 to 0.43m. A contributing factor to the height is the need to accommodate potential flood levels.

As Council is aware, the height standard to be applied to the site is governed by Clause 4.3 (2A) (a) being identified within 'Area A' on the HOB map subject to fulfilling the design excellence provisions as a result of clause 6.14 (2)(b).

While the height variation is considered minor with adequate planning and design justification, clause 4.6 (8) (ca) restricts a consent authority in granting development consent in which the subject HOB development standard is contravened "*unless it is for a demonstrable public benefit, such as the provision of pedestrian links*"

The rationale previously provided to Council in regard to publicly accessible street setbacks has been mistaken. While it is accepted that most developments have street setbacks, they remain for private use and the enjoyment of the owner/s.

The setbacks proposed in the development to the highway and laneway are being made available for unfettered public use and access and in the strict legal sense required of this provision, is a demonstrable public benefit little different to the "provision of a public link". (A point confirmed by the comments made by Councils' landscape architect in 5. below)

In addition, a demonstrable public benefit is also being provided by the widening of the laneway to 6m and dedication free of cost to Council which benefits not only future residents and visitors to the site but the use of adjoining landowners and the general public.

Accordingly, it is considered that the consent authority can be satisfied that it may lawfully consider the merits of the request for the variation to the HOB standard to accommodate the building as proposed as it results in a "demonstrable public benefit" for the purposes of clause 4.6 (8) (ca) including:

- the effective expansion of the public domain through the unfettered public use, access and enjoyment of the required building setback to the Highway for a range of activities, as well as the setback provided to the laneway for the parking of bicycles; and
- the widening of the adjoining laneway, a public road, and dedication free of cost to Bayside Council which will benefit future residents, visitors, adjoining landowners, and the general public.

Fuse also suggests that *"the high quality architectural outcome afforded by the design excellence competition should not be discounted as a valuable and a demonstrable public benefit."*

In regard to the rooftop mechanical plant, Fuse has advised that the mechanical plant has been designed to sit below the SACL limits and will be screened from the public domain as indicated on the plans.

(b) Design excellence

In regard to the key recommendations with the Design Competition Report, and in particular, the resolution of the design of the Central Gallery", Fuse has advised as follows.

"As required by the Design excellence competition, expert technical advice was sought and incorporated in the detailed resolution of the central breezeway. This technical advice balanced amenity with respect to privacy, acoustics, solar access and ventilation."

In regard to the recommendation that *"careful consideration should be given to the material palette chosen to ensure the design intent and integrity of the competition scheme is retained"* Fuse also advise as follows.

"The DA documentation has now been supplemented with details on DA803 and DA804 showing how the breezeway battens and the "golden veil" deliver internal amenity whilst maintaining the sculptural expression critical for the buildings articulation. Details DA801, DA802, for the retail and public domain interface and awning along with the landscape and screening elements visible from the public domain have also been added."

In regard to Council's Urban Design Team comments on the design excellence outcomes, please refer to the detailed responses provided by Fuse in their advice attached, summarised as follows

- (1) The treatment of the public domain fronting the Princess Highway now accords with Council and the DRP's preferences.
- (2) The roof terrace to be utilised for communal open space is not considered essential to the design excellence outcome and was regrettably precluded by Sydney Airport Authority in any case. As Fuse has commented, *"the OLS identification process highlighted that the development site was directly under the flight path and suggested that the highest part of the building wasn't the most appropriate place to provide a communal open space of any description."*

- (3) Columns provided in the corner retail space are behind the glass line and are required for the extensive cantilevering such that the *"The cantilevered north tower on the corner of the site remains as lauded and originally intended during the design excellence competition."*
- (4) The battens to the "golden veil" continue under the building projection above the awning as was originally intended and has now been made clear on the plans DA803 and DA804.
- (5) The basement projections into the 3m setback do not impede the landscape treatment to the 'arterial edge' as discussed elsewhere.

4. Rockdale DCP 2011

(a) Green Gateway

The resubmitted plans now accommodate the Green Gateway treatment for the "Arterial Edge" public domain, including sufficient soil for plantings, as previously discussed with Council and the DRP. Refer to comments by Fuse and the resubmitted plans for details.

(b) Staff Facilities

Staff facilities incorporating a shower and change room have been provided on the western wall of Basement 1 and indicated on DA113.

(c) Access to retail / commercial premises

Fuse has advised that *"equitable access will be provided as part of future retail fitouts to each non-residential tenancy via an easy-step integrated lift"* as attached to its statement and which is compliant with the DDA and works as an *"elegant an integrated solution to bridging small height differentials within a commercial tenancy"*.

5. Landscape

Black Beetle has provided a statement and revised drawings which incorporate response to the landscape architects comments summarised below.

In regard to the first point, these appears to be an uncommon interpretation and difficult to support given that under Rockdale LEP

"landscaped area means a part of a site used for growing plants, grasses and trees, but does not include any building, structure or hard paved area."

The part of the site in question is part of the "development area / private land", sitting above basement parking and will be owned by the residents notwithstanding its public use and 'effective' extension of the public domain.

In regard to the second dot point, the rear common open space has now been afforded suitable landscaping and is separated from the truck loading area. This area is now measured more appropriately on the architectural plan DA005.

Plan LP04 is clear in indicating the relevant area as deep soil as defined in the ADG and meets its water quality and tree growth objectives. It is held in place by a retaining wall on the property boundary and is not a "podium area with turf-cells".

In regard to podium planter depths, Black Beetle advise the following.

"The majority of the planter walls are 1050mm high albeit a selected few are 600mm high. The 600mm high planter walls act as sitting edges adjacent mass plantings and provide connectivity to the landscape. A successful landscape can be achieved with the right selection of low to medium plants – this planter wall height has been proven in a number of similar developments throughout the Greater Sydney Metropolitan Area. Localised mounding to a 1000mm depth of soil is proposed to accommodate the trees within the lower planter walls"

The soil pits for the Princes Highway setback trees has now been significantly increased as noted on the architectural and landscape plans.

Black Beetle advise that the proposed structural soil is Benedicts Smart Mix 3 – 40mm Structural Soil Mix.

Black beetle also advise that street tree planting is in accordance with the DRP requirement and email advice provided by Council as attached to its response.

6. Development Engineering Issues





(a) and (b) Car parking, traffic and access

The responses to the traffic and parking engineering issues were previously provided to Council as an interim response and are reflected in the attached table prepared by Varga which incorporates additional information, swept paths, private waste collection advice and planning comments.

As Council is now aware, the width of the laneway is proposed to be widened and its geometry to the Princes Highway altered in response to the issues raised noting that:

- a private waste collector with more compact 7.5m trucks is proposed to be utilised in response to lane width and site constraints as evidenced in the Varga response;
- while truck turning into the laneway will remain potentially compromised from a vehicle leaving the laneway, these movements will be a very infrequent occurrence and should not have a meaningful impact on intersection performance, queuing on on the Highway or overall safety; and
- street widening and intersection realignment which would accommodate large truck movements is unnecessary and would significantly undermine the pedestrian environment at this intersection and have a detrimental effect on the proposed development.

Parking has also been marginally reduced in line with Council's suggestion for a shared parking scheme, allowing the addition of increased soil depth for the green gateway along the Princes Highway. Parking now comprises the following allocation as shown on the amended architectural plans DA111, DA112 and DA113.

- B1- 22 commercial spaces [including 1 accessible, 1 adaptable and 1 carwash bay]  and 12 visitor spaces [including 1 accessible and 1 adaptable bay] 
- B2- 39 residential spaces [including 5 accessible and 1 adaptable bay] 
- B3- 44 residential spaces [including 2 accessible and 1 adaptable bay] 

The carparking has also been amended to incorporate a roller door at B1 creating a separation between the commercial and residential parking while a dedicated car wash bay has been provided.

(c) Flooding

A suitable crest has now been provided to the top of the car park access driveway as shown on the architectural plans that will *"prevent inundation of basement and/or internal building areas from the gutter flow and/or the 1% AEP flood level (whichever is the critical)"*.

In regard to Council's request to *"check and provide stormwater control details for the driveway area and loading bay draining to prevent water flowing into the basement and/or building"*, the civil engineers S&E Ivanov Consultancy has provided detailed advice as attached.

7. Submissions

A response to the submission on behalf of the Spotlight site in regard to building separation has been provided above. Commentary on traffic matters raised may be incorporated in the finalised Traffic Report noting that Council has not required modelling of the intersection performance given the low trip generation anticipated from the proposed development and the low current use from the Spotlight site.

In regard to matters raised in the other two submissions, there is limited scope to respond given the high level of compliance with the planning controls as well as the design excellence process undertaken. Notwithstanding, the following comments are offered.

- In terms of built form, building height and urban outcomes, the development application proposes to implement the adopted local planning framework as reflected in the Rockdale LEP and DCP which in turn reflects adopted State planning strategies;
- No specific shortage of infrastructure has been identified through the assessment and referral process but this would be a matter for government authorities in plan making and implementation in most instances, including the cumulative impact of transport needs; and
- No concern has been raised by the traffic assessment process as to the risk of cars *"attempting to turn right onto the highway or go 'straight' down Bestic Street"*, but this would seem to be an existing traffic management situation under the control of the RMS and Council.

I trust that the responses and refinements in the resubmitted plans satisfies Council's concerns and information needs. However, please do not hesitate to contact me should you require additional matters to be addressed or for clarification.

Yours Sincerely



Greg Dowling
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