

COUNCIL ASSESSMENT REPORT

Panel Reference	2017SCL005
DA Number	DA-2017/211
LGA	BAYSIDE
Proposed Development	Integrated development – demolition of existing structures and construction of a seven storey mixed use development comprising 61 residential apartments (including 22 affordable dwellings), three commercial units and basement parking for 83 vehicles.
Street Address	Nos. 648-652 Princes Highway and 1-3 Ashton Street, ROCKDALE NSW 2216
Applicant/Owner	Applicant: Architecture and Building Works Pty Ltd Owner: Dr Meuhat Fany Guirgis, Dr Sara Samy Guirgis, Mrs Ahsaan Oussa Hanna and Mr Rifaat Gergis Hanna
Number of Submissions	Twelve(12) initial notification, sixteen (16) second notification
Regional Development Criteria (Schedule 4A of the Act)	Cost of proposal \$13,400,000
List of all relevant s79C(1)(a) matters	<ul style="list-style-type: none"> • SEPP 55 • SEPP 65 and Apartment Design Guide • SEPP (Affordable Rental Housing) • SEPP (Infrastructure) • SEPP (BASIX) • SEPP (Vegetation) • SREP No. 2 • Rockdale LEP 2011 and Rockdale DCP 2011
Is a Clause 4.6 variation request required?	Yes - Height
Does the DA require Special Infrastructure Contributions conditions (S94EF)?	No
Have draft conditions been provided to the applicant for comment? Have any comments been considered by council in the assessment report?	Yes
List all documents submitted with this report for the Panel's consideration	Conditions of Consent Plans
Recommendation	Consent
Report prepared by	Kerry Gordon, Town Planning Consultant
Report date	28 August 2018

Precis

The proposal involves the demolition of all dwellings and structures on the site and removal of two Callistemon street trees in Chandler Street and all trees on the site. It is proposed to construct a seven storey mixed use development comprising 61 residential apartments (including 22 affordable dwellings), three commercial units and basement parking for 83 vehicles.

The site is zoned B4 Mixed Use under Rockdale Local Environmental Plan 2011 (RLEP 2011). The proposal is defined as a commercial premises and residential flat building and the uses are permissible uses with consent in the B4 zone. The proposal also seeks approval under SEPP (Affordable Rental Housing) for infill affordable housing.

The proposal is for integrated development as it involves excavation that it likely to intercept the water table and General Terms of Approval have been issued by Water NSW.

The Roads and Traffic Authority have indicated there are no current plans to widen Princes Highway and they raise no objection to the proposal.

The proposed development has been considered under S4.15(1) of the Environmental Planning and Assessment Act, 1979. The proposal is generally consistent with the objectives and controls of SEPP 55, SEPP 65, the Apartment Design Guide, SEPP (Affordable Rental Housing), SEPP (Vegetation), Sepp (Infrastructure), SEPP (BASIX), RLEP 2011 and DCP 2011,

Notwithstanding the proposal will result in significant shadow impacts upon the dwelling and private open space of the property at 658 Princes Highway in midwinter, the shadow impact is a result of compliant development of the subject site and a more skilful design would not reduce shadow impacts. The shadow impact is a direct result of the zoning and height control applicable to the site.

The other concerns raised in the submissions have either been addressed by the amended plans or conditions of consent or are not considered to be valid.

Whilst the proposal breaches the height controls to a small degree, the clause 4.6 variation request is considered to be well-founded and accordingly the application is recommended for approval subject to the attached conditions of consent.

Officer Recommendation

That development application DA-2017/211 for demolition of existing structures and construction of a seven storey mixed use development comprising 61 residential apartments (including 22 affordable dwellings), three commercial units and basement parking for 83 vehicles at 648-652 Princes Highway and 1-3 Ashton Street, ROCKDALE NSW 2216 be APPROVED for the following reasons, subject to the attached conditions of consent.

1. The clause 4.6 variation request for breach of the height control is supported as:
 - i. The breach is relatively minor numerically.
 - ii. The breach results in no unacceptable environmental impacts.
 - iii. There are sufficient environmental grounds to support the breach due to the provision of affordable housing within the development.

2. The design of the building will result in an acceptable level of amenity for future residents whilst protecting the amenity of surrounding residents to an appropriate degree.
3. The design of the building provides for an appropriate level of articulation to ameliorate the bulk and scale of the building, and provides an appropriate interface between the zones surrounding the subject site.
4. The reasons for concern raised by the objectors are either addressed due to the amended plans or conditions of consent or have been assessed as being acceptable.
5. Notwithstanding the proposal will result in significant shadow impacts upon the dwelling and private open space of the property at 658 Princes Highway in midwinter, the shadow impact is a result of compliant development of the subject site and a more skilful design would not reduce shadow impacts. The shadow impact is a direct result of the zoning and height control applicable to the site.

Report Background

HISTORY

DA-2015/39

Demolition of existing structures and construction of a seven (7) storey mixed-use building (western building) comprising of five (5) commercial/retail units occupying 285m² and twenty-four (24) residential units and a seven (7) storey residential flat building (eastern building) comprising of forty-one (41) residential units with affordable rental housing component and two (2) basement levels for 95 vehicles submitted to Council on 25 July 2014. This DA was withdrawn on 26 February 2015.

DA-2017/211

- On 14 December 2016 the development application subject of this report was lodged with Council
- From 16 January and 27 February 2017 the application was placed on neighbour notification and an advertisement placed in the local newspaper, attracting 12 submissions
- On 11 May 2017 the Sydney East Central Planning Panel was briefed on the proposed development.
- On 1 September 2017 request for information/amended plans letter sent to applicant.
- On 16 January 2018 amended plans received.
- From 24 January and 7 February 2018 amended plans renotified, resulting in 16 submissions.
- On 5 April 2018 a further request for information/amended plans letter sent to applicant.

- On 13 July 2018 a further set of amended plans were submitted to Council. These plans were not notified as they resulted in a further reduction of impacts upon adjoining properties.

PROPOSAL

The original proposal was for proposal is for demolition of all existing structures and construction of a seven storey mixed use development comprising 64 residential apartments (including 32 affordable dwellings), three commercial units and basement parking.

Subsequent to the provision of advice after the initial assessment of the application, the applicant submitted amended plans altering the proposal to demolition of all existing structures and construction of a seven storey mixed use development comprising 63 residential apartments (including 22 affordable dwellings), three commercial units and basement parking.

A final set of amended plans, dated 16/7/2018, were submitted reducing the number of dwellings to 61 and are the subject of this assessment report. The amended proposal is the subject of this report and is described in detail following.

Demolition

The proposal involves the demolition of all dwellings and structures on the site. It is also proposed to remove two Callistemon street trees in Chandler Street and all trees on the site.

Construction

It is proposed to construct a seven storey mixed use development comprising 61 residential apartments (including 22 affordable dwellings), three commercial units and basement parking. The development is to comprise two “blocks”, attached by a narrower linking element, with “Block A” fronting Princes Highway and “Block B” fronting Chandler Street. Between Ashton Street and Block B is communal open space at ground level. The proposal is detailed following:

Basement 2: 47 residential parking spaces (including 6 accessible spaces), 4 motorcycle parking spaces and storage cages.

Basement 1: 17 residential parking spaces (including 1 accessible spaces), 12 visitor spaces (including 1 accessible space and 1 wash bay), 7 commercial spaces, 2 motorcycle parking spaces, 10 bicycle spaces, 1 loading bay, storage cages, plant and a garbage chute room.

Ground: Block A – three commercial premises (2 shops and 1 office) with a total GFA of 273m² (191m² shop and 82m³ office), a lobby for the residential component of Block A from Ashton Street and the commercial component from Chandler Street, 2 common accessible WCs for the commercial premises.
Block B – 3 x 1 bed, 2 x 2 bed, 1 x 3 bed apartments (1 x 1 bed adaptable). The pedestrian lobby to Block B is from Chandler Street.

1st Floor: Block A – 4 x 2 bedroom apartments (all affordable, 1 x 2 bed adaptable).
Block B – 2 x 1 bed, 3 x 2 bed, 1 x 3 bed apartments (1 x 1 bed adaptable).

2nd Floor: Block A – 4 x 2 bedroom apartments (all affordable, 1 x 2 bed adaptable).
Block B – 2 x 1 bed, 3 x 2 bed, 1 x 3 bed apartments (1 x 1 bed adaptable).

- 3rd Floor: Block A – 4 x 2 bedroom apartments (all affordable, 1 x 2 bed adaptable).
Block B – 2 x 1 bed, 3 x 2 bed, 1 x 3 bed apartments (1 x 1 bed adaptable).
- 4th Floor: Block A – 4 x 2 bedroom apartments (all affordable).
Block B – 1 x 1 bed, 3 x 2 bed, communal roof space of 150m².
- 5th Floor: Block A – 4 x 2 bedroom apartments (all affordable).
Block B – 3 x 1 bed, 2 x 2 bed apartments.
- 6th Floor: Block A – 4 x 2 bedroom apartments (2 x affordable).
Block B – 1 x 1 bed, 3 x 2 bed apartments.

As such the development as a whole comprises 61 apartments (14 x 1 bed, 43 x 2 bed and 4 x 3 bed), of which 22 are affordable (all 2 bed) and 7 are adaptable (4 x 1 bed and 3 x 2 bed) and 83 parking spaces (64 residential, 12 visitor and 7 commercial).

The proposed development has a nil setback to Princes Highway at ground level, with a variable setback at the upper levels of approximately 0.5m to the balcony and 1.1m to the wall. Block A has a 1.8m ground level setback and a 2.3m setback to the balcony at upper levels fronting Chandler Street, with a 4m ground level setback and 1.3-1.8m setback (to balcony) at upper levels fronting Aston Street. The connecting link element of the building has a variable setback from Chandler Street of 11.4m-12.7m at the upper levels.



Proposed development viewed from Chandler Street looking north-west



Proposed development viewed from Ashton Street to the north-east of the site

Block B has a variable 4m – 5.8m ground level setback to the wall and 3m to the balcony at ground level and a 4m – 9.9m setback to the wall and 3m to the balcony at Levels 1-5 fronting Chandler Street. The setback from Chandler Street at Level 6 increases to 5.8m-9.9m to the wall and 5.3m to the balcony. Block B has a variable of 12.8m – 21.8m to the wall ground level setback and 9.7m – 19m setback to the balcony at upper levels fronting Aston Street. Building B has a 8m – 9.9m setback at ground level to Level 3 from the eastern boundary, increasing to 14.1m – 17.8m at Levels 4-6.

EXISTING AND SURROUNDING DEVELOPMENT

The site is known as 648-652 Princes Highway and 1-3 Ashton Street, Rockdale and is legally described as Lots 7-11 in DP 12023. The site is an irregular shaped property and has frontages of 27.74m to Princes Highway, 59.43m to Ashton Street and 62.745m to Chandler Street, with an eastern side boundary dimension of 44.135m. The site has a total area of 2,236m², calculated from title, and falls from its south-west corner to its north-east corner by approximately 3m.

The site is currently developed with five detached brick and tile dwellings and numerous sheds and garages. The site currently has no vehicular access from Princes Highway, with 1 vehicular crossing from Ashton Street and three from Chandler Street. Three trees exist on the site, with one located roughly centrally to the frontage of Ashton Street and two located centrally along the eastern boundary of 1 Aston Street. All structures are proposed to be demolished and all trees removed. Four mature street trees exist along the frontage of the site in Aston Street.

The site is located at the boundary of B4 Mixed Used zone, which extends to the opposite side of Ashton Street, with the adjoining sites to the east being zoned R4 High Density Residential and to the south, on the opposite side of Chandler Street, being zoned R2 Low Density Residential and the character of the area reflects the zone boundary location.

A series of three residential flat buildings of 3 storey construction exist to the east of the subject site in the R4 zone. All three buildings present a landscaped front garden to Chandler and Ashton Streets. The immediately adjoining residential flat building at 5-7 Aston Street is a three storey building with a variable setback from the common boundary with the subject site of approximately 2.8m – 4m. The building has a setback from Chandler Street of approximately 7m in proximity to the site (though has a variable setback to this frontage) and has a setback of approximately 8.5m from Ashton Street.



Adjoining residential flat buildings viewed from Chandler Street

On the opposite side of Chandler Street, within the R2 zone are a series of single storey detached dwellings, with the corner property fronting Princes Highway.

On the opposite side of Ashton Street, within the B4 zone, is Rockdale Plaza, a highrise mixed use development including large residential towers to a total height of eleven storeys within a landscaped setting and with communal open space on the podium.



Adjoining residential flat buildings viewed from Ashton Street



Single storey detached dwellings opposite in Chandler Street

Opposite the site in Princes Highway are a mixture of uses including 2-3 storey commercial premises (service station, tyre service centre), a two storey dwelling house and mixed use development with ground level commercial uses and residential apartments above (8 storey).

PLANNING CONSIDERATION

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



Highrise mixed use development opposite in Chandler Street

Section 4.15(1) Matters for Consideration – General

Provisions of Environmental Planning Instruments (S.4.15(1)(a)(i))

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

The subject site has a history of use for residential purposes and as such is unlikely to contain any soil contaminants. However, given the age of the dwellings on the site it is recommended that the carrying out of a Hazardous Materials Survey on the existing structures prior to commencement of demolition be required by a condition of consent. Further, given the extensive excavation proposed a condition of consent will required the testing and classification of material to be removed from the site prior to disposal at an appropriate landfill. The proposal is therefore considered to be acceptable when considered against the requirements of SEPP 55.

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

As the proposal is for buildings containing three or more storeys and four or more residential apartments, the provisions of *SEPP 65* and the *Apartment Design Guide* are relevant to the assessment as the application. The Plan sets aims and design principles as well as standards that cannot be used as grounds for refusal. These design principles are detailed and discussed following, together with consideration of the requirements of the *Apartment Design Guide*.

The standards which cannot be used for refusal are complied with in relation to parking, internal area for apartments and ceiling heights.

The application was considered by the St George Design Review Panel (DRP) on 9 March 2017. The comments (summarised) of the Panel are provided following in relation to the design principles of SEPP 65, along with comments identifying how the concerns raised by the Panel have been addressed in subsequent amendments to the application.

Context and neighbourhood character

Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and character they create when combined. It also includes social, economic, health and environmental conditions.

Responding to context involves identifying the desirable elements of an area's existing or future character. Well designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.

Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.

Panel Comment: Subject to resolution of the tree protection zones for the street trees in Aston Street there are no concerns with regard to context and neighbourhood character.

Comment: Council's Tree Officer has raised no concern with the tree protection zones for the street trees.

Built form and scale

Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.

Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements.

Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.

Panel Comment: The Chandler Street interface can be more sensitively handled to achieve a better scale relationship with the R2 zone.

A 3 storey component to Building B with levels 4 through 6 setback may help achieve a better relationship. The Panel Acknowledges that the 3 metre deep soil zone and adequate tree planting has been provided to Chandler Street.

The residential entry to Building A requires further resolution. Even through there is now a direct link between the lobby and the entrance, the adjoining spaces are poor quality. Consider moving the entry east with a glazed wall looking out onto communal open space, and reconfiguring the sprinkler valve room and water tanks.

The Panel does not support the deep recess above the entrance to Building A from Chandler Street (see comments above). The Panel would prefer that the depth of this recess be significantly reduced, and this space could be occupied by a reconfiguration of the apartment layouts. A depth for this recess that aligned with the entry door at the ground floor below may be sufficient.

Similarly, the Panel does not support the communal balcony spaces on the Chandler Street frontage next to lift 2. The Panel is also concerned about the expression of lift 2 and the adjacent fire stairs on the Chandler Street elevation, and the narrow slot next to the stairs. The Panel recommends this part of the design be reconfigured. This may include redesigning Units B1.1, 2.1, 3.1, 4.1, 5.1, 6.1, without increasing the floor space.

The expression of the lift shaft and associated fire stairs at the upper level is not supported. The Panel also recommends further setback to Unit B6.4 to reduce the scale of the building as viewed from Chandler Street.

The Panel is not opposed the narrow triangular slab extension forming the corner element on Chandler Street and Princes Highway but recommends the applicant consider how these areas are maintained and/or accessed.

None of the above supports an increase in the size of the building above the permissible FSR.

Comment: The amended plans provide a four storey scale adjacent to the three storey residential flat building at 5-7 Ashton Street, with the additional 3 storeys setback significantly from the boundary. Further, the Sixth Floor has been setback from the Chandler Street frontage to reduce the visual height of the building. Further, a deep soil landscaped zone is provide adjacent to the boundary with 5-7 Ashton Street to allow for the visual softening of the interface between the zones with landscaping. It is considered that these amendments appropriately address the Panel's concerns with transitioning between the zones.

The lobby to the Building A residential use has been reconfigured to provide a glazed wall opening onto the communal open space however the landscape plan provides the area as tiled, with no soft landscaping. Subject to a condition requiring a planter box to be provided adjacent to the terrace of Apartment BG01, the outlook from the lobby will be improved to a satisfactory degree.

The depth of recess above the entrance to Building A from Chandler Street (now the commercial lobby) has not been altered from that viewed by the Panel. The concerns of the Panel in relation to this element are not concurred with and the recess is considered to provide an appropriate sense of break in the building bulk and is supported in its current form.

The concern with the communal balconies and lift shaft of Building B have been addressed in a redesign, with the stairs being rotated 90° and the communal balconies removed, with adjoining apartments reconfigured.

Density

Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.

Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.

Panel Comment: The Panel notes the development now appears to comply with the FSR control.

Sustainability

Good design combines positive environmental, social and economic outcomes.

Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation.

Panel Comment: The highly articulated floor plans create excessive external wall surface which is expensive in terms of materials, resources and costs and provides little benefit to the design.

The location of the water tanks at the entrance to Building A should be reconsidered.

Comment: The concern raised by the Panel in relation to the articulated floor plan is not concurred with. The articulation reduces the visual bulk of the building and is supported.

The water tank has been relocated away from the Building A lobby.

Landscape

Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.

Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks.

Good landscape design optimises useability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity and provides for practical establishment and long term management.

Panel Comment:

The lack of consideration for the root zone of significant street trees compromises the viability of the health of these trees. Tree protection zones should be defined by qualified arborists and annotated clearly and adhered to on all architectural, engineering and landscape drawings.

The children's play area requires further design resolution to incorporate fall zones.

Comment: Further advice has been received in relation to the tree protection zones which is now supported by Council's Landscape Architect.

A condition of consent is recommended requiring the child play area to be provided with appropriate soft fall material underneath.

Amenity

Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well being.

Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access for all age groups and degrees of mobility.

Adequate access for disabled and abled bodied persons to the lifts in the basement is unsafe and there is inadequate space for access.

Adequate space for disabled access to the garbage rooms and lobbies has not been established.

Winter gardens should be considered to address acoustic issues where units face Princes Highway.

The lobby to building A should be rearranged to be closer to the lift to eliminate a long and unpleasant corridor and establish a direct visual link to the communal open space.

The documentation does not demonstrate how the garbage is to be satisfactorily dealt with. The garbage enclosure for Building B appears to be too small, no bulk waste facility is provided, and the access path to the street is not clear and may be too steep. The above comments regarding commercial garbage do not appear to have been addressed.

Arrangements for collection of garbage from the Chandler Street kerb need to be confirmed and whether this is possible for commercial garbage given there is no collection bay for a commercial contractor.

Concern is raised at the proposed single lift for a 7 storey building.

The building awning extends over the deep soil area and should be pulled back.

Comments: Subject to appropriate bollard placement, the lift access from the basement would be safe and a condition to this effect is recommended.

Garbage chutes are located at all levels which are accessible. Accessible paths of travel are provided to the entry lobby for Building A from Ashton Street and to the communal open space from that lobby. An accessible path of travel is available from the lobby of Building B to the communal open space. An accessible path of travel to the lobby of Building B from Ashton Street is provided through the communal open space, however no accessible path of travel is available to the lobby of Building B from Chandler Street. A condition of consent will require an accessible form of entry to this lobby off Chandler Street.

Whilst the provision of winter gardens to the apartments fronting Princes Highway may result in a more usable space on the balcony in relation to noise, it would then become floor space, rather than a balcony and would be included as FSR. It is not considered such a change is necessary given the acoustic report submitted with the application.

The applicant has advised that a private garbage contractor will collect garbage from within the basement.

The Panel's concern with the single lift for Building B is not concurred with. The building contains 37 apartments and the Apartment Design Guide indicates the maximum number of apartments sharing a single lift is 40.

The Panel's concern with the awning is agreed in that it extends over the deep soil in Ashton Street and the planter box to the Chandler Street frontage forward of the accessible WC in the commercial lobby. A condition is recommended requiring the awning to be cut back so as not to extend over the deep soil area in Ashton Street or eastward of the access path to the commercial lobby from Chandler Street.

Safety

Good design optimises safety and security within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety.

A positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose.

Panel Comment: Access to lift 2 at the basement level is concealed. The commercial entry to Building A, which is only used for garbage collection, has poor safety.

The deep soil zone to the eastern boundary fronting Ashton Street should include fencing in alignment with the 3 metres setback and fire stairs structure

Comments: The safety concern with the lift access at the basement level is not concurred with.

The concern with the safety of the commercial lobby is also not concurred with.

The communal open space area fronting Ashton Street is fenced with a 1.8m high privacy screen, addressing the second concern of the Panel (note this is shown on the landscape plan).

It is agreed that a fence should be provided at the eastern edge of the communal open space (at RL 9) and that the deep soil planting along the eastern boundary should occur at existing ground level. A condition to this effect is recommended.

Housing diversity and social interaction

Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.

Well-designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix.

Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.

Panel Comment: The development is satisfactory in this regard.

Aesthetics

Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.

The visual appearance of a well designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.

Panel Comment: The Panel generally supports the building aesthetics subject to resolving the built form issues above.

Apartment Design Guide

Design Criteria	Required	Proposed	Compliance
2E - Building Depth	12m – 18m	19m	No, however the variation is minor and results in no unacceptable amenity impacts.
3B – Orientation	Responsive to streetscape and site. Designed to optimise solar access and minimise overlooking.	The proposed building is appropriately oriented to address Princes Highway and Chandler Street and provides communal open space in the front setback to Aston Street to achieve excellent solar access to the space.	Yes
3C – Public Domain Interface	Direct street entry to ground floor apartments	Separate entrances to the dwellings from the communal open space fronting Ashton Street is provided which is appropriate. A separate direct entrance is provided to the only apartment fronting	Yes

Design Criteria	Required	Proposed	Compliance
	<p>Balconies/windows orientated to overlook the public domain</p> <p>Front fence design is permeable</p> <p>Opportunities for concealment minimised</p> <p>Access ramps minimised</p>	<p>Chandler Street. Balconies and windows overlook the public domain and communal open space.</p> <p>No front fence is proposed to Chandler Street. The fence to Ashton Street is 1.8m high to provide privacy to the communal open space which is appropriate.</p> <p>Opportunities for concealment are appropriately minimised.</p> <p>The access ramp is the main form of entry to the commercial lobby and does not have significant grades or length. The ramp to enter Lobby A is relatively short and runs along the front of the fire boosters.</p> <p>No accessible ramp is shown to the lobby of Building B and a condition will require an accessible form of entry to this lobby off Chandler Street.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>In part</p>
3D – Communal Open Space	<p>Min. 25% required 559m²</p> <p>Min 2h to 50% communal open space at mid-winter</p>	<p>426m² provided at ground level to the north of Block B and 150m² provided on the rooftop of Block B at Level 4 (total 576m²).</p> <p>Both areas of communal open space will receive at least 2 hours solar access.</p>	Yes
3E – Deep Soil Zones	<p>Min. 7% required 156.5m²</p> <p>6m min. dimension</p>	<p>No deep soil with 6m dimension is provided, though the proposed 227m² with 3m dimension complies with the numerical control.</p>	<p>No, however given the increased area provided, which allows tree planting to the street frontages, the variation of the dimension control is appropriate in this instance.</p>
3F – Visual Privacy	<p>Up to 4 storeys:</p> <ul style="list-style-type: none"> 12m between habitable rooms/balconies 9m between habitable and non-habitable rooms 6m between non-habitable rooms 	<p>A separation distance of 8m-9.9m is provided for levels G-3, complying with the 6m setback control for levels G-3.</p>	Yes

Design Criteria	Required	Proposed	Compliance
	<ul style="list-style-type: none"> Up to 8 storeys: 9–18m 18m between habitable rooms/balconies 12m between habitable and non-habitable rooms 9m between non-habitable rooms 	<p>The 14.1m-17.8m setback to Levels 4-6 complies with the 9m setback control for habitable rooms.</p> <p>It is recommended that the eastern edge of the communal open space area on Level 4 be provided with a 1.5m high privacy screen.</p>	Yes
3G – Pedestrian Access and Entries	Entry addresses public domain Clearly identifiable Steps and ramps integrated into building design	The entries to the pedestrian lobbies address the street and will be clearly identifiable. The steps and ramps are appropriately integrated.	Yes Yes
3H – Vehicle Access	Integrated into façade Visual impact minimised Entry behind the building line or from secondary frontage Clear sight lines Garbage collection screened Pedestrian and vehicle access separated	<p>The proposed vehicular access is provided to the eastern boundary off Chandler Street and the entry is behind the building line. Clear sight lines are provided</p> <p>Garbage rooms are integrated into the building. Separate pedestrian paths are provided.</p>	Yes Yes Yes
3J – Bicycle and Car Parking	Within 800m of a railway station: Min RMS Rate Applies:	The site is not within 800m walking distance from a railway station.	N/A due to ARHSEPP
4A – Solar and Daylight Access	<p>Min. 70% receive 2 hours solar access to both the living rooms and balconies (43 required)</p> <p>Max. 15% units have no solar access (maximum 9)</p>	<p>49/61 (80%) minimum 2hrs solar access</p> <p>11/61 (18%) have no solar access</p>	<p>Yes</p> <p>No, however the variation is acceptable given the large number with solar access and the excellent solar access of the communal open space.</p>
4B – Natural Ventilation	<p>Min. 60% are cross ventilated in first 9 storeys (37 required)</p> <p>Cross-over/Cross-through Max 18m depth</p>	<p>42/61 (69%) apartments are naturally cross ventilated</p> <p>15.5m</p>	<p>Yes</p> <p>Yes</p>

Design Criteria	Required	Proposed	Compliance
	Light wells are not the primary source of ventilation for habitable rooms	No light-wells are proposed	N/A
	Single aspect units have limited depth to maximise ventilation	Limited depth provided	Yes
4C – Ceiling Heights	Habitable: 2.7m Non-habitable: 2.4m Mixed Use: 3.3m ground floor	2.7m Minimum 3.3m	Yes Yes
4D – Apartment Size and Layout	1 bed: 50m ² 2 bed: 70m ² 3 bed: 90m ² Additional bathrooms +5m ² Each habitable room must have a window > 10% floor area of the room. Habitable room depths =max 2.5 x ceiling height Or if open plan layout =max 8m from a window Master bed: min 10m ² Other bedroom: min 9m ² Living room min. width: Studio and 1 bed: 3.6m 2 and 3 bed: 4m Crossover/through: min 4m	50-56m ² 1 bedroom 70-82m ² 2 bedroom 95m ² 3 bedroom Note one 2 bedroom apartment (BG1) is shown to have an area of 66m ² , however it is the same size as the ones above it which are identified at 70m ² and as such it is likely to be an error. All bedrooms exceed 9m ² , but some masters are not 10m ² . All living rooms are complaint.	Yes Yes Yes No, however the layout makes the minor deficiencies acceptable. Yes
4E – Private Open Space and Balconies	1 bed: 8m ² , min depth 2m 2 bed: 10m ² , min depth 2m 3 bed: 12m ² , min depth 2.4m	All balconies have adequate area and depth	Yes
4F – Common Circulation and Spaces	Max 8 apartments off a single core > 10 storeys: max 40 units/lift	Maximum 6 off a core Maximum 37 off a single lift	Yes Yes
4G – Storage	Studio: 4m ³ 1 bed: 6m ³ 2 bed: 8m ³ 3 bed: 10m ³ At least 50% within the basement	Adequate storage shown in basement and condition of consent will ensure appropriate storage in basement and apartments.	Yes, subject to condition.

Design Criteria	Required	Proposed	Compliance
4H – Acoustic Privacy	Orientate building away from noise sources	Design appropriately orients all but one apartment on each level away from Princes Highway to minimise noise impacts.	Yes
	Party walls limited or insulated, like rooms together	Acoustic report provided.	Yes
	Noise sources (e.g. garage doors, driveways) located at least 3m from bedrooms.	Driveway appropriately located with nib wall adjoining bedroom to minimise noise impact.	Yes
4J – Noise and Pollution	Site building to maximise noise insulation Noise attenuation utilised where necessary	See above comments re: traffic noise. Aircraft noise addressed in acoustic report.	Yes
4K – Apartment Mix	Variety of apartment types Appropriate apartment mix Different apartments distributed throughout the building	16 x 1 bedroom 43 x 2 bedroom 4 x 3 bedroom	Yes
4L – Ground Floor Apartments	Direct street access Casual surveillance whilst providing privacy.	Appropriate casual surveillance provided – inadequate information on privacy. A condition of consent is recommended requiring a 1.5m high privacy screen to be provided to the southern edge of the south facing balconies of Apartments BG1, BG2 and BG3.	
4M – Facades	Composition of building elements Defined base, middle and top Building services integrated into the façade	Appropriate façade treatment proposed, with good articulation and emphasis of different components of building.	Yes
4N – Roof Design	Roof design integrated into the building Incorporates sustainability features May include common open space	Roof design is appropriate and includes common open space.	Yes
4O – Landscape Design	Responsive to streetscape Viable and sustainable	Good landscape design provides trees to street frontages and appropriate communal open space.	Yes
4P – Planting on Structures	Appropriate soil profiles and structural design Irrigation and drainage	Acceptable information provided – assessed by Council's landscape architect.	Yes

Design Criteria	Required	Proposed	Compliance
	systems		
4Q – Universal Design	Variety of adaptable apartments	1 and 2 bedroom adaptable apartments provided.	Yes
4U – Energy Efficiency	Adequate natural light to habitable areas Adequate natural ventilation Screened areas for clothes drying Shading on northern and western elevations	Adequate natural light and ventilation provided. No detail provided. A condition of consent is recommended requiring the provision of a screened area to each balcony for clothes drying. Appropriate shading incorporated.	Yes
4V – Water Management and Conservation	Efficient fixtures/fittings WSUD integrated Rainwater storage and reuse	BASIX and drainage design appropriate	Yes
4W – Waste Management	Minimise impact on streetscape, building entry and amenity	Garbage storage rooms incorporated into building.	Yes
4X – Building Maintenance	Material selection reduces ongoing maintenance costs	External material is largely painted render which will require ongoing maintenance.	No

State Environmental Planning Policy (Affordable Rental Housing) (ARHSEPP)

The application has been made under the provisions of Division 1 – In-fill affordable housing of ARHSEPP, with the application including 22 affordable rental dwellings. Clause 10 indicates the provisions of Division 1 are applicable to residential flat buildings in accessible areas where the development is permitted under another environmental planning instrument. As residential flat buildings are permitted under LEP 2011, the Division is applicable to the application, subject to satisfaction of the criteria for accessible areas.

Pursuant to clause 4, for a site to be in an accessible area, the site needs to be within 800m walking distance to the entrance of a railway station or 400m walking distance to a bus stop used by a regular bus services. The site is not within 800m walking distance to Kogarah Station (it being noted the control does not apply “as the crow flies”). The site is within 400m of a bus stop (on both sides of Princes Highway) which is appropriately serviced by buses and as such satisfies the definition of an accessible area.

Floor Space Ratio

Clause 13 provides a FSR ‘bonus’ for the provision of affordable rental housing. Where the maximum FSR permitted is 2.5:1 or less, a maximum 0.5:1 bonus FSR is possible if at least 50% of GFA is affordable housing. Alternatively, where less than 50% of GFA is affordable housing, the bonus FSR is calculated using a formula where the percentage of the development provided as affordable housing is divided by 100.

The subject site has a maximum permitted FSR under RLEP of 2:1. The proposal provides a total GFA of 5,313m² on a site area of 2,236m². Of the proposed development, 1,967m² is affordable housing, equating to 37.02% of the GFA of 5,313m². As such a bonus GFA of 0.3702239:1 is permitted, giving a maximum GFA of 2.3702239:1. The proposal has a GFA of 5,313m² and a FSR of 2.3761:1 and as such is not compliant. The maximum FSR for compliance would be 5,299m², with the proposal breaching by 14m². Accordingly, a condition of consent is recommended requiring Apartment A6.4 to also be an affordable apartment, which would make the development compliant with an affordable GFA of 2,049m² is affordable housing, equating to 38.57% of the GFA, and permitting a FSR of 2.386:1.

Standards that Cannot be Used to Refuse Consent

Clause 14 provides standards, which if complied with, cannot be used as reasons to refuse an application. The following table shows the level of compliance of the application with these standards.

Standard	Control	Proposed	Complies
Site area	450m ²	2,236m ²	Yes
Landscaped area	30% of site (670.8m ²)	738m ²	Yes
Deep soil zones	15% of site (335.4m ²) 3m minimum dimension	318m ² (14.2%), breach of 17.4m ² (5%)	No, however the breach is small and the proposal is generally compliant with SEPP 65 and as such the breach is supported in this instance.
Solar access	Min. 70% of dwelling receive 3 hours solar access between 9am and 3pm at mid-winter	49/61 (80%) achieve 2 hours and 43/61 (70.5%) achieve 3 hours	Yes
Parking	0.5 space/1 bedroom 1 spaces/2 bedroom 1.5 spaces/3 bedroom 14 x 0.5 = 7 43 x 1 = 43 4 x 1.5 = 6 Total 56	64 proposed	Yes
Dwelling size	50m ² 1 bedroom 70m ² 2 bedroom 95m ² 3 bedroom	50-56m ² 1 bedroom 70-82m ² 2 bedroom 95m ² 3 bedroom	Yes

Design Requirements

Clause 15 required consideration to be given to the provisions of the Seniors Living Policy: Urban Design Guidelines for Infill Development prior to granting consent to an application for infill housing. The design of the proposal is considered to be generally consistent with the Policy and where there are inconsistencies, the variations are supportable in this case.

Character of Local Area

Clause 16A required consideration to be given to whether the design of the development is compatible with the character of the local area prior to granting consent to an application for infill housing. The amended design provides appropriate stepping in height towards the east to sit more comfortably in the streetscapes of Ashton and Chandler Street where the site adjoins a lower density residential zone. Further, the stepping back of the top floor assists in providing a better height relationship with the low density residential area opposite in Chandler Street. The design is appropriately landscaped at both the Ashton and Chandler Street frontage and provides an appropriate nil setback approach to Princes Highway.

Must be Used for Affordable Housing for 10 Years

Clause 17 requires a consent authority to condition any consent for affordable housing made under ARHSEPP such that the identified affordable dwellings are used as affordable housing for 10 years from the date of issue of the occupation certificate and that all affordable housing is managed by a registered community housing provider. A restriction is required to be registered prior to the issue of the occupation certificate under section 88E of the Conveyancing Act to that effect. Appropriate conditions to this effect recommended.

State Environmental Planning Policy (Infrastructure) (SEPP Infrastructure)

The application was referred to Ausgrid pursuant to clause 45(2) of SEPP (Infrastructure) due to the existing infrastructure adjoining the site. Ausgrid have raised no objection to the proposal subject to conditions which should be included in any consent granted.

The provisions of SEPP (Infrastructure) 2007 have been considered in the assessment of the development application. The application is subject to clause 102 of the SEPP as the development is likely to be the subject of road noise and as such consideration is required of the impact of road noise upon the residential component of the development. The applicant has provided an Acoustic Report prepared by Acoustic Noise & Vibration Solutions Pty Ltd, dated 20 July 2017. This report also addresses aircraft noise given the proximity of the site to the airport.

The report concludes that the internal noise levels achieved by the proposed development would satisfy the criteria of clause 102 of ARHSEPP and AS 2021 'Acoustic – Aircraft Noise Intrusion – Building Siting and Construction' subject to the recommended attenuation measures. Accordingly, a condition of consent is recommended requiring the architectural plans and specifications to be consistent with the recommendations contained in the Acoustic Report prepared by Acoustic Noise & Vibration Solutions Pty Ltd, dated 20 July 2017.

State Environmental Planning Policy (BASIX) (SEPP BASIX)

A BASIX Certificate was lodged with the application showing the proposal to be acceptable, with the design providing a project score of 40 for water, 31 for energy and a pass for thermal comfort.

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 (SEPP (Vegetation))

The provisions of SEPP (Vegetation) have been considered in the assessment of the development application. Clause 26 of SEPP (Vegetation) is a savings provision that indicates that if an application has been made for removal of vegetation prior to the commencement of the Policy and not determined then the application shall be assessed on

the basis that it had been made under the Policy. As the application was lodged on 14 December 2016, the savings provision applies to the application.

Council's landscape architect supports the removal of the trees on the site. Condition of consent are included in the recommendation addressing the protection of street trees in Ashton Street

Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment

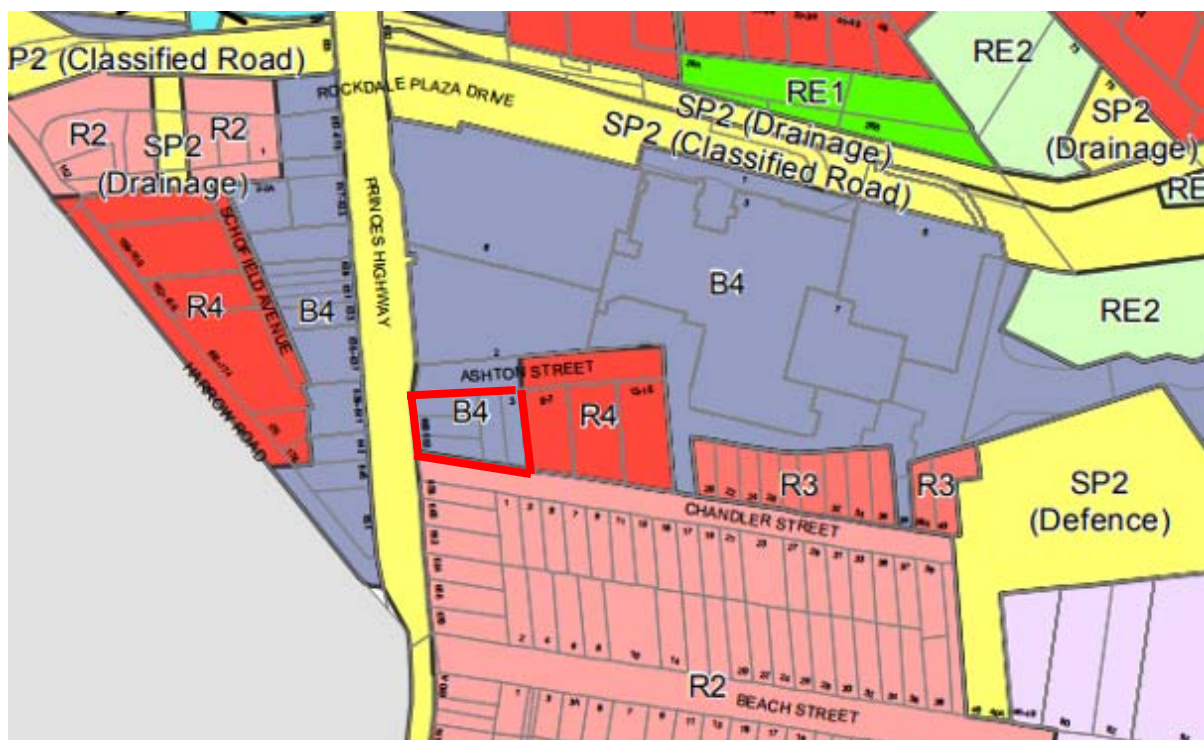
The Greater Metropolitan Regional Environmental Plan No. 2 applies to all land within Rockdale City local government area and requires consideration of the impact of development upon water quality in the catchment.

The application is supported by Council's Development Engineer and as such satisfies the criteria for water quality within this Plan

Rockdale Local Environmental Plan 2011 (RLEP 2011)

The site is zoned B4 Mixed Use under Rockdale Local Environmental Plan 2011 (RLEP 2011). The proposal is defined as a commercial premises and residential flat building and the uses are permissible uses with consent in the B4 zone.

The site is located at the boundary of B4 Mixed Used zone, which extends to the opposite side of Ashton Street, with the adjoining sites to the east being zoned R4 High Density Residential and to the south, on the opposite side of Chandler Street, being zoned R2 Low Density Residential and the character of the area reflects the zone boundary location.



Zoning map of subject site outlined in red

The objectives of the B4 Mix Use zone are satisfied by the proposal as is discussed following:

- *To provide a mixture of compatible land uses.*

The proposal contains a mix of residential and non-residential uses which would be compatible.

- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*

The proposal is proximate to Rockdale and Kogarah Stations and bus services along Princes Highway and as such is an appropriate location for the provision of mixed use development.

The relevant clauses of RLEP 2011 that apply to the proposal are below.

Clause 4.3 - Height of buildings

Clause 4.3 sets maximum permitted heights for buildings and the site has a maximum height control of 22m. The proposed building has the following breaches of the maximum height control (see following height plan study):

Lift overrun Building B	height 22.2m	breach 200mm
Lift overrun Building A	height 22.86m	breach 860mm
North-eastern corner of Building A	Height 22.5m	breach 500mm

The applicant has submitted a clause 4.6 variation request to the breach of the height limit which is summarised following:

- The height breaches are minor in nature
- Compliance would require the removal of an entire floor which would impact the viability of the project and is not commensurate with the minor nature of the variations
- There are sufficient environmental planning grounds to support the variation as the proposal meets the objectives of the EPIs and DCP
- The location of the height breaches is such that it will not be readily perceived from the public domain
- The FSR is less than the maximum 2.5:1 permitted under ARHSEPP
- The height of the development respects its surroundings
- The breach of the height control does not provide for any additional GFA
- The majority of the visible structure complies with the height control
- The development maximises the opportunity for people to work within the community they live in reducing the impact upon private and public transport services
- Failure to support the variation would be contrary to the orderly and economic use of the land and would fail to fully utilise the site's capacity

Assessment of variation request

Clause 4.6 has objectives as follows:

- to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*



Height breach study

Clause 4.6(3) requires the clause 4.6 variation request to justify contravention of the development standard by demonstrating:

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

Further, clause 4.6(4) requires the consent authority must not grant consent to a development that contravenes a development standard unless it is satisfied that:

- (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
- (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*

and concurrence has been received. In this case the Panel does not need the concurrence of the Secretary and can assume concurrence. However, clause 4.6(5) requires consideration of the following when considering whether to grant concurrence:

- (a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
- (b) *the public benefit of maintaining the development standard, and*
- (c) *any other matters required to be taken into consideration by the Secretary before granting concurrence.*

The location of the breaching lift overruns is such that they will not be visible from the public domain and will not result in any detrimental impacts in terms of loss of solar access. The small nature of the lift overrun breach is such that it will not result in any significant additional loss of views to the apartments across the road in Ashton Street due to the downward angle of the views as the southern edge of the building (which is compliant) will already block that component of the view.

Whilst the location of the height breach at the north-eastern corner of Building B will be partially (ie leading edge) visible from Ashton Street, its small additional height of 500mm will make it difficult to discern that there is a breach of the control given the slope of the street. Further, similar to the lift overrun breach, will not result in any significant additional loss of views to the apartments across the road in Ashton Street due to the downward angle of the views as the southern edge of the building (which is compliant) will already block that component of the view. As this breach is located on the northern side of the building it will not result in any additional shadowing to adjoining properties. As such the breach will not result in any unacceptable impacts to the environment.

The objectives of the height control, as follows,

- (a) *to establish the maximum limit within which buildings can be designed and floor space can be achieved,*
- (b) *to permit building heights that encourage high quality urban form,*
- (c) *to provide building heights that maintain satisfactory sky exposure and daylight to buildings, key areas and the public domain,*
- (d) *to nominate heights that will provide an appropriate transition in built form and land use intensity.*

are satisfied by the development notwithstanding the breach of the height control as:

- the development does not seek additional floor space as a result of the height breach;
- the development exhibits a high quality urban form, with appropriate modulation and an generous landscaped setting;
- maintains appropriate sky exposure and daylight consistent with a building that complied with the height control;
- and steps down towards the east to provide an appropriate transition in building form to the lower density residential zone to the east.

As has been discussed previously in this report, the development is consistent with the objectives of the zone.

Given the proposal satisfies the objectives of the height control and zone and the breach of height control does not result in any additional unacceptable environmental impacts, it would be unnecessary and unreasonable not to support the variation to the height control.

The variation of the control to the degree sought raises no State or regional planning issues and would there would be no public benefit in this instance in requiring strict compliance with the control.

It is considered that there are sufficient environmental planning grounds to justify contravening the development control in this instance given the site will accommodate affordable rental housing, which provides a public benefit to the area.

Clause 4.4 – Floor Space Ratio (FSR)

Clause 4.4 sets maximum permitted FSR of 2:1, which on a site with an area of 2,236m² equates to a maximum GFA of 4,472m². The proposal provides a total GFA of 5,313m², giving a maximum GFA of 2.3761:1 and breaches the control. However, the provisions of clause 4.4 are overridden by the provisions of ARHSEPP, see discussion previously in the report.

Clause 5.10 – Heritage Conservation

Clause 5.10 indicates that development impacting items of heritage requires consent and that the consent authority must consider the impact of the proposal upon the heritage item prior to granting consent. The site is located within the vicinity of an item of heritage at 23 Chandler Street (Banbury Cottage) and as such consideration must be given to the impact of the proposal upon the item. Given the separation distance between the development and the item of heritage, and its location on the opposite side of Chandler Street, it is not considered there will be any unacceptable detrimental impact on the heritage significance of the item as a result of the proposed development.

Clause 6.1 – Acid Sulfate Soils

The site is within an area classified as Class 5 in the acid sulfate soils map and is within 500m of Class 4 land. A *Preliminary Acid Sulfate Soil Assessment* prepared by Environmental Investigations has been prepared which concludes that the site has a low likelihood that acid sulfate soils or PASS is present on the site and that no further investigations are necessary in relation to acid sulphate soils.

Clause 6.2 – Earthworks

The proposal involves excavation for the basement car park and clause 6.2 requires consideration of the following matters prior to granting consent for earthworks.

- (a) *the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality,*

A geotechnical investigation report has been prepared by EI Australia and has identified that there are unlikely to be any detrimental impacts upon existing drainage patterns or soil stability in the locality.

The proposal will intercept the ground water and Water NSW has provided authorization under the Water Management Act 2000 to intercept the ground water with the proposal deemed to be an aquifer interference activity and GTAs have been provided.

- (b) *the effect of the proposed development on the likely future use or redevelopment of the land,*

The excavation proposed is intended to facilitate the proposed future use of the site and as such the effect will be positive.

- (c) *the quality of the fill or the soil to be excavated, or both,*

The geotechnical investigation report indicates that materials excavated from the site be tested and classified before disposal and a condition to this effect is recommended. A condition should be placed upon any consent requiring any fill to be brought to the site to be certified as VENM.

- (d) *the effect of the proposed development on the existing and likely amenity of adjoining properties,*

The proposed excavation work is likely to impact the amenity of adjoining properties during the works and the geotechnical report makes recommendations in relation to vibration and stability which along with standard conditions of consent will ensure noise and vibration is minimized. The requirement for a structural engineer's design, informed by a geotechnical assessment of the site, for the basement should prevent damage to adjoining properties during the works.

- (e) *the source of any fill material and the destination of any excavated material,*

See above comments in relation to (c).

- (f) *the likelihood of disturbing relics,*

The site has previously been used for residential development and as such is unlikely to contain any relics.

- (g) *the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area.*

Soil and sedimentation devices will be required to be installed and maintained throughout the excavation and construction works to ensure no unacceptable impacts upon watercourses.

Clause 6.3 – Development in Areas Subject to Aircraft Noise

The provisions of this clause require consideration of the impact of aircraft noise from Sydney Airport upon the development and applies to land in an ANEF contour of 20 or greater, and as such applies to the subject site which is located between an ANEF contour of 20 and 25.

The applicant has provided an Acoustic Report prepared by Acoustic Noise & Vibration Solutions Pty Ltd, dated 20 July 2017. This report addresses road traffic and aircraft noise. The report concludes that the internal noise levels achieved by the proposed development would satisfy AS 2021 'Acoustic – Aircraft Noise Intrusion – Building Siting and Construction' subject to the recommended attenuation measures. Accordingly, a condition of consent is recommended requiring the architectural plans and specifications to be consistent with the recommendations contained in the Acoustic Report prepared by Acoustic Noise & Vibration Solutions Pty Ltd, dated 20 July 2017.

Clause 6.4 – Airspace Operations

This clause requires that consent not be granted to an application unless the consent authority is satisfied that the development will not penetrate the Limitation or Operations Surface (LOS) for Sydney Airport or if it does penetrate the LOS that consultation has occurred with the relevant Commonwealth body and the Commonwealth body advises that the development will not penetrate the LOS or that no objection is raised to the penetration.

The application has been referred to Sydney Airport and advice has been received that the proposal breaches the 15.24m control of the Civil Aviation (buildings Control) regulations, however the proposed maximum height of AHD 33.5 is not objected to. It was also advised that separate approval will be required for any temporary structure or equipment such as construction cranes which would breach this height control. A condition to this effect is recommended.

Clause 6.7 – Stormwater

The proposed stormwater system has been assessed by Council's engineer as being satisfactory subject to recommended conditions.

Clause 6.11 – Active Street Frontages

Clause 6.11 applies to the Princes Highway frontage of the site and as such, other than for vehicular access, access for fire services and entrance/lobbies, the entire Princes Highway frontage at ground level must be used for business or retail purposes. The proposal provides two shops fronting Princes Highway that occupy the entire frontage of the building, satisfying this control.

Clause 6.12 – Essential Services

Services are generally available on the site. Conditions should be placed on any consent requiring consultation with relevant utility providers to ensure appropriate provision of services on the site.

Provisions of any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (S.4.15(1)(a)(ii))

There are no Draft Environmental Planning Instruments that affect the assessment of this proposal.

Provisions of Development Control Plans (S.4.15(1)(a)(iii))

Development Control Plan 2011(DCP 2011)

The application is subject to Rockdale DCP 2011. A compliance table for the proposed development is provided below. It is noted that clause 6A of SEPP 65 indicates that the following provisions of the Apartment Design Guide override this DCP and as such the related provisions under the DCP will not be addressed following.

- Visual privacy
- Solar access and daylight access
- Common circulation and spaces
- Apartment size and layout
- Ceiling heights
- Private open space and balconies
- Natural ventilation
- Storage

Further, the provisions of ARHSEPP require that subject to compliance with the development standards for the following, consent cannot be refused and as such these provisions override the corresponding provisions within DCP 2011.

- Landscaped area
- Deep soil
- Parking
- Solar access
- Dwelling size

It is noted that ARHSEPP and SEPP 65 do not override each other and as such a development is required to comply with the provisions of both.

Relevant clauses	Compliance with objectives	Complies
4.1.1 Views and Vistas	Yes	Yes - see discussion
4.1.2 Heritage Conservation	The proposal is of sufficient distance to the nearest item of heritage such that it will not result in any adverse impact.	Yes
4.1.3 Water Management	Council's Development Engineer has assessed the proposed water management design as being satisfactory subject to conditions.	Yes
4.1.4 Soil Management	Soil and Water Management Plan submitted	Yes
4.1.5 Contaminated Land	See discussion in relation to SEPP 55	Yes
4.1.7 Tree Preservation	Overridden by SEPP (Vegetation)	N/A
4.1.9 Lot Size and Site Consolidation	Overridden by ARHSEPP	N/A
4.2 Streetscape and Site Context	As has been addressed in relation to the character provision of ARHSEPP, the design as amended is now appropriate to the streetscapes of the three streets which it has frontage to.	Yes
4.3.1 Open Space and Landscape Design	Overridden by ARHSEPP	N/A
4.3.2 Private Open Space – Shop Top Housing	Overridden by SEPP 65	N/A
4.3.3 Communal Open Space	5m ² per dwelling – 61 x 5m ² = 305m ² Proposal provides 576m ²	Yes
4.4.2 Solar Access	Solar access to proposal overridden by ARHSEPP Shadow impact upon adjoining properties will occur as a result of the proposal	N/A See following discussion
4.4.5 Visual and Acoustic privacy	Overridden by SEPP 65	N/A
4.4.6 Noise Impact	As discussed previously within this report an acoustic report has been prepared identifying the necessary measures to ensure appropriate internal acoustic amenity given the site location in proximity to a main road and airport.	Yes
4.4.7 Wind Impact	A wind assessment report was prepared by ANA Civil, dated 27.11.16 which concludes the maximum annual gust wind speeds in walk ways, open space, public and private courtyards complies with AS 1170.2.	Yes
4.5.1 Housing Diversity and Choice	10-30% studio/1 bedroom, 50-75% 2 bedroom and 10-20% 3 bedroom, 10% adaptable required. The proposal provides 14 x 1 bed (23%), 43 x 2 bed (70%) and 4 x 3 bed (7%), with 6 (9.8%) adaptable apartments	No – very minor variation to 3 bed apartments and adaptable apartments supported
4.5.2 Equitable Access	Lift access is provided from the basement to all apartments and accessible entry points to the street are provided. All communal facilities are accessible, as are the shops. Concern is raised with the access to the lobby of Building B front Chandler Street. A condition of consent will require compliance with AS1428, with certification of the plans by a suitably qualified consultant required prior to the release of the construction certificate.	Yes – subject to condition

Relevant clauses	Compliance with objectives	Complies
4.6 Parking, Access and Movement	Overridden by the provisions of ARHSEPP other than in relation to the non-residential uses. Parking required $1/40\text{m}^2 - 273\text{m}^2/40 = 7$ spaces 7 commercial spaces are proposed. The design of the car park is acceptable and includes the provision of a car wash bay.	Yes
4.7 Air Conditioning and Communication Structures	No detail is provided of these structures. A condition of consent would be required to ensure the proposal achieves compliance with this clause.	Yes – subject to condition
4.7 Waste Storage and Recycling Facilities	Appropriate provision is made for storage and collection of waste, with a private contractor collecting waste from the basement. A condition to this effect is recommended.	Yes
4.7 Letterboxes	Letterboxes are required to be provided and a condition of consent to this effect should be included in any consent as no information is provided on the plans in relation to the location of letterboxes to the front of the lobby for Building.	Yes – subject to condition
5.3 Mixed Use	In part	In part – see discussion

4.1.1 Views and Vistas

The site has a 22m height control and development to this height will remove views from all surrounding properties below this height regardless of whether the design is a skilful design. As such, the resultant view impacts are acceptable.

4.4.2 Solar Access

The control requires development to be designed and sited to minimise the extent of shadow it casts on private and communal open space of adjoining dwellings, solar collectors of adjoining dwellings and habitable rooms in adjoining dwellings. Such shadow impacts are to be reduced by increasing setbacks, staggering design or variations in roof form or reducing building bulk. For shop top housing developments the living rooms and private open space of adjoining properties should receive at least 3 hours of direct sunlight between 9am and 3pm at midwinter.

The shadow diagrams submitted with the application show that solar access will not be affected to the apartments within 5-7 Ashton Street or the private open space of those apartments before 2pm at midwinter and that by 3pm in midwinter the shadow cast by the proposal falls within the shadow cast by the development at 2 Ashton Street. As such the shadow impact will be minimal. The retained solar access is compliant with the requirements of the DCP.

The shadow diagrams submitted with the application show that solar access to 658 Princes Highway is impacted by the development from 9am through to 3pm at midwinter. The property will lose solar access to the dwelling between 9am to approximately 12.30pm at midwinter, when solar access will start to be received by the southern portion of the western façade (facing the Highway). The private open space of this property will be impacted between 9am and 3pm, with small areas of solar access retained to the yard equating to the movement of the location of the smaller shadow cast by the element of the building linking Building A and B across the property between approximately 12.30pm and 1.30pm. Notwithstanding the proposal will result in significant shadow impacts upon the dwelling and

private open space of the property at 658 Princes Highway in midwinter, the shadow impact is a result of compliant development of the subject site and a more skilful design, such as increased setbacks or staggering or lowering the building would not reduce shadow impacts in any meaningful way without significant loss of development potential to the site. The shadow impact is a direct result of the zoning and height control applicable to the site and as such, whilst significant, is acceptable in this case.

The shadow diagrams submitted with the application show that solar access to 660 Princes Highway is impacted by the development from 9am through to 3pm at midwinter, though to a significantly less degree than 658 Princes Highway. The property will lose solar access to the dwelling due to the development between approximately 9am and 11am at midwinter. Solar access to the private open space is impacted to a significant degree at 9am but solar access to >50% of the area is retained from approximately 9.45am to approximately 1.45pm. The retained solar access is compliant with the requirements of the DCP.

The shadow diagrams submitted with the application show that solar access to 1 Chandler Street is impacted by the development from approximately 12pm to 3pm at midwinter. The property will lose solar access to the front façade of the dwelling due to the development between approximately 12pm (western side) and 3pm at midwinter. Solar access to the private open space is not impacted to a significant degree until 3pm. The retained solar access is compliant with the requirements of the DCP.

Finally, solar access to the front façade of 3 Chandler Street will be impacted between approximately 1pm and 3pm at midwinter. The retained solar access is compliant with the requirements of the DCP.

5.3 Mixed Use

Setbacks: Define a coherent alignment to the public domain and accentuate street corners, with zero street setback. Development on a busy road is to have a zero setback for at least 3 levels and then may setback above to ameliorate noise. The development has a nil ground floor setback from Princes Highway, with minimal setback above (up to 1m) allowing for appropriate articulation.

A minimum side setback of 1.5m is required where a site immediately adjoins a residentially zoned property. The design increases side setbacks (fronting Chandler and Aston Streets) to provide a suitable garden setting for Block B, which is surrounded by residentially zoned properties to the south and east, providing an appropriate visual transition into the residential areas. A significantly larger setback is provided to the adjoining residential flat building at 5-7 Ashton Street, providing an appropriate separation for the transition at the zone boundary.

Building Use: Ground floor uses are to be active uses and residential is prohibited at ground level other than for entries. Sloping street frontages are to be designed so the development steps with the grade of the street. A minimum of 10% of the gross floor area is to be for retail or commercial. The proposal provides active uses at ground level to the Princes Highway frontage and at the corner of Chandler and Aston Streets. This is considered appropriate, however it is not considered appropriate to continue these uses further into Ashton or Chandler Street given the transition nature of the site and the largely residential character of those streets. As such the proposed commercial space of 273m², equates to only 5.1% of the total floor space. For the above reasons, the variation is supported on this site.

Building Design: The façade design and design of the roof is appropriate as has been discussed throughout this report. The communal open space provided on the roof at Level 4 is appropriate as is the articulation of the roof form.

Public Domain Interface: The public domain interface controls require sloping sites to provide access to the commercial/retail suites at footpath level with differences in levels of the ground floor suite and the footpath to be no greater than 600mm elsewhere. The design provides appropriate accessibility to the commercial suites and residential foyers.

An awning is to be provided to all retail streets and Princes Highway is identified for street activation. The design provides for an appropriate awning to Princes Highway, wrapping partially around the sides in Ashton and Chandler Streets. A condition of consent is recommended requiring the proposed awning to Ashton Street to be cut back to a 2m setback and for the proposed awning to the Chandler Street frontage to not extend over the planter box adjoining the lobby to the commercial suites.

Any Planning Agreement that has been entered into under section 93F, or any draft planning agreement that the developer has offered to enter into under section 93F (S.4.15(1)(a)(iiia))

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

Provisions of Regulations (S.4.15(1)(a)(iv))

The Regulations outline the matters to be considered in the assessment of a development application and require the consent authority to consider the provisions of AS 2601:1991 - Demolition of Structures when demolition of a building is involved. In this regard a condition of consent should be placed upon any consent to ensure compliance with the standard.

The Regulations requires notification to relevant authorities that may have an interest in the application. The proposal has been notified to Sydney Water as the site has a significant Sydney Water underground sewerage culvert traversing the site. Sydney Water's response to the notification raised no objection to the proposal.

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

Impact of the Development (S.4.15(1)(b))

Potential impacts related to the proposal have been considered in response to SEPPs, LEP and DCP controls. Further issues have been discussed in response to resident's submissions later in this report. It is considered that the likely impacts of the development are acceptable and the application is considered to be an appropriate form of development for the site.

Suitability of the Site (S.4.15(1)(c))

The relevant matters pertaining to the suitability of the site for the proposed development have been considered in the assessment of the proposal. It is considered that the design of the proposal appropriately responds to the context of the site in terms of streetscape presentation and impacts upon adjoining properties. It is considered that the application is an appropriate form of development for the site.

Public Submissions (S.4.15(1)(d))

The development has been notified in accordance with the provisions of Rockdale DCP 2011 between 16 January and 27 February 2017, with the original notification attracting twelve (12) submissions. Amended plans were notified between 24 January and 7 February 2018 and resulted in sixteen (16) submissions.

The latest amended plans were not renotified as they result in reduced impact to adjoining and nearby properties, which is in accordance with council's notification requirements in Rockdale DCP.

The issues raised in the both sets of submissions are discussed below:

Issue 1: Breach of height control

Comment: The breach of the height controls has been significantly reduced since the objection was received and is now supported for the reasons given previously in this report.

Issue 2: Excessive FSR, dwellings too small at 70m² for a 2 bedroom apartment and 95m² for a 3 bedroom apartment.

Comment: Whilst the proposal exceeds the FSR permitted under LEP 2011, it will be compliant with the maximum permitted pursuant to ARHSEPP subject to one additional apartment being made affordable (condition of consent recommended) and as such FSR cannot be a reason for refusal of the application. The abovementioned areas satisfy the minimum requirement for apartments under the ADG.

Issue 3: Loss of sunlight and air to dwellings opposite in Ashton Street

Comment: The development opposite in Ashton Street is a mixed use development with two highrise residential towers. These properties are to the north and will not be impacted by shadowing. The separation distance between the two developments is significant (including Ashton Street) and it is unlikely any detrimental impact upon air flow will occur.

Issue 4: Traffic congestion, safety impact upon childcare centre, adequacy of traffic report

Comment: Council's traffic engineers have raised not concern that the existing street network will not be able to cater for the additional traffic resultant from the development. The childcare centre is on the opposite side of the street and not in proximity to the driveway of the development, raising no significant safety concerns for users of the facility. The traffic engineer has raised no concern with the adequacy of the traffic report.

Issue 5: Noise

Comment: Any noise related to the use (other than the ground floor shops) will be residential in nature and unlikely to detrimentally impact the adjoining residential uses. The shops and office will be required to gain approval for any use likely to cause noise impacts (such as a restaurant).

Issue 6: Overdevelopment of highrise along Princes Highway

Comment: The redevelopment of the Princes Highway with larger mixed use developments containing apartments is consistent with LEP 2011.

Issue 7: No additional shops are needed and a mix of offices and residential is inappropriate

Comment: The mixed use zone actively seeks a mix of office/retail and residential use on this site and as such the proposal is consistent with the intent of LEP 2011.

Issue 8: Loss of privacy to apartments in 2 and 8 Ashton Street, dwellings opposite in Chandler Street, apartments in 639 Princes Highway

Comment: The apartments opposite in Ashton Street are separated from the proposed apartments by a minimum of 20m, providing sufficient separation for privacy protection as required by the ADG. The dwellings opposite in Chandler Street are a minimum of 22m from the proposed dwellings, providing sufficient separation for privacy protection. The apartments in 630 Princes Highway are separated from dwellings in the proposed development by a minimum of 26m, providing sufficient separation for privacy protection.

Issue 9: Should be a maximum of 3 storeys in height, out of character with dwellings and units in Ashton and Chandler Street

Comment: The site has a maximum height of 22m under LEP 2011 and as such limiting development to 3 storeys is inappropriate.

Issue 10: Loss of trees, open space should be required for trees on all sides of apartments

Comment: The proposal has deep soil setbacks on Ashton and Chandler Street frontages and part of the eastern boundary to allow for tree planting and retention of street trees in Ashton Street. Tree planting to the Princes Highway frontage would be inappropriate due to its commercial nature.

Issue 11: Loss of property value

Comment: The impact upon property value of a development is not a matter for consideration in the assessment of the application.

Issue 12: Inadequate parking, impact upon parking during construction

Comment: The proposal has been made as an affordable housing development which requires less parking pursuant to ARHSEPP and is compliant with the parking rate required. The construction phase will result in some disruption to parking, however once the basement parking component is completed the majority of construction workers will be able to park onsite, minimising the disruption.

Issue 13: Inaccurate shadow study as it doesn't consider shadow from the trees. 3pm shadows for June and September are the same.

Comment: Shadow assessments are required to show shadows from buildings only, not trees. Amended shadow diagrams have been submitted which are considered to be accurate and address the previous inconsistency in the shadow diagrams.

Issue 14: Loss of privacy to apartments on the western side of 5-7 Ashton Street due to angling of Block B

Comment: It is not considered that the proposal will result in any significant loss of privacy to the apartments in 5-7 Ashton Street.

Issue 15: Noise during garbage collection

Comment: Noise during garbage collection occurs infrequently and given the location of the garbage store room is unlikely to unreasonably impact the neighbouring properties, with garbage being collected from within the basement.

Issue 16: Shadow impact on 5-7 Aston Street, 658 Princes Highway, properties in Chandler Street and 639 Princes Highway

Comment: This has been considered previously in the report. The shadow impact upon 5-7 Ashton Street is compliant with the requirements of the DCP. There will not be any shadow impact due to the proposal upon 639 Princes Highway between 9am and 3pm at midwinter.

658 Princes Highway will lose solar access to the dwelling between 9am to approximately 12.30pm at midwinter, when solar access will start to be received by the southern portion of the western façade (facing the Highway). The private open space of this property will be impacted between 9am and 3pm, with small areas of solar access retained to the yard equating to the movement of the location of the smaller shadow cast by the element of the building linking Building A and B across the property between approximately 12.30pm and 1.30pm. Notwithstanding the proposal will result in significant shadow impacts upon the dwelling and private open space of the property at 658 Princes Highway in midwinter, the shadow impact is a result of compliant development of the subject site and a more skilful design, such as increased setbacks or staggering or lowering the building would not reduce shadow impacts in any meaningful way without significant loss of development potential to the site. The shadow impact is a direct result of the zoning and height control applicable to the site and as such, whilst significant, is acceptable in this case.

Issue 17: Loss of views

Comment: The impact upon views from 2 and 8 Aston Street is inevitable with the 22m height limit applicable to the site. The use of a more skilful design would not result in the views being retained as the view loss is a result of the height control rather than the design options chosen. Any loss of views from 639 Princes Highway are again a result of the height control rather than design choices, it being noted the building complies with the height control at the frontage to Princes Highway.

Issue 18: Adequacy of acoustic report questioned

Comment: The concern raised was that the noise monitoring did not occur for a sufficient length of time and may have underestimated the traffic noise impact. A condition of consent is recommended requiring certification of the acoustic mitigation measures prior to the release of the occupation certificate.

Issue 19: Out of character with neighbourhood

Comment: The site has a different height control and zoning from the adjoining development in Ashton Street and opposite development in Chandler Street and as such is necessarily going to have a different visual character. What is appropriate to the assessment of the application is whether the design provides an appropriate transitional design at the boundaries of the zone. This is achieved by such features as landscaped setbacks and stepping of height of the building, however it would not be appropriate to require a significant height reduction over the entire site as suggested as the height control is a key control on the site.

Issue 20: Visual bulk impact on 5-7 Ashton Street

Comment: The visual bulk impacts of the development have been appropriately mitigated by the significant additional side setback above Level 3 and the proposed deep soil landscaping along the eastern boundary.

Issue 21: No provision has been made for loading for the commercial use

Comment: A loading bay suitable for a small truck/van is provided in the basement which is appropriate given the small scale of the commercial suites within the development.

Issue 22: Noise impact from roller shutter to garage

Comment: The roller shutter can be appropriately treated to prevent hitting the ground when shutting, which together with its location below the level of the adjoining apartment building and a suitable boundary fence will reduce any noise impacts to an acceptable level. A condition to this effect is recommended.

Issue 23: Noise during construction

Comment: Some level of acoustic disruption during construction is inevitable, but will be suitably ameliorated by appropriate conditions of consent.

Issue 24: Impact of food smells from commercial uses

Comment: The proposal does not currently contain any food related uses. Any use for a restaurant would require separate consent. Notwithstanding this, the distance separation to the apartments at 5-7 Ashton Street is such that there would be unlikely to be any odour impact.

Issue 25: Loss of trees/inadequate landscaping

Comment: The proposal retains the street trees and proposes the planting of additional trees. This is supported by Council's landscape architect.

Issue 26: No information is provided in relation to affordable housing

Comment: Conditions of consent will require the identified housing to be managed by a registered community housing provider and rented for a period of 10 years. A restriction is required to be registered prior to the issue of the occupation certificate under section 88E of the Conveyancing Act to that effect

Issue 27: Shadow impact upon 8 Aston Street

Comment: 8 Ashton Street is to the north of the site and will not suffer from shadowing from the subject site.

Issue 28: The retail spaces are poorly designed and likely to remain vacant

Comment: The retail spaces are considered to be appropriately design.

Issue 29: Impact of construction traffic

Comment: Some impact due to construction traffic is inevitable, however a condition of consent is recommended requiring the preparation of a construction management plan to ensure that disruption is minimised.

Issue 30: Loss of reception of free-to-air TV due to height of building

Comment: Council's controls set a height limit of 22m and any impact due to a building of such height upon the TV reception cannot be used as a reason for refusal of the application.

Issue 31: Noise from daily rubbish collection.

Comment: The residential component will have weekly collection of rubbish only and the small scale of the commercial premises is unlikely to result in collection greater than once or twice a week.

Issue 32: The proposal does not satisfy the DCP requirements for Mixed Use development with only 5% being non-residential, rather than 10% as required.

Comment: The proposal varies this control, however, given the site is surrounded in Chandler and Ashton Street by residential uses it is considered inappropriate for the non-commercial uses to extend further to the east within the site.

Issue 33: No detail is provided of service location, such as air-conditioners, exhaust and ducting and no detail is provided of signage.

Comment: Signage detail will not be provided until occupation applications for the retail suites. The location of services will be subject to a condition of consent.

Issue 34: The lack of setback from Princes Highway will prevent any future road widening.

Comment: The site has not been identified for road widening by the RMS, as such there is no justification for a setback to allow for this in the future.

Public Interest (S.4.15(1)(e))

The proposal has been assessed against the relevant planning policies applying to the site having regard to the objectives of the controls. As demonstrated in the assessment of the development application, the proposal is considered to appropriately respond to the context of the site, provides for an adequate level of amenity for future residents and constitutes an acceptable development of the site. As such it is considered that approval of the development application is in the public interest.

S94 Contribution towards provision or improvement of amenities or services

The proposal is subject to Council's Development Contributions Plan 2004 and should the application be approved a condition of consent should be included requiring the payment of the relevant contributions.

CONCLUSION

The application involves demolition of existing structures and construction of a seven storey mixed use development comprising 61 residential apartments (including 22 affordable dwellings), three commercial units and basement parking for 83 vehicles.

The proposed development has been considered under S4.15(1) of the Environmental Planning and Assessment Act, 1979. The proposal is generally consistent with the objectives and controls of SEPP 55, SEPP 65, the Apartment Design Guide, SEPP (Affordable Rental Housing), SEPP (Vegetation), SEPP (Infrastructure), SEPP (BASIX), RLEP 2011 and DCP 2011,

Notwithstanding the proposal will result in significant shadow impacts upon the dwelling and private open space of the property at 658 Princes Highway in midwinter, the shadow impact is a result of compliant development of the subject site and a more skilful design would not reduce shadow impacts. The shadow impact is a direct result of the zoning and height control applicable to the site.

The other concerns raised in the submissions have either been addressed by the amended plans or conditions of consent or are not considered to be valid.

Whilst the proposal breaches the height controls to a small degree, the clause 4.6 variation request is considered to be well-founded and accordingly the application is recommended for approval subject to the attached conditions of consent.