

COUNCIL ASSESSMENT REPORT

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| Panel Reference | PPSSEC-108 |
| DA Number | DA-2020/391 |
| LGA | Bayside Council |
| Proposed Development | Demolition of existing buildings and construction of part 10 and 12 storey mixed use building, comprising 101 residential units, 453sq/m ground level commercial floor area, 4 basement levels and Planning Agreement for the dedication of land along the Lister Avenue frontage for the purposes of local road widening |
| Street Address | 588-592 Princes Highway Rockdale |
| Applicant/Owner | Moweno Pty Ltd |
| Date of DA lodgement | 23 November 2020 |
| Number of Submissions | Twelve (12) |
| Recommendation | Approval |
| Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011 | Cost of Works >\$30M |
| List of all relevant s4.15(1)(a) matters | <ul style="list-style-type: none"> • Environmental Planning & Assessment Act 1979 <ul style="list-style-type: none"> • S4.46 – Integrated Development • S7.4 - Planning Agreements • Environmental Planning & Assessment Regulation 2000 • State Environmental Planning Policy (State and Regional Development) 2011 • State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 • State Environmental Planning Policy (Resilience and Hazards) 2021 • State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development • State Environmental Planning Policy (Transport and Infrastructure) 2021 • Rockdale LEP 2021 • Draft Planning Proposal - Rockdale Town Centre (PP-2021-3892) • Draft Local Character Clause • Rockdale DCP 2011 |
| List all documents submitted with this report for the Panel's consideration | <ul style="list-style-type: none"> • Planning Assessment Report • Architectural Plans • Landscape Plans • Clause 4.6 – Exception to Development Standards |
| Clause 4.6 requests | <ul style="list-style-type: none"> • 4.3 - Height of Building |
| Summary of key submissions | <ul style="list-style-type: none"> • Excessive bulk & Scale / Overdevelopment • Height of building • Traffic flow impacts and safety at intersection of Lister Ave & Princes Highway • Car Parking • Privacy to 1A Lister Avenue • Illegally dumped rubbish • Overshadowing and loss of natural light to properties in 555 Princes Highway • Overshadowing to 1A Lister Avenue units • Overcrowding / Congestion / No new green spaces |

| | |
|---------------------------|---|
| | <ul style="list-style-type: none"> Electricity demands fail in locality i.e. black outs / Excessive noise & vehicle emissions Blocked views from 555 Princes Highway Demolition / excavation would adversely impact the basement and building on 1A Lister Avenue / Concern regarding foundation issues i.e. Mascot Towers Wind tunnel effects in Lister Avenue making communal areas at 1A Lister unable to be used. Oversupply of commercial spaces in town centre, these will remain empty. Devaluation of property Craigburn is an iconic building on the site and should be preserved |
| Report prepared by | Fiona Prodromou Senior Assessment Planner |
| Report date | August 2022 |

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarized in the Executive Summary of the assessment report? **Yes**

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? **Yes**

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **Yes**

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)? **Not Applicable**
Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

Have draft conditions been provided to the applicant for comment? **Yes**
Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

COUNCIL ASSESSMENT REPORT

| Application Details | |
|---------------------|--|
| Panel Ref: | PPSSEC-108 |
| DA Number: | DA-2020/391 |
| Date of Receipt: | 23 November 2020 |
| Property: | 588-592 Princes Highway Rockdale |
| Owner: | |
| Applicant: | Moweno Pty Ltd |
| Applicant Address: | 52 Marian Street, Enmore |
| Proposal: | Demolition of existing buildings and construction of part 10 and 12 storey mixed use building, comprising 101 residential units, 453sq/m ground level commercial floor area, 4 basement levels and Planning Agreement for the dedication of land along the Lister Avenue frontage for the purposes of local road widening. |
| Recommendation: | Approval |
| Value: | \$38,176,105.00 |
| No. of submissions: | 12 (Twelve) |
| Author: | Fiona Prodromou - Senior Assessment Planner |
| Date of Report: | August 2022 |

Key Issues

Bayside Local Environmental Plan 2021 (BLEP 2021) commenced on 27 August 2021. Clause 1.8A of the BLEP 2021 states *'If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced'*.

The development application was submitted on 23 November 2020 and will thus be assessed against the provisions of Rockdale LEP 2011.

Prior to 1992, the northern portion of the subject site was formerly utilised as a service station i.e. 588 Princes Highway. Post Approval of DA-1992/409 for the existing commercial building in 1993, underground storage tanks were removed from the site, tank pits were validated and soil sampling to a maximum depth of 0.9m occurred. The existing commercial building was subsequently constructed and is currently tenanted.

As per SEPP (Resilience and Hazards) 2021, it is a pre condition that the consent authority be satisfied prior to the determination of any consent, that the *"land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out"*. The aforementioned is a jurisdictional threshold which must be satisfied. The applicant has undertaken the relevant testing on site and submitted documentation to confirm the suitability of the site for the proposed development. The proposal is satisfactory in this regard.

The provisions of BLEP 2021 largely reflect the planning objectives, policies and controls contained within RLEP 2011. The site is identified under BLEP 2021 as being included within the B4 zone. The proposal is permissible and consistent with the future planning objectives for the area in BLEP 2021. The proposal is satisfactory in terms of BLEP 2021.

The subject site is located on the eastern side of Princes Highway on the corner with Lister Avenue. The site is zoned B4 under Rockdale Local Environmental Plan 2011 (RLEP2011) and the proposal is permissible with consent.

Cl 6.14(3) of Rockdale LEP 2011, requires a design excellence competition to be undertaken. This is a fundamental provision of RLEP 2011. An architectural design competition was held in accordance with the Rockdale Design Excellence Guidelines 2015 and the Design Excellence Strategy and Brief for the site endorsed by Council in November 2017.

Three architectural practices were invited to participate in a design competition, with MAKO Architecture being the successful candidate of the competition, subject to amendments to the scheme. On 31 July 2018 the Jury determined that the Amended Design Scheme produced by MAKO Architecture achieved design excellence.

The proposal is relying on the incentives provisions of RLEP2011 in regard to height (cl 4.3), which allow an additional 12m building height for lots in Area H and an additional 9m building height for lots in Area J if the lot has a minimum site area of 2,000sq.m. The proposal is for a building which exceeds both the height and the bonus height standards, further detail is provided below.

The combined amalgamated site area, as proposed under this development application is 2,077sq.m. The total site area without the land dedication is 1,989sq/m.

The proposed development relates to two lots. The lot known as 588 Princes Highway (northern lot) is located in Area H and the lot known as 592 Princes Highway (southern lot) is located in Area J. For development relying on the bonus height, the provisions of clause 6.14 - Design Excellence in the RLEP2011 apply. The proposal was thus peer reviewed by Councils Design Excellence Panel on 4 February 2021 and 13 April 2022 and supported from a Design Excellence perspective.

The maximum permissible height, taking into account the bonus height is 34 metres for the northern lot and 31 metres for the southern lot. The proposed development is for a building on the northern lot with a height of 41.8m (7.8m (20%) above bonus height) and on the southern lot with a height of 35.29m (4.29m (13%) above bonus height). This variation has been discussed in detail and supported for the reasons outlined within this report.

The applicant has submitted a Cl4.6 justification to the building height standard. Clause 4.6(8)(ca) of RLEP 2011 excludes varying cl 4.3(2A) unless the proposed variation is for a '*demonstrable public benefit*'. Noting the land dedication, its construction and embellishment referred to below, the proposal incorporates a '*demonstrable public benefit*' as part of the redevelopment of the site.

The site is burdened by a local road widening reservation along the Lister Avenue frontage of the site, 88sq.m in overall area. Given the lack of an FSR standard for the site and building envelope controls which apply as per RDCP 2011 (i.e. 4 storey street wall), a loss of gross floor area arises as a consequence of the road widening affectation.

In order to avoid a loss of GFA arising from the aforementioned, the Applicant seeks to transfer the 'lost GFA' from the road widening portion of the site to above the bonus height

standard at the northern portion of the development. The proposal is accompanied by a Letter of Offer from the applicant seeking to enter into a Planning Agreement with Council, of which the following is proposed. The draft Planning Agreement was supported by Council on 13/10/2021.

1. Free-of-cost the dedication of land along the northern frontage of the site to Lister Avenue. This comprises an area of land of 88sq/m, which would be utilised at a future date by Council to permit the widening of Lister Avenue at the intersection with the Princes Highway.
2. The relocation of 823sq/m of gross floor area which could otherwise have been achieved within the 'road widening' portion of the site, should this affectation not have burdened the property.

Further to the above, in order to provide a demonstrable public benefit associated with the proposed development application, the proponent has offered an undertaking to construct & embellish road infrastructure works for the future road widening as a public benefit to the greater community.

The site is located within the B4 Mixed Use zone and adjoins the R4 High Density residential zone to the east. As designed the proposal does not strictly adhere to the minimum building separation distance nominated in Table 1 of Part 2F – Building Separation of the Apartment Design Guide for the side setback of the portion of the development fronting Lister Avenue. This has been discussed in detail within this report and is satisfactory for the reasons provided below.

The development application has been notified in accordance with Council's Development Control Plan 2011 and 12 letters of objection have been received. Issues raised by objectors include but are not limited to, excessive height, over development, excessive bulk and scale, overshadowing, traffic, car parking and non compliance with relevant planning controls for the site.

Given the above, the proposal is recommended for Approval.

Recommendation

- A. That the Sydney Eastern City Planning Panel, exercising the functions of the Council as the consent authority pursuant to s4.16 of the Environmental Planning and Assessment Act 1979 approve a variation to the building height prescribed by Clause 4.3 - Height of Buildings of Rockdale Local Environmental Plan 2011, as it is satisfied that the applicant's request has adequately addressed the matters required to be demonstrated by cl4.6 of that Plan, the proposed development is in the public interest given it is consistent with the objectives of the standard and objectives for development within the zone and noting that the proposal facilitates a demonstrable public benefit.
- B. That the Sydney Eastern City Planning Panel, exercising the functions of the Council as the consent authority APPROVE development application DA-2020/391 for the demolition of existing buildings and construction of part 10 and 12 storey mixed use building, comprising 101 residential units, 453sq/m ground level commercial floor area, 4 basement levels and Planning Agreement for the dedication of land along the Lister Avenue frontage for the purposes of local road widening at 588-592 Princes Highway, Rockdale; pursuant to s4.16(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report.
- B. That the submitters be notified of the Regional Planning Panel's decision.

Background

| Application | Proposal | Consent Authority | Determined Date |
|-------------|---|-------------------|-----------------------|
| DA-2016/352 | Integrated Development - Construction of a fourteen (14) storey mixed use development comprising 140 residential units, 3 commercial units, roof top communal open space, basement car parking and demolition of existing buildings | Regional Panel | Refused 28/11/2017 |

Proposal

The proposal seeks the demolition of existing buildings and construction of part 10 and 12 storey mixed use building, comprising 101 residential units (20 x 1 bed / 68 x 2 bed / 13 x 3 bed), 408sq/m ground level commercial floor area, 4 basement levels. In more detail the proposal incorporates as follows.

Basement Level 4

42 car spaces (4 accessible), 14 bicycle spaces, 4 motorbike spaces, residential storage cages, 2 x dual core lift, 2 x fire stairs, associated vehicular and pedestraian circulation and access.

Basement Level 3

39 car spaces (4 accessible), 14 bicycle spaces, 4 motorbike spaces, residential storage cages, 2 x dual core lift, 2 x fire stairs, associated vehicular and pedestraian circulation and access.

Basement 2

40 car spaces (2 accessible), 14 bicycle spaces, 4 motorbike spaces, residential storage cages, 2 x dual core lift, 2 x fire stairs, associated vehicular and pedestraian circulation and access.

Basement 1

19 car spaces (1 accessible), 10 bicycle spaces, 4 motorbike spaces, residential storage cages, bulky waste store, loading / unloading area capable of accomodating 2 x SRV (shared by commercial and residential), residential / commercial waste storage rooms, 2 x dual core lift, 2 x fire stairs, associated vehicular and pedestrian circulation and access.

Level 00

Commercial tenancy fronting the Princes Highway (225.4sq/m), residential entry, 2 x residential units (1 x 2 bed / 1 x 3 bed) with adjoining rear / east facing courtyards incorporating a range of ground covers / shrubs up to 2m in height, fire exit / walkway along southern boundary & adjoining pressure plant room.

Deep soil landscape planting along the Princes Highway frontage adjoining the commercial tenancy, incorporating a range for shrubs, ground covers and 4 x trees (Eumundi Quandong) with a mature height up to 15m.

Street tree planting is proposed within the public domain at both street frontages, with 6 x water gums along the Princes Highway frontage and 3 within the Lister Avenue frontage. These trees have a mature height of 10m.

Level 01

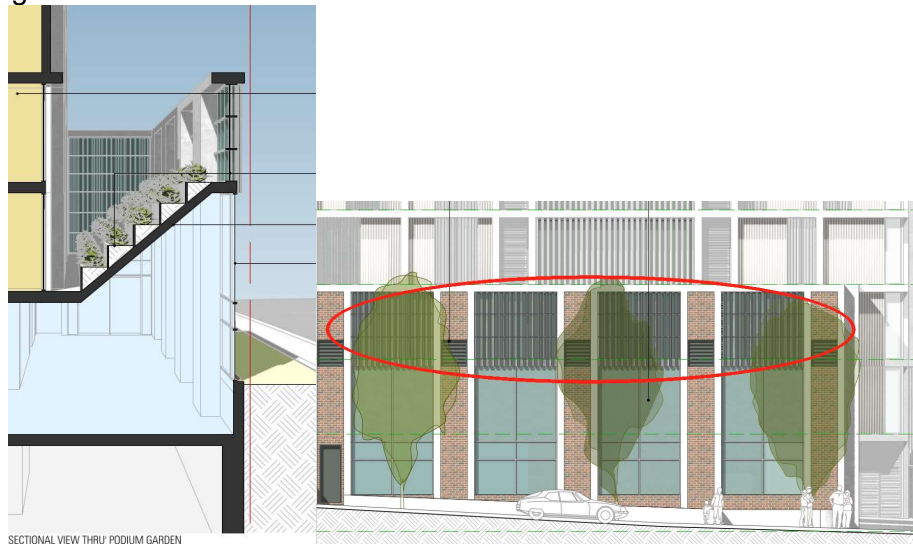
Two x commercial tenancies at junction of Princes Highway / Lister Ave (42sq/m & 185.6sq.m) residential / vehicular entries to Lister Ave, 3 x fire exits to Lister Avenue, chamber substation / combined switch and communications room, service rooms, waste chutes, 4 x residential units (1 x 1 bed / 2 x 2 bed / 1 x 3 bed) with east facing balconies.

Dual lift core, pedestrian circulation, internal access to commercial tenancies. Accessible bathroom to commercial tenancies. Landscape planter is provided along part of the rear boundary of the site incorporating ground covers and shrubs up to 1m in height.

The southern portion of the building in this location is setback from the Princes Highway 8.5m and framed with a glazed acoustic screen positioned 3m from the Princes Highway Boundary, for the height of the podium i.e. 3 storeys. A row of terraced planting to a height of 1m is proposed adjoining the western wall of the southern tail of the building at level 1, refer to images below.

Level 2

10 x residential units (2 x 1 bed / 7 x 2 bed / 1 x 3 bed) with associated adjoining private open space areas. Residential circulation, 2 x dual lift cores, garbage chutes, recycling bins, service cupboards i.e. gas, electrical, communications. A row of terraced planting to a height of 1m is proposed adjoining the western wall of the southern tail of the building at level 2, refer to images below.



Level 3

10 x residential units (2 x 1 bed / 7 x 2 bed / 1 x 3 bed) with associated adjoining private open space areas. Residential circulation, 2 x dual lift cores, garbage chutes, recycling bins, service cupboards i.e. gas, electrical, communications.

Levels 4 – 9

10 x residential units per floor (2 x 1 bed / 7 x 2 bed / 1 x 3 bed) with associated adjoining private open space areas. Residential circulation, 2 x dual lift cores, garbage chutes, recycling bins, service cupboards i.e. gas, electrical, communications.

Level 10 / Rooftop Communal Open Space (Southern Building)

5 x residential units (1 x 1 bed / 3 x 2 bed / 1 x 3 bed) with associated adjoining private open space areas. Residential circulation, dual lift core, garbage chutes, recycling bins, service cupboards i.e. gas, electrical, communications.

The southern tail of the building comprises a communal rooftop open space area for future residents, incorporating periphery planting, central walkways, seating, 2 x bbq areas and awning structure.

Levels 11 & 12

5 x residential units per floor (1 x 1 bed / 3 x 2 bed / 1 x 3 bed) with associated adjoining private open space areas. Residential circulation, dual lift core, garbage chutes, recycling bins, service cupboards i.e. gas, electrical, communications.

Rooftop (Northern Building)

80,000 litre fire tank, dual fire hydrant pump room, hot water plant, fire stairs / dual lift core.



View from NW



View from NE



View from SW

The proposal is accompanied by a Letter of Offer from the applicant seeking to enter into a Planning Agreement with Council, of which the following is proposed.

1. Free-of-cost the dedication of land along the northern frontage of the site to Lister Avenue. This comprises an area of land of 88sq/m, which would be utilised at a future date by Council to permit the widening of Lister Avenue at the intersection with the Princes Highway.
2. The relocation of 823sq/m of gross floor area which could otherwise have been achieved within the 'road widening' portion of the site, should this affectation not have burdened the property.

In order to provide a demonstrable public benefit associated with the proposed development application, the proponent has offered an undertaking to construct & embellish road

infrastructure works for the future road widening as a public benefit to the greater community.

Site Location & Context

The subject site is generally a rectangular shaped allotment at the junction of Princes Highway and Lister Avenue, within the Rockdale Town Centre. The subject site is legally identified as Lot 21 DP 1220749 and comprises a surveyed site area of 2087.69sq/m.



The site comprises a 50.7 western frontage to the Princes Highway and irregular frontage to the north to Lister Avenue, being a 4.5m splay at the junction of Lister Ave / Princes Highway, 26.6m direct frontage to Lister Avenue and 8.2m splay at the north eastern corner adjoining 1A Lister Avenue.

The site is zoned B4 Mixed Use. A total of 88sq/m of the site adjoining the northern boundary to Lister Avenue is subject to acquisition by Council as it is reserved for local road widening under the provisions of RLEP 2011.

The site is affected by potential contamination given its past use as a service station, comprises a frontage to a state road, class 5 acid sulphate soils and is subject to the 51 obstacle limitation surface and 15.24m Building Height Civil Aviation Regulations.

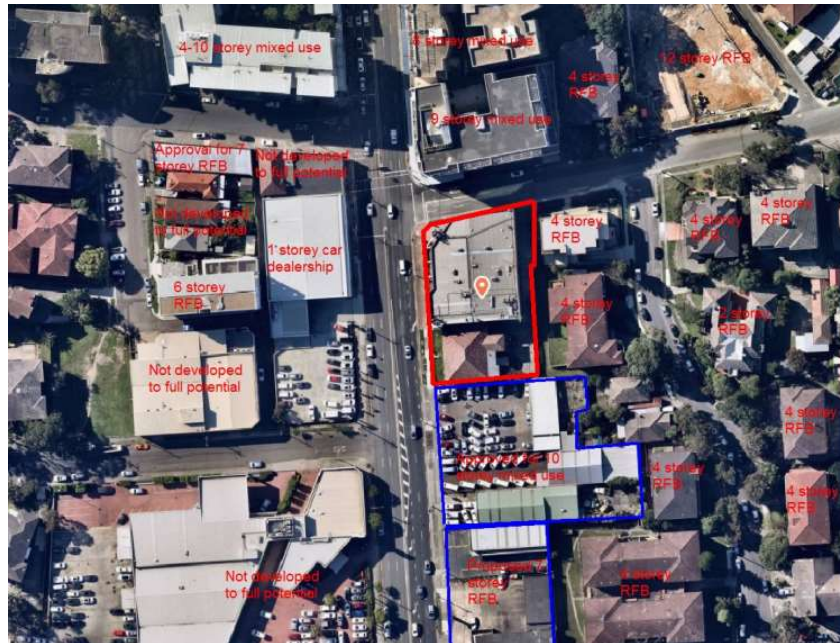
588 Princes Highway is currently occupied by a 2 - 3 storey commercial development currently utilised for the purposes of a gymnasium and function centre. Telecommunications facilities are erected at rooftop level upon this building. Vehicular access to this part of the site as existing is via Lister Avenue to a basement car parking area on site.

It is understood that at and prior to 1979 this part of the site was used for the purposes of a service station, with DA approval for redevelopment of the site to house the current commercial building being granted in 1993 (DA-1992/409).

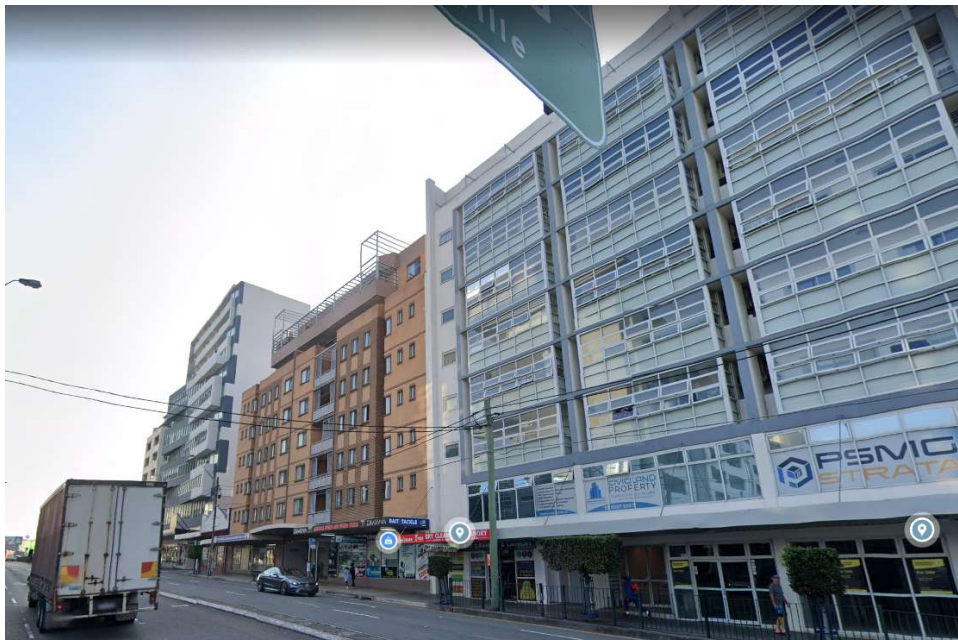
592 Princes Highway is currently occupied by a two storey detached building form with a pitched tiled roof. The original use of this building prior to 1960 is understood to have been for six residential units. The residential use appears to have been abandoned in 1979 where approval was granted to convert the building to 6 professional suites with 6 car spaces to the rear, with access via a right of way from Lister Avenue. The most recent approval for this site is a change of use for video production in June of 1996. The present use of the building on site at this address is unknown.

The subject site, outlined in red below, is surrounded by a diverse eclectic mix of commercial and residential land uses and building forms. The image below illustrates the surrounding

context of the site at the present time and details any relevant approvals within context of the site. Properties directly to the south of the subject site outlined in blue benefit from existing approvals for 10 and 7 storey residential flat buildings. The subject site is the last between Rockdale Plaza Drive and Lister Avenue in the subject street block, to benefit from a development consent.



Development fronting the Princes Highway within Rockdale Town Centre is characterised by 10 storey street wall mixed use buildings, with an existing 12 storey development at 564 Princes Highway, 90m directly north of the subject site.



Eastern side of Princes Highway - Rockdale Town Centre

Further to the above it is noted that the site, colloquially known as the 'Toyota Site' at 591-597 Princes Highway Rockdale to the south west of the subject site (bottom left of the map above), comprises a site area in excess of 9,500sq/m, is zoned B4 Mixed use and benefits from a nil FSR and 47.15m height standard.

Statutory Considerations

Environmental Planning and Assessment Act, 1979

S4.46 - Development that is Integrated Development

The assessing officer notes that in excess of 12m excavation depth is proposed on site, given the existing topography of the site and 4 basement levels sought to be constructed.

The proposal was not nominated as integrated development by the applicant and therefore an assessment against this clause and referral to Water NSW was unable to be pursued. Additionally, the submitted Geotechnical Report comprised insufficient information to confirm whether a dewatering permit would be necessary as part of the application and whether the development triggered the integrated provisions of the Act.

Whilst it cannot be confirmed that the proposal is integrated, given the assessing officers experience with adjoining sites directly to the south of the property, it is likely that groundwater will be intercepted which will trigger temporary dewatering during the construction phase.

Given the above, a condition of consent has been imposed, to ensure that the developer liaises with, seeks & obtains relevant conditions / requirements of Water NSW of their own accord post determination, prior to any works being permitted or any construction certificate being issued on site.

S7.4 - Planning Agreements

Regional Panel Operational Procedures require Council to detail any proposed Planning Agreement (PA) and its relationship to the application under assessment.

In accordance with the provisions of Section 7.4 of the EPA Act 1979 (as amended), a Letter of Offer from the applicant seeking to enter into a planning agreement with Council accompanied the DA, of which the following is proposed.

1. Dedication, free of cost and in fee simple, to Council of land within Lot 21 DP1220749 identified as Local Road (R4) Land in the Land Reservation Acquisition Map, LRA_005 27 Aug 2021, Bayside Local Environmental Plan 2021 (previously within, LRA_004 5 Jun 2015, Rockdale Local Environmental Plan 2011).

The R4 Land is to be dedicated to Council 'Prior to the issue of any Occupation Certificate in relation to the Development Consent'.

2. The R4 Land comprises 88 sqm of an irregular shaped area parallel along Lister Avenue and the northern frontage of the site.

The Developer will be required to embellish the R4 Land to the satisfaction of Council as part of their consent conditions to give effect to the widening of Lister Avenue.

On 13/10/2021 Council resolved to endorse the Letter of Offer and commence drafting of a Planning Agreement. Parties have progressed the draft to a finalised version with any further amendments being administrative in nature.

Given the above support by Council, and that drafting of the Planning Agreement has reached finalisation, as the consent authority, Council may include a condition requiring the developer to enter into the Planning Agreement and further conditions in respect of the terms of the offer for the subject site.

Given the above support by Council, and that the Planning Agreement is in draft form, conditions have been imposed to ensure any consent operates in conjunction with a future executed Planning Agreement for the subject site.

S.4.15(1) - Matters for Consideration – General

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

The following Environmental Planning Instruments are relevant to this application.

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

The applicant has submitted a BASIX Certificate for the proposed development. The Certificate number is 701044M_06. The commitments made result in reductions in energy and water consumption and the proposal is satisfactory with respect of the SEPP.

State Environmental Planning Policy (Transport and Infrastructure) 2021

2.48 - Works within the vicinity of electricity infrastructure

The development proposes works within the vicinity of electricity infrastructure and therefore the consent authority must give written notice to the electricity supply authority for the area in which the development is to be carried out, inviting comments about potential safety risks, and take into consideration any response to the notice that is received within 21 days after the notice is given.

Accordingly, the proposal has been sent to Ausgrid. The authority has responded and does not object to the proposed development. The application is consistent with the provisions of the SEPP and is acceptable in this regard.

2.118 - Development with frontage to classified road

The proposed development is located on land with a frontage to a classified road i.e. Princes Highway. In this regard, clause 101 of the SEPP must be considered before consent can be granted.

The proposed development involves access to and from the site via a secondary side street being Lister Avenue. Vehicular access is proposed in a similar location to the existing vehicular entries to the subject site.

The proposal was referred to the Roads & Maritime Service (RMS) for comment. The RMS responded in December 2020, providing nil objection and seeking to impose standard conditions of consent. The proposal has been conditioned accordingly and is therefore satisfactory with respect of the provisions of this clause.

2.119 - Impact of road noise or vibration on non-road development

The proposed development incorporates residential uses that are on land in or adjacent to the road corridor for a freeway, a tollway or a transitway or any other road with an annual average daily traffic volume of more than 40,000 vehicles (based on the traffic volume data published on the website of the RMS) and that the consent authority considers is likely to be adversely affected by road noise or vibration. Accordingly, the provisions of this clause are required to be considered as part of this assessment.

for residential use:

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

- a) in any bedroom in the building 35 dB(A) at any time between 10 pm and 7 am,*
- b) anywhere else in the building (other than a garage, kitchen, bathroom or hallway) 40 dB(A) at any time.*

The proposal was accompanied by a Noise Impact Assessment and Construction Noise & Vibration Management Plan, prepared by Rodney Stevens Acoustics (R150533R2 Revision 2) dated 29 October 2020, which considered the potential impact of traffic noise/vibration upon proposed residential uses.

The report concludes that the development will satisfy the relevant requirements as outlined in the SEPP, should the recommendations in the report be incorporated into construction. The proposal has been conditioned accordingly and is satisfactory in this regard.

2.121 – Traffic Generating Development

The proposal is identified as traffic generating development given the proposal includes greater than 50 car parking spaces and vehicular access to the site is within 90m of a connection to a classified road.

The proposal was referred to the Roads and Maritime Service, whom raised nil objection to the proposed development, subject to the imposition of standard conditions of consent. The RMS did not raise concerns with respect of traffic generation.

State Environmental Planning Policy (Planning Systems) 2021

In accordance with Schedule 6 of the SEPP, as the proposed development has a capital investment value of greater than \$30 million, it is thus referred to the Regional Planning Panel for determination.

State Environmental Planning Policy (Resilience and Hazards) 2021

4.6 - Contamination and remediation to be considered in determining development application

SEPP (Resilience and Hazards) requires the consent authority to consider contamination and remediation when determining a development application. Specifically, council must not consent to the carrying out of any development on land unless;

- a) it has considered whether the land is contaminated, and*
- b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

The property is not identified in Council's records as being potentially contaminated. A search of Council records however establishes that at and prior to 1979, 588 Princes

Highway was used for the purposes of a service station. DA approval for the redevelopment of the site to house the current commercial building was granted in 1993 (DA1992/409).

Given the aforementioned historical use of the site and the proposal which seeks to excavate four basement levels into the subject property, it is prudent to ensure that the requirements of SEPP are taken into consideration and the site is suitable for the proposed use.

To demonstrate the suitability of the site for the proposed development, the application was accompanied by the following documents and correspondence.

1. *'Preliminary Site Investigation – 588-592 Princes Highway, Rockdale NSW', (Ref: ES8021), by Aargus, dated 26 October 2020.(PSI)*
2. *'Geotechnical Assessment for Proposed Development at 588 to 592 Princes Highway (CNR Lister Ave) Rockdale, NSW' ((Ref:28959SB rpt) by JK Geotechnics dated 4 December 2021.*
3. *Letter 'Environmental Review for Property 588-592 Princes Highway Rockdale NSW' by Aargus dated 30 June 2021.*
4. *Letter 'Contamination-588-592 Princes Highway Rockdale' by Aargus dated 6 April 2022.*
5. *Detailed Site Investigation by Aargus, dated 6/07/2022*

The submitted DSI concludes that:

"The site is therefore considered to be suitable for the proposed land use. Any soils requiring removal from the site, as part of future site works, should be classified in accordance with the "Waste Classification Guidelines, Part 1: Classifying Waste" NSW EPA (2014)."

Councils Environmental Scientist reviewed the aforementioned documents and concurred with the above conclusion. The proposal has been conditioned accordingly and as conditioned is satisfactory with regards to the objectives and requirements of the SEPP.

State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development

In accordance with clause 28(2) of this policy, the consent authority must take into consideration the following:

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

The final scheme was referred to the Design Review Panel (DRP) on 13 April 2022, with amended plans submitted to Council on 12/05/2022.

b. The design quality of the development when evaluated in accordance with the design quality principles.

Documentation submitted by the applicant has addressed the relevant design quality principles of the SEPP and amendments requested by the Design Excellence Panel were incorporated into the final scheme.

An assessment of the proposal against nine design quality principles of the SEPP has been detailed below.

Principle 1 - Context and Neighbourhood Character

The subject site is located within the Rockdale Town Centre, benefits from a B4 Mixed Use zoning and a 34m & 31m height limit.

The site is located opposite an existing 9 storey mixed use building directly to the north, 4 storey residential flat buildings to the east, 12 storey residential flat buildings to the north east, 4-10 storey residential flat buildings to the north west, a 10 storey residential flat building approval directly to the south and 7 storey residential flat building approvals further to the south fronting the Princes Highway.

Whilst the development comprises a partial exceedance to the applicable height standard, as discussed further in this report, the proposal facilitates a demonstrable public benefit in the dedication free of cost, embellishment & delivery of a road dedication along the frontage of the site to Lister Avenue, in tandem with a draft Planning Agreement.

The proposal does not result in a development of overall bulk, height, scale, mass or streetscape character which is inconsistent with existing development further to the north and north east within the Rockdale Town Centre i.e. 12 storey building at 564 Princes Highway 90m north of the site or within Chapel Street 60m to the north east, or as envisaged by the relevant controls stipulated by Rockdale DCP 2011.

Whilst the adjoining site directly to the south is not as yet redeveloped, this site benefits from an existing development consent for a 10 storey building.

The proposal as designed provides for an appropriate transition in building height, bulk, mass and scale with adjoining approved development to the south and ensures a suitable interface with existing lower scale 4 storey flat buildings to the east.

The proposal as designed contributes to and is consistent with the existing and future desired character for the Rockdale Town Centre as envisaged by the applicable planning controls and was supported by the Design Excellence Panel who stated *"The proposal has been extensively redesigned to accord with the planning controls applying to the site while permitting GFA from the road reservation to be re-massed into the tower element. The decreased height and increased setbacks in this revised scheme accord more closely with Council DCP Controls and are supported by the panel."*

The proposal is satisfactory with regards to this principle.

Principle 2 - Built Form and Scale

The proposal as designed provides for an appropriate transition in building height, bulk, mass, scale and setbacks with adjoining approved development to the south and ensures a suitable interface and separation, with existing lower scale 4 storey flat buildings to the east.

The proposed overall bulk, form, mass, scale and height of the development is consistent, despite a height variation to a small portion of the development, with the applicable planning controls and future desired character anticipated for development in the B4 zone along this portion of the Princes Highway within the south of the Rockdale Town Centre.

The building form as designed is sympathetic to the topography of the site, with a change in levels at ground floor level carried across the building in order to accommodate the topography of the site.

The development presents a street wall tower form at the corner of Lister Avenue / Princes Highway, with the southern portion of the building comprising a 3 storey podium, albeit

setback 3m – 8.5m from the Princes Highway frontage of the site, to ensure the development aligns with the approved development form directly to the south, providing a consistent pattern of building forms and ameliorating traffic noise, maximising residential amenity. The building is appropriately modulated and articulated with varying elements in the facade design which provide visual interest.

The Design Excellence Panel supported the proposal, stating.

“The panel notes and supports the preservation of the ‘tower’ and ‘tail’, at this significantly reduced scale. The panel supports the re-design of the Commercial tenancies; the adjustment in floor to floor height to 3.1 metres; and withdraws previous objections to the setback of the upper levels of the tower – which it sees as integral to the concept of the ‘tower’ and ‘tail’”.

The proposal is deemed to be of an appropriate height, mass, bulk and scale within the Rockdale Town Centre and consistent with the future desired character of the precinct. The proposed building form as designed is satisfactory with regards to this principle

Principle 3 – Density

The site is not subject to an FSR standard. Rather the relevant height and setback requirements identified within applicable planning instruments form the basis of restricting the overall size, form, bulk and mass of the development.

Whilst a variation to the height standard is proposed, this is not unreasonable given the design, site and development specific circumstances of the proposal and the demonstrable public benefit to be achieved.

The Design Excellence Panel supported the proposal, stating.

“The massing, density and building footprints have been reduced significantly to accord with planning controls.”

The proposed density of the development is appropriate for the site, within the environmental capacity and constraints of the property and was supported by the design excellence panel. The proposal is satisfactory in regards to this principle.

Principle 4 – Sustainability

Given that Clause 6.14 - Design Excellence of RLEP 2011 applies to the site, the provisions of subclause (4)(vii) apply to the subject site. Such provisions seek to ensure the consent authority considers ‘sustainable design’ as part of the redevelopment of the site.

Whilst the proposed development complies with the ADG in relation to the provision of solar access and cross ventilation to residential units and was accompanied by a BASIX certificate which confirms energy efficiency measures proposed to be implemented on site, additional sustainable measures were not initially proposed.

The final scheme of the development incorporates the following sustainability measures as recommended by the Design Excellence Panel.

- a. Vegetable / herb gardens & composting facilities within the rooftop communal open space.
- b. Solar panels on the tower rooftop.
- c. 4 x electric vehicle charging stations.

- d. Bathroom windows on external walls are operable

Notwithstanding the above, in order to maximise sustainability measures as a design excellence measure, the proposal has been conditioned to require that all residential car spaces be equipped with cable trays, electrical cabinets and conduits sufficient to accommodate the electrical circuitry of any potential future EV charging facility, with nil cables permitted to obstruct or impede upon vehicular circulation aisles or the residential car space.

As conditioned the proposal is considered to be satisfactory so as to meet the design excellence sustainability requirement of RLEP 2011.

Principle 5 - Landscape

The Apartment Design Guide requires the provision of 7% (146sq/m) of the site area as deep soil. The revised scheme proposes 7% of the site area i.e. 146.5m² of deep soil area along the frontage of the site to the Princes Highway and slightly wrapping the corner to the Lister Avenue frontage, adjoining the commercial tenancy.

The communal open space area at rooftop level incorporates landscaped periphery planters with crepe myrtle (i.e. mature height 8m), frangipani (i.e. mature height 7m), Magnolia (i.e. mature height 5m) and a range of ground covers and shrubs up to 1.5m in height. A feature Magnolia up to 8m in height is proposed in a central planter.

The Design Excellence Panel noted the following with respect to the Communal Open Space areas proposed.

- a) *The overshadowing of the major open space on the roof in the cooler months by the tower portion to the north was not seen as desirable. The requirement for solar access during these months is critical to the use and enjoyment of this space.*

It was also noted that wind protection is vital for suitable environmental comfort levels to be achieved. Further design is needed for this major space to provide a range of environments and amenity thereby encouraging use through seasonal periods.

Comment

The rooftop communal open space area at level 10 as designed and located receives a minimum of 2 hours of solar access in midwinter as required by the Apartment Design Guide.

Whilst an increase in solar access in midwinter would be ideal, existing constraints do not allow for this to occur. i.e. The design of the development where the tower form adjoins the communal open space to the north & existing downward sloping topography of Princes Highway where sites opposite the property to the north are slightly higher.

Communal open space at rooftop level is provided with a range of spaces which are both in sunlight and shade in midwinter and it is reiterated that winter shadows are worst case scenario. Solar amenity to the communal open space at rooftop level is satisfactory in this regard.

- b) *The design layout should develop greater opportunities for connection to landscape and external spaces, noting in particular a poor visual connection from the southern lift lobbies to external views, to the rooftop landscape from the northern lift lobby and a landscape space on level 1 adjacent to the vehicular ramp which appears*

inaccessible. Resolution of the vehicular ramping interface with apartments should deliver greater opportunities for landscaped spaces.

Comment

Plans have been revised to relocate services on the southern lift lobby wall at level 10 and incorporate 2 x windows which enable a visual connection to the adjoining external communal open space area as recommended by the Panel. This is detailed below.



Lift lobbies at lower levels of both the tower and tail components of the development are provided with windows to provide natural light, ventilation & outlook to the south and west.

Plans have also been amended so as to cap a portion of the vehicular entry ramp at level 00 adjoining the 3 x bedroom windows of unit L00.01, in order to maximise visual amenity, minimise acoustic disturbance and vehicle emissions to this unit. As revised the proposal satisfactorily addresses the issues raised by the Design Excellence Panel.

- c) *Landscape plans needs to provide confirmation of soil depths to planters and to turf areas to ensure the proposed design can be achieved and ADG soil depths and volumes can be supported.*

Comment

Revised landscape plans have confirmed soil depths proposed within landscaped areas on site and are satisfactory with respect to the ADG.

- d) *The quality of the rooftop communal open space is supported, noting this space should also provide amenities such as an accessible WC, productive landscape area and would be enhanced if a space for childrens play was incorporated into an otherwise passive recreation space.*

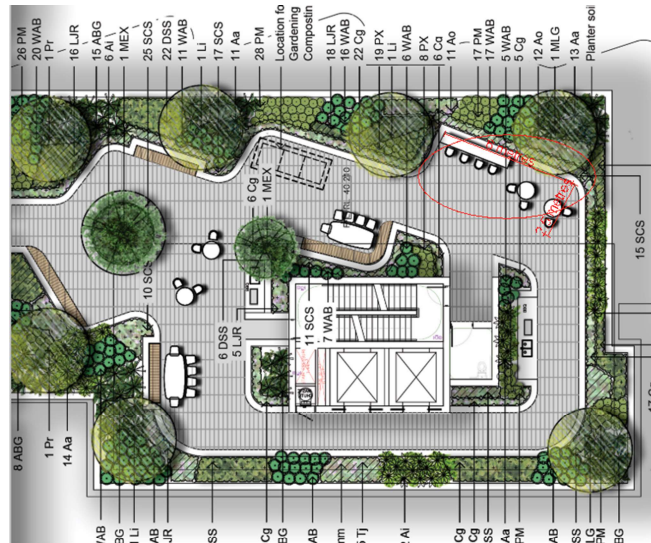
Comment

Landscape plan at rooftop has been revised to incorporate vegetable / herb gardens, composting & an accessible WC. A childrens play area has not been incorporated and the applicant was of the view that this would '*reduce flexibility and opportunity*'.

The assessing officer is of the view that given the size, scale and density of the development, the number of larger units and likelihood of children / families occupying the building, that a childrens play area would be beneficial and should be incorporated within the development.

Accordingly the proposal has been conditioned to require the design and incorporation of a childrens play area with minimum dimensions of 6m length x 2.5m

width in the south eastern corner of the rooftop communal open space area on site. This area is circled in red and depicted below.



- e) *The panel considers the quantity of communal open space to be deficient and encourages a communal internal room, in association with the rooftop terrace to be provided. This could also deliver open clear views to this space and the above mentioned WC facilities.*

Applicants Response

ADG communal open space provisions and compliance is misrepresented. The communal open space accords with the ADG design criteria of 25% of site area comprising the main rooftop areas as the 'principle useable part' complemented by common landscape areas, and publically accessible open spaces at ground level and upper levels as referred in the ADG (p54) as:

- *“additional landscape area, circulation space and areas for passive use and outlook” and*
- *“public land used for open space and vested in or under the control of a public authority”.*

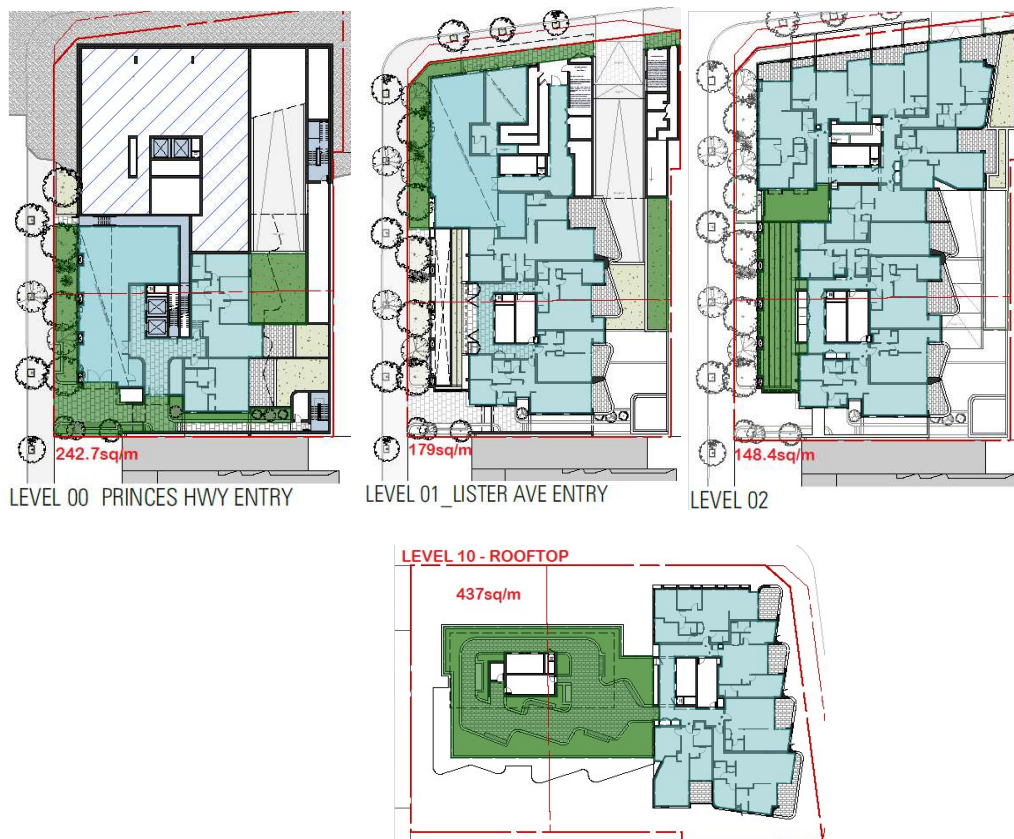
It is not agreed that there is a deficiency or that an internal common room is warranted or reasonable given the amount of communal space provided.i.e. 1007.1sq/m.

Council Comment

The ADG defines communal open space as *“outdoor space located within the site at ground level or on a structure that is within common ownership and for the recreational use of residents of the development. Communal open space may be accessible to residents only, or to the public”.*

3D - Communal & Public Open Space of the ADG requires that 25% (519.2sq/m) of the site area of the property be provided as communal open space with minimum dimensions of 3m.

Submitted plans identify and include the following areas shown in green below, within the site as 'communal open space'.



The assessing officer is of the view that the proposal incorporates 537sq/m of communal open space, being the rooftop terrace and a further 100sq/m in the form of a communal balcony space at level 1 and terraced planting / podium garden at levels 1-2 which provide for a passive recreation space and visual amenity for future occupants. Whilst other areas at level 00 and 01 identified in green above

As noted above, the proposal complies with the communal open space requirements required by the ADG. Accordingly, given compliance, whilst an internal communal room at rooftop level would be ideal, this is not a requirement which can be enforced. The proposal is satisfactory with respect of the requirements and objectives of the ADG.

Overall, a range of landscaped areas are proposed on site, incorporating terraced planters adjoining the western wall of the southern tail of the building to podium levels i.e. up to 3 storeys.

Planter images are depicted within the 'Proposal' section of this report, incorporate planting of shrubs and ground covers to a height of 1m and provide visual amenity to residents from communal corridors and units at levels 1 and 2 of the development. All landscaping on site is proposed to incorporate automatic fixed drip irrigation with an irrigation controller self operated via a soil moisture sensor.

The site is subject to Councils Green Gateway DCP requirements, requiring that the building and basement frontage to the Princes highway be setback 3 meters from the new front property boundary in order to facilitate trees on site. Whilst the final scheme is compliant with this green gateway setback and incorporates a range for shrubs, ground covers and trees, a 'hydrant booster & gas regulator' remain proposed within this area fronting the Princes Highway.

Accordingly, the proposal has been conditioned to require that the gas regulator be relocated elsewhere on site and whilst it is desirable to also require the relocation of the hydrant booster from the Princes Highway boundary, it has been located in the position proposed given;

- a) It is required to front the primary frontage of the site.
- b) It has been located strategically to maximise landscaping behind the 1.5m high enclosing structure.
- c) Locating the hydrant within the building envelope would restrict internal / external visual connection between commercial tenancies & the public domain
- d) Should the booster be pushed back into the building envelope, it would as a consequence result in the loss of landscaping in front of the booster in order to facilitate access.

Given the above, & whilst not ideal, a variation to Councils Green Gateway DCP requirements are acceptable in this instance.

Street tree planting is proposed within the public domain at both street frontages, with 6 x water gums along the Princes Highway frontage and 3 within the Lister Avenue frontage. These trees have a mature height of 10m.

Landscaping as proposed at ground level will facilitate the growth and longevity of mature tree planting as envisaged by the DCP controls for the Rockdale Town Centre. This will further be complemented by a landscape design that provides pedestrian access and a visual connection between the development and public domain.

Principle 6 – Amenity

The proposal incorporates a well designed and oriented rooftop communal open space area on site, which benefits from greater than 2 hours solar access in midwinter, is attractively designed and landscaped so as to provide amenity for future occupants. i.e. visual amenity, shade, equitable access, opportunities for social interaction etc.

Units as proposed comprise a range of layouts and designs, including corner and cross through type dwellings with spacious internal spaces and associated private open spaces. Some units benefit from secondary balcony spaces off bedrooms and work from home spaces i.e. study nooks. Sufficient levels of internal storage are provided with supplementary storage at basement level.

Units as designed comply with the natural ventilation and solar access requirements of the ADG as detailed below. The Design Excellence Panel were supportive of the proposal with respect of Amenity subject to the resolution of the following.

- (a) Unit L00.01 – 3B and the relationship between the bedroom windows and the car park entry.*

Comment

The ramp to the car park adjoining the 3 bedroom windows of this unit to the east has since been capped and landscaped as discussed in (b) of Principle 5 – Landscape above.

- (b) The relationship between Unit L02.06-2H and Unit L02.01-3A*

Comment

Plans have been revised to remove the previously proposed balcony space and provide a planter which will provide visual amenity yet retain privacy between the subject units.

Principle 7 – Safety

Building entries are clearly identifiable and proposed to be well lit. Clear lines of sight are evident at ground level between commercial tenancies and the public domain, the proposal is conditioned to ensure such glazing remains clear and is not obscured into the future to maximise passive surveillance.

The Design Excellence Panel stated.

“The panel notes the improvements made, the widening of the residential entrance, their improved relationship with the street and the more direct and generous lobbies and corridors.”

Further to the above, the proposal has been conditioned to ensure monitored security cameras are incorporated at residential / vehicular entries & within basement levels & to require the provision of clear directional signage to advise users of security measures in place.

With respect to the development overall, the proposal provides for an easily identifiable & prominent lobbies, with dwellings & car parking areas on site to be accessible via a secure electronic system. Common areas will be well lit with clearly defined legible pathways.

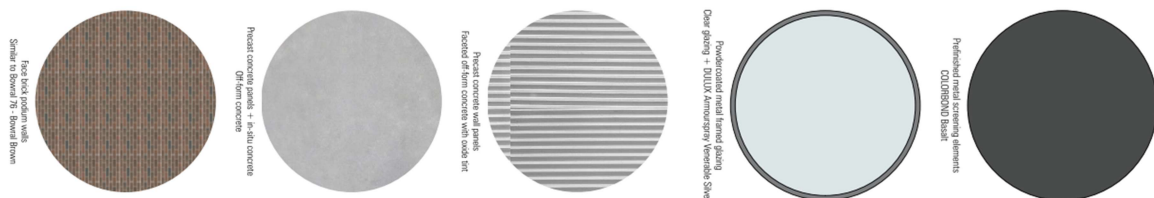
The proposal is satisfactory in this regard.

Principle 8 - Housing Diversity & Social Interaction

The development incorporates an appropriate mix of residential units which are located within an accessible area close to public transport / facilities and are capable of accommodating a varied demographic and different household types. The proposal provides communal facilities on site which are designed to encourage social interaction for future residents. The assessing officer and design excellence panel are supportive of the proposal in regards to this principle.

Principle 9 - Aesthetics.

The proposal incorporates a varied palette of colours (i.e. greys, browns, silver) and materials to including but not limited to face brick to precast walls, powder coated metal framed glazing, pre finished metal screening elements, pre cast concrete panels, pre cast concrete wall panels (vertical grooves) face brick podium walls and glazed commercial tenancy frontages.



The Design Excellence Panel stated.

“The panel feels the redesign has now achieved a very good aesthetic standard. There was a fairly lively discussion between the applicant’s architect and the panel where a couple of small suggestions were discussed. The panel is not suggesting the project be re-designed and that these suggestions were only made in the spirit of encouraging improvements to an already fine design.”

Materials as proposed are satisfactory, the aesthetic design of the proposal is well resolved and demonstrates design excellence within the Rockdale Town Centre. These materials will provide a modern, contemporary, high quality and visually appealing development on site. The proposal is satisfactory in regards to this principle.

c. The Apartment Design Guide

The proposal has been assessed against the relevant criteria of the ADG as follows;

| CLAUSE | DESIGN CRITERIA | COMMENTS | COMPLIES |
|--|---|---|--------------------------------------|
| 3C – Public Domain Interface | Max 1m level change from footpath to ground floor level of building. Landscaping to soften building edge and improve interface. | Level access is provided to ground floor commercial tenancies and residential entries. The development is stepped to align with the topography of the site. Entries and interfaces align with footpath levels, allowing accessible transitions into the building. | Yes |
| | Mailboxes located in lobbies or integrated into front fence | Mail boxes are located in lobby, perpendicular to the street alignment. | Yes |
| | On sloping sites protrusion of car parking above ground level to be minimised by using split levels to step underground car parking | Car parking areas entirely below ground. | Yes |
| 3D - Communal Open Space | 25% (519.2sq/m) of Site Area | 537sq/n | Yes |
| | 50% (259.6sq/m) of principle useable area to receive 2 hours solar access in midwinter 9am - 3pm | 480sq/m at rooftop received >2 hours solar access in midwinter | Yes |
| 3E - Deep Soil Zone | 7% (146sq/m) site area Minimum Dimensions 3m | 146.5sq/m deep soil to Princes Highway frontage and wrapping corner to Lister at ground level | Yes |
| 3F - Visual Privacy <i>Min separation - side & rear boundaries, increase to zone transition</i> | <u>Up to 12m (4 storeys)</u> Hab. Rooms / Balconies – 6m Non Hab. Rooms – 3m | <u>Tower Fronting Lister Ave</u> 4.5m side setback to adjoining common boundary with 1A Lister Ave. | Partial – refer to discussion below. |
| | <u>Up to 25m (5-8 Storeys)</u> Hab. Rooms / Balconies – 9m Non Hab. Rooms – 4.5m | | |
| | <u>Over 25m (9+storeys)</u> Hab. Rooms / Balconies – 12m Non Hab. Rooms – 6m | <u>Tail fronting Princes Highway</u> 10.875m setback to rear boundary with 5 Hayburn Ave | |
| 3G – Pedestrian Access & Entries | Building access clearly visible from public domain & communal spaces | Clearly identifiable pedestrian entries from both communal and public domain areas | Yes |
| | Steps / ramps integrated into building & landscape design | Level access with adjoining public domain, building stepped with topography of site | Yes |
| | Electronic access to manage access | Secure electronic access to vehicular parking areas | Yes |

| | | | |
|------------------------------|---|--|--|
| 3H – Vehicular Access | Car park entries behind building line | Vehicular entry at and recessed behind building line | Yes |
| | Car park entry / access located on secondary street / lane where available | Vehicular access via Lister Avenue in lieu of Princes Highway | Yes |
| | Garbage collection, loading & servicing areas screened | On site waste collection twice weekly, access for SRV on site. | Yes |
| | Pedestrian / vehicle access separated & distinguishable. | Entries physically separated and clearly identifiable | Yes |
| 3J - Bicycle & Car Parking | RMS or DCP rate. | DCP rate selected | Yes – refer to 4.6 – Carparking of report. |
| 4A – Solar & Daylight Access | Living rooms + POS of at least 70% (71 of 101) of apartments receive min 2hrs direct sunlight b/w 9am & 3 pm mid-winter | 72 of 101 (72%) | Yes |
| | Max 15% (15 of 101) apartments receive no direct sunlight b/w 9am & 3pm mid-winter | 6 of 101 (6%) | Yes |
| | Min 60% (60 of 101) of apartments are naturally cross ventilated in the first nine storeys of the building. | 69.3% (i.e. 69 of 101) of units within the first 9 storeys are cross ventilated. | Yes |
| 4B – Natural Ventilation | Depth of cross-over / cross-through 18m max., measured glass line to glass line. | 17.4m maximum cross through, east to west. | Yes |
| | <u>Commercial Floor to Floor</u> 4m | <u>Commercial</u> 3.8m – 7m | Yes – minor 0.2m variation to rear of commercial tenancy fronting the Princes Highway. This is satisfactory given overall useable area and height of this tenancy. i.e. 225.4sq/m & 7m |
| 4C – Ceiling Heights | <u>Residential Floor To Floor</u> 3.1m | <u>Residential</u> 3.1m to all residential levels. | Yes |
| | <u>Floor to Ceiling</u> Habitable – 2.7m Non Habitable - 2.4m | 2.7m / 2.4m achievable to residential dwellings. | Yes |
| | <u>Mixed Use</u> 3.3m for ground and first floor | 4m – 7.15m - Ground. 3.1m to first | Yes |
| 4D – Apartment Size & Layout | 1 bed – 50sq/m | 52.9sq/m – 54.1sq/m | Yes |
| | 2 bed (1 bath) – 70sq/m | 70sq/m – 82.2sq/m | Yes |
| | 2 bed (2 bath) = 75sq/m | 73sq/m (9 x 2 bed units + ensuite / bathroom – 4.02 – 12.02) | No – Minor variation i.e. 2sq/m unlikely to adversely affect amenity given layout, room proportions and aspect. |
| | 3 bed (2 bath) – 95sq/m | 11 x 3 bed units = 90.2sq/m in lieu of 95sq/m. | No – refer to discussion below. |

| | | | |
|--|--|---|---|
| 4E – Private Open Space & Balconies | 1 bed – 8sq/m | 11.1sq/m – 12.7sq/m | Yes |
| | 2 bed – 10sq/m | 10sq/m – 19sq/m | Yes |
| | 3 bed – 12sq/m | 9.9sq/m (1 x unit (3.01)) – 36.8sq/m | Partial – refer to discussion below. |
| | Ground level /Podium - min 15m ² / min depth 3m. | Ground / Podium units with balconies exceeding 15sq/m +3m dimensions | Yes |
| 4F – Common Circulation & Spaces | Max apartments off a circulation core on a single level is eight. | 5 units off a core | Yes |
| 4G – Storage <i>50% is located within apartment</i> | 1 bed - 6 cubic metres | Sufficient storage provided internally with supplementary at basement level. | Yes |
| | 2 bed - 8 cubic metres | | |
| | 3 bed - 10 cubic metres | | |
| 4H – Acoustic Privacy | Ameliorate sources of noise | Acoustic privacy satisfactory. Recommendations of Acoustic report to be implemented on site. | Yes |
| 4J – Noise & Pollution | Non-residential uses located at lower levels separating residential from noise /pollution source. | Residential uses at ground limited to 2 dwellings facing the rear of the site | Yes |
| | Setbacks to the underside of residential floor levels to increase relative to traffic volumes / noise sources | Building setback to the Princes Highway of 3m – 8.5m exceeds 6m DCP setback requirement. Glazed acoustic screen assists in mitigating noise and pollution to podium levels of development | Yes |
| 4K – Apartment Mix | Variety of apartment types provided | 17 apartment types proposed with varying layouts and sizes | Yes |
| | Flexible apartment configurations to support diverse household types and stages of life | Appropriate unit configurations | Yes |
| | Larger apartment types located on ground / roof level where there is potential for more open space & corners where more building frontage is available | Range of flexible apartment options provided | Yes |
| | Direct street access to ground floor apartments | Ground level units do not address street, rather rear of site, suitable access provided via communal lobby. | Yes |

3F – Visual Privacy

The site directly adjoins an R4 high density residential zone to the east. Directly adjoining eastern neighbouring properties comprise 4 storey residential flat buildings upon 1A Lister Avenue and 5 Hayburn Avenue. Such properties are currently redeveloped to their full potential, with these sites benefitting from an FSR of 1:1 and Height of 14.5m as per current planning requirements.

Given the zone transition between the site and adjoining eastern properties, increased building separation is required by the Apartment Design Guide in order to ensure sufficient visual / acoustic privacy and an appropriate transition in building form at the zone interface.

The tower component of the development fronting Lister Avenue is provided with a side setback of 4.55m, with 2 bedroom and 1 bathroom windows on this eastern façade.

The western façade of the 4 storey residential flat building at 1A Lister Avenue is positioned 3m from the common side boundary and three windows are evident at each level on this façade, being an ensuite, bathroom and bedroom, for a height of 4 storeys.



Western façade of 1A Lister Avenue bedroom window to the rear circled

As per the ADG, given the location of existing to proposed habitable windows a building side setback of 9m is required.

Whilst there is a variation to the side setback of 9m as would otherwise be required given the zone transition, the proposed development has been designed to ensure windows as proposed are offset and a fixed landscaped buffer is provided with a range of shrubs capable of growing to a height of 1.5m. Above a height of 4 storeys, the side setback as proposed is satisfactory, given that adjoining sites are developed to their full density and height.

With respect of the tail component of the building, this is provided with a setback of 10.575m to the rear common boundary with 5 Hayburn Avenue and complies with the requirements of the ADG.

Whilst the proposal does not strictly adhere to the minimum building separation nominated in the ADG as previously discussed, the development as designed gives regard to and provides appropriate levels of visual privacy, building separation and transition in bulk, height and scale to adjoining eastern properties.

The proposal is consistent with the desired future character of the Rockdale Town Centre in terms of its overall bulk, density and scale. The footprint and mass of the development fits appropriately within the local centre and is consistent with the scale & density of development as existing and approved, by the applicable planning controls within the Rockdale Town Centre.

4D – Apartment Size & Layout / 4E - Private Open Space & Balconies

As per design criteria (1) of 4D-1 of the ADG, 3 bedroom dwellings with 2 bathrooms are to be 95sq/m minimum internal area. A minimum private open space area of 12sq/m per dwelling is also required.

The proposal incorporates 11 x 3 bedroom units (2.01 – 12.01) within the development of which are proposed to comprise an internal area of 90.2sq/m in lieu of 95sq/m. This is a deficiency of 4.8sq/m per dwelling. Additionally, 1 x 3 bedroom unit (3.01) is provided with insufficient private open space area, whereby 9.9sq/m is proposed in lieu of 12sq/m. This is a deficiency of 2.1sq/m.

Of the aforementioned units, 10 of the 11 are provided with private open space areas greater than the 12sq/m minimum i.e. Unit 2.01 – 36.8sq/m & Units 4.01-12.01 – 13.4sq/m.

With respect to the above, whilst 11 x 3 bedroom units as proposed indicate a deficiency in internal area, as designed units provided with a functional layout, are dimensioned to allow users to furnish dwellings in a variety of ways and are corner units with good levels of solar access, cross ventilation and outlook.

With respect of unit 3.01 which comprises a 2.1sq/m deficiency in private open space, this unit benefits from a north westerly corner aspect, is of suitable dimensions so as to accommodate a table / chairs and allow for an extension of the adjoining living area of the dwelling. A minor variation as that proposed to this 1 unit is not likely to adversely affect the liveability of the dwelling.

Given the above, a variation is supported in this instance as it is deemed the objectives of 4D & 4E of the ADG are achieved.

Rockdale Local Environmental Plan 2011

| Clause | Requirement | Proposal | Compliance |
|---|---|---|--|
| 2.3 – Zone | B4 Mixed Use | Commercial Residential Permissible with consent | Yes |
| 4.3 – Height of Buildings | 34m for 588 Princes Highway (Lot 1 DP 840863) | Maximum 41.8m (7.8m (20%) variation proposed) | No – refer to discussion below. |
| | 31m for 592 Princes Highway (Lot 11 DP 590046). | Maximum 35.29m (4.29m (13%) variation proposed) | |
| 4.6 – Exception to Development Standards | Demonstrable public benefit | Dedication of road widening, construction and embellishment in association with a draft Planning Agreement | Yes |
| 5.1 - SP2 Local road widening | Road widening along frontage to Lister Avenue | Road widening proposed to be dedicated to Council as part of draft Planning Agreement | Yes |
| 5.1A - Development on land intended to be acquired for a public purpose | Development is clear of road widening | A portion of the awning of the development on the Lister Ave frontage appears to extend into the road widening reservation. | No – Conditions imposed to ensure any awning structure to Lister Avenue is within the revised northern property boundary of the site. |

| Clause | Requirement | Proposal | Compliance |
|-----------------------------------|---|---|--|
| 6.1 – Acid Sulfate Soil - Class 5 | <p>Works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the water table is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.</p> <p>Development consent must not be granted under this clause for the carrying out of works unless an acid sulfate soils management plan has been prepared for the proposed works in accordance with the Acid Sulfate Soils Manual and has been provided to the consent authority.</p> | <p>Site is within 183m of land comprising potential class 3 acid sulfate soils.</p> <p>Detailed site investigation confirms nil ASS detected on site.</p> | Yes |
| 6.2 – Earthworks | Ensure earthworks will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land. | The proposal involves extensive excavation within the site to accommodate basement levels. | Yes |
| 6.4 – Airspace Operations | OLS – Referral to Commonwealth Body | Nil objection from CASA | Yes |
| 6.7 - Stormwater Management | Minimise impacts of urban stormwater to adjoining properties, native bushland and receiving waters. | Stormwater measures proposed on site i.e. OSD & drain via gravity | Yes – refer to discussion below |
| 6.12 – Essential Services | Essential for the proposed development are available or that adequate arrangements have been made to make them available | Water, Electricity, Sewerage, stormwater and road access are available | Yes |
| 6.14 - Design Excellence | Deliver the highest standard of architectural, urban and landscape design | Refer to discussion in SEPP 65 section of this report. | Yes |

2.3 - Zone B4 Mixed Use

The subject site is zoned B4 Mixed Use under the provisions of Rockdale Local Environmental Plan 2011 (RLEP 2011). The proposal is defined as 'commercial premises' and a 'residential flat building' which constitutes permissible development only with development consent. The proposed development is consistent with the objectives of the zone.

4.3 – Height of Buildings

As per the provisions of this clause, the general height standard applicable to the subject site is 22m. The subject site however is located within what is identified as “Area H” and ‘Area J’ on the RLEP 2011 Height of Buildings Map and subsequently the provisions of subclause 2A(g) and 2A(l) apply.

These subclauses stipulate that where a site comprises a minimum site area of 2,000sq.m, a further 12m height bonus shall apply to land within Area H and a further 9m height bonus shall apply to land within Area J.

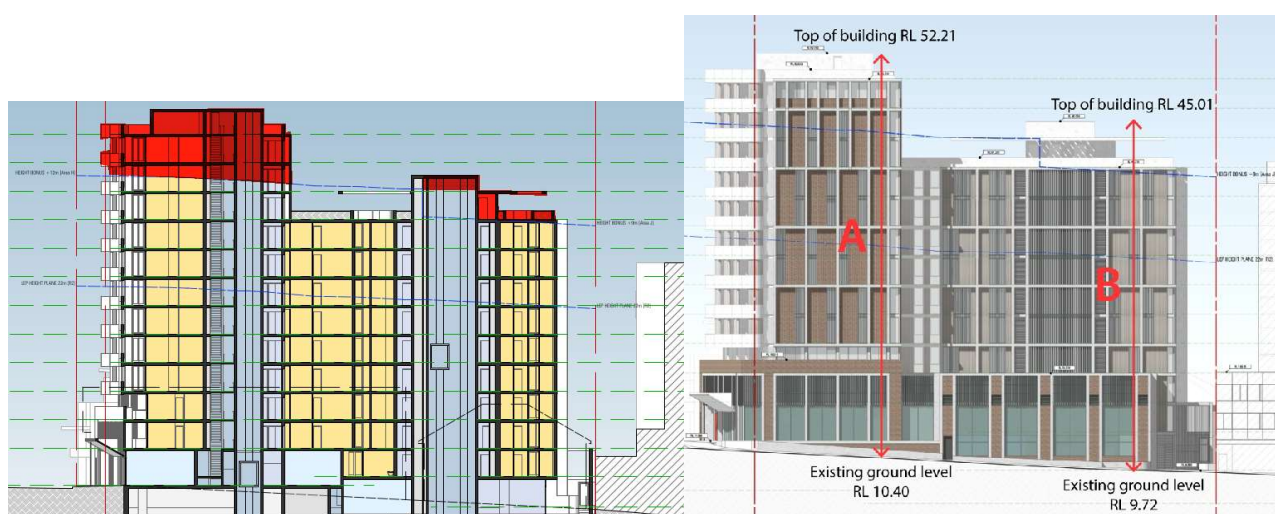
As such the maximum height limit permissible on site, inclusive of the ‘bonus height’ is;

- a) 34m for 588 Princes Highway (Lot 1 DP 840863) and
- b) 31m for 592 Princes Highway (Lot 11 DP 590046).

As detailed below, the proposal seeks to vary the ‘bonus height’ as permitted by the provisions of this clause only where a ‘*demonstrable public benefit*’ can be demonstrated by the proposed development.

The below figure illustrates in red the degree of height variation sought by the applicant. The variation equates to 823sq/m of gross floor area which could otherwise have been achieved within a compliant ADG / DCP building envelope, should the road reservation not have constrained the site.

As a consequence of the road reservation, the applicant proposes to transfer the GFA which would be lost within this portion of the site, to the top of the tower element of the proposal.



The proposal seeks to provide a height of building as follows.

| Location | Permissible | Proposed | Variation |
|-----------------------------------|-------------|---------------------|------------------|
| Northern Building (Area H) | 34m | | |
| A. Top Lift Overrun | | A. 41.8m (52.21RL) | A. 7.81m (20%) |
| B. Roof Level | | B. 39.1m (49.51RL) | B. 5.1m (15%) |
| C. Balustrades | | C. 40.1m (50.51RL) | C. 6.1m (17.9%) |
| Southern Building (Area J) | 31m | | |
| A. Top Lift Overrun | | A. 35.29m (45.01RL) | A. 4.29m (13%) |
| B. Roof Level | | B. 30.49m (40.21RL) | B. N/A Complies |
| C. Balustrades | | C. 31.49m (41.21RL) | C. 0.49m (1.58%) |

As demonstrated above, the proposal indicates a breach of the bonus height standard. The applicant has submitted a clause 4.6 variation to development standard in relation to the proposed above exceedance. The above has been addressed within Clause 4.6 of this report, below.

4.6 – Exception to Development Standards

Clause 4.6 allows a variation to a development standard subject to a written request by the applicant justifying the variation by demonstrating:

(3)(a) that compliance with the standard is unreasonable or unnecessary in the circumstances of the case, and

(3)(b) that there are sufficient environmental planning grounds to justify the variation.

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

(i) the applicant's written request is satisfactory in regards to addressing subclause (3) above, and

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives of the relevant zone.

5(a) The consent authority must also consider whether contravention of the development standard raises any matter of significance for State or Regional environmental planning, and

5(b) the public benefit of maintaining the development standard.

In the assessment of this application, consideration has been given to a number of Land & Environment Court judgements, which specifically relate to variation of development standards.

In *Wehbe v Pittwater Council* [2007] NSW LEC 827 (Wehbe), the Land and Environment Court set out 5 different ways in which an objection to a development standard may be well founded. Consideration has also been given to the Land and Environment court judgement *Four2Five v Ashfield Council* [2015] NSWLEC 90 where it was established that justification was required in order to determine whether the development standard was unreasonable or unnecessary on grounds other than whether the development achieved the objectives of the development standard. Consideration is to be given to the particular site circumstances of the proposal.

Finally, consideration has further been given to *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, which seeks to ensure that the applicants request adequately addresses clause 4.6 and whether the proposed contravention is in the public interest.

Specific to the proposed development, as the bonus height provisions of clauses 4.3(2A)(g) and 4.3(2A)(l) are invoked, the height of building standard cannot be further breached, unless there is a '*demonstrable public benefit*' as required by clause 4.3(8)(ca) provided by the development.

An assessment has been undertaken below in regard to the aforementioned.

Height Variation Sought

As discussed within Clause 4.3 Height of Building, the proposal penetrates the height standards applicable to the site.

It is reiterated that a portion of the site (88sq/m) along the Lister Avenue frontage is constrained by an identified LEP road reservation. As a consequence, given the applicable built form envelope controls of Rockdale DCP which permit a 4 storey street wall development at this frontage, the road widening portion of the site has a total of 823sq/m of gross floor area attributed to it.

The proposal seeks the relocation of 823sq/m of gross floor area which could otherwise have been achieved within the 'road widening' portion of the site, should the reservation not have burdened the property. Accordingly, the proposal does not seek to exceed the density which would otherwise have been permitted on the site.

The applicant proposes to transfer this otherwise 'lost' 823sq/m of floor area to the top of the tower element of the development and as a consequence breach the maximum permissible height standards for the site.

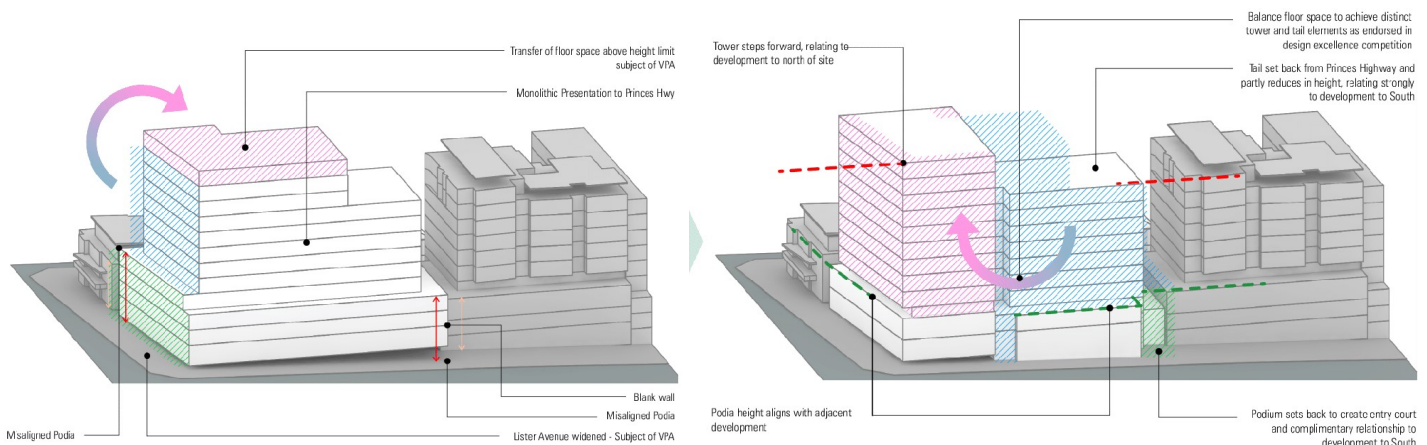
Elements of the development which are contributable to the height breach are reiterated below.

| Location | Permissible | Proposed | Variation |
|-----------------------------------|-------------|---------------------|------------------|
| Northern Building (Area H) | | | |
| D. Top Lift Overrun | 34m | D. 41.8m (52.21RL) | D. 7.81m (20%) |
| E. Roof Level | | E. 39.1m (49.51RL) | E. 5.1m (15%) |
| F. Balustrades | | F. 40.1m (50.51RL) | F. 6.1m (17.9%) |
| Southern Building (Area J) | 31m | | |
| D. Top Lift Overrun | | D. 35.29m (45.01RL) | D. 4.29m (13%) |
| E. Roof Level | | E. 30.49m (40.21RL) | E. N/A Complies |
| F. Balustrades | | F. 31.49m (41.21RL) | F. 0.49m (1.58%) |

Applicants Height Discussion

A summary of the applicant's key arguments supporting the additional Height are as follows.

- *The non-compliance is the result of two separate aspects of the proposed re-massing as reflected in design excellence considerations:*
 - *the transfer of the GFA from the road dedication to form the tower element and which is the primary variation; and*
 - *the transfer of GFA to complete the tower and form a slender 'tail' to the building distinct from the tower element to reduce overall perception of building mass.*



- *The site is subject to varying slopes and as a consequence, the building height plane is variable.*
- *The dedication free of cost to Council of land reserved for road widening to permit a proper pedestrian link on Lister Avenue is considered to be a demonstratable public benefit and therefore, the clause may be applied in the circumstance.*
- *The proposed variation to the height control is consistent with the objectives of the standard as the proposed development represents a high quality urban form which has*

been subjected to design excellence processes and maintains floor space that would apply to the site if it were not affected by a road widening reservation.

- The adopted building heights will be consistent with the pattern of heights being applied to the Rockdale town centre that then step down southwards along Princes Highway, thereby maintaining an appropriate transition in built form and land use intensity adopted in the LEP.*
- The proposed building height will not undermine the achievement and maintenance of a satisfactory sky exposure and daylight to surrounding buildings and the public domain as shown in the shadow and sunlight analysis drawings while there are no identified key areas within the locality that could be affected.*
- The proposed building heights are consistent with the desired future character of the Rockdale and satisfy the objectives of the height standard.*
- The proposal will facilitate a development informed by a design excellence processes, as well as a needed road widening for pedestrian use, that is consistent with the zone objectives in allowing suitable mixed use development “in accessible locations so as to maximise public transport patronage and encourage walking and cycling”.*
- The zone objectives anticipate development of an intensity as proposed to best utilise its close proximity to public transport infrastructure and general services and facilities, in an urban form derived from design excellence processes. Accordingly, the resultant variation is for the purpose of implementing the zone objectives and is not incompatible with them.*
- Accommodating the transfer of GFA from the road reservation while achieving design excellence enables it to be dedicated to the Council without cost to the community while appropriately preserving the density of the site that would otherwise be available for housing and business in a highly accessible location.*
- The proposed development is therefore a case where flexibility in the application of the development standards is justified in order to achieve public benefits while implementing the objectives and intent of RLEP and remain consistent with the overarching urban design strategy for Rockdale town centre and the achievement of design excellence.*
- Strict compliance with Clause 4.3 of the RLEP 2011 is considered unreasonable and unnecessary in the circumstances of the case especially as the development proposal has been informed by design excellence processes which confirmed the appropriateness of the re-massing design strategy in response to site conditions and context in achieving a public benefit.*
- Compliance with the building height standard would preclude the implementation a well-considered and supported design strategy, and deny the achievement of a significant public benefit of the dedication of land for a needed improvement to the public domain free of cost to the community.*
- Compliance would impede the achieving of a better planning, design and public benefit outcomes, unnecessarily defeat the objectives for the zone and the building height development standard and needlessly reduce the capacity to help meet local needs for ideally located housing and employment as well the metropolitan planning objectives in supporting town centres and sustainably managing travel demand.*
- As demonstrated in the SEE, the development as proposed has limited additional potential adverse effects and given its demonstrated design appropriateness and public benefits, it is considered that strict compliance with the building height development standard would be unreasonable and unnecessary in the circumstance.*
- Contravention to the height of building standard is justified firstly in properly addressing its objectives as well as the Principles of SEPP 65 informed by design excellence processes.*
- Given that the proposed height variations allow for a significant public benefit simultaneously with an improved urban design outcome, it is considered that there are*

sufficient planning, design and public benefit grounds to justify the contravention of the building height standard in the circumstance.

- The request is considered to be well founded in accordance with Court guidance in that the objectives of the building height standard are achieved notwithstanding the non-compliance, and that the underlying object or purpose of the standard would be defeated or thwarted if compliance was required and therefore, compliance would be unreasonable.*
- The acceptance of the offer to enter a planning agreement to dedicate the Lister Avenue local road reservation affecting the site, free of cost to Council, meets the requirement for the use of RLEP clause 4.6 under subclause (8)(ca) which is prohibited “unless It is for a demonstrable public benefit, such as the provision of pedestrian links”.*
- The proposed development will be in the public interest because it is consistent with the objectives of the height standard and the objectives for development within the zone in which the development is proposed to be carried out while securing a tangible public benefit.*

Height Discussion

The applicants request has adequately addressed the provisions of Clause 4.6(3)(a), (b) & 8(ca). Following a review of the application, it is deemed that a breach to the height of building standards as proposed is appropriate for the following reasons:

- Developments with a similar height, mass and scale have been approved and are either constructed or under construction along the Princes Highway and Chapel Street to the north east of the site. Such developments have established a precedent for building heights and form in the immediately surrounding precinct. The proposed development is consistent with the pattern of development that is and has been approved and/or established in Rockdale Town Centre.
- The proposal underwent a comprehensive design excellence review by Council and is deemed to appropriately integrate & be compatible the height, mass and scale of development as existing, approved and under construction within context of the site. The proposal will not prejudice or result in a visual impact incompatible with the desired and emerging character of the area.
- The proposal was supported by the Design Excellence Panel and is deemed to demonstrate Design Excellence as required by the provisions of Clause 6.14 of Rockdale LEP 2011.
- The height breach contributable to the proposed rooftop communal open space area upon the tail of the development is minimal in its extent, centrally located and restricted to the lift/stair overrun, balustrades and associated structures in order to facilitate a useable communal rooftop open space for the development. The proposed rooftop communal open space provides a high quality communal area for future residents.

The non compliance in this instance to this portion of the development enables substantial benefit and facilitates equitable access, without adversely impacting upon neighbouring sites.

- Visual privacy to neighbours has been ensured with appropriate ADG setbacks and building design. The variation to building height does not adversely impact on solar access, views or outlook and the streetscape appearance is not impacted by the variation.

- The proposal is consistent with the principles of SEPP 65 and the Apartment Design Guide with respect of Context & Neighbourhood Character, Built Form, Scale and Density.
- The proposal provides an appropriate scale and intensity of development for the site consistent with the character of the locality. The proposed development is consistent with the objectives of the standard and the zone, despite the numeric non-compliance.
- The proposal ensures the orderly and economic redevelopment of the site which is the last property fronting the Princes Highway between Rockdale Plaza Drive and Lister Avenue to benefit from a development consent for redevelopment to its full potential, consistent with its zone and purpose.
- The draft Planning Agreement associated with this site and endorsed by Council seeks to dedicate free-of-cost 88sq/m of land along the northern frontage of the site to Lister Avenue. This land is to be utilised at a future date by Council as part of a capital works program, to facilitate the widening of Lister Avenue at the intersection with the Princes Highway and improve existing community infrastructure. This is a clear demonstrable public benefit.
- The proposal secures significant future improvements to the currently diminished state of the public domain along the Lister Avenue.
- The dedication of the aforementioned land, free of encumbrances, along with an undertaking to provide for the future construction and embellishment of this area to expand the public domain at no cost to the community is a demonstrable public benefit. Public domain improvements as intended to be provided at a later date can only serve to benefit the local community.
- Future works to be undertaken by the proponent to this portion of the site will include the widening of the existing narrow pedestrian footpath to the Lister Avenue frontage and embellishment of this space as deemed appropriate by Council, improving pedestrian permeability and equitable access.
- The proposal is in the public interest on the basis that it provides a definite public benefit, is consistent with the objectives of the height standard and B4 Mixed Use zone.

The proposal seeks to establish an appropriate design and built form outcome for the site. There will be no adverse amenity or visual impacts generated by the variation proposed and a demonstrable public benefit will be provided.

The applicants justification for the proposed height variation sought is well founded and the height standard is deemed to be unreasonable and unnecessary in the circumstances of the proposal in this instance given the above. There are sufficient grounds in which to support the variation as proposed, as such the assessing officer is supportive of the scheme.

5.1A – Development on land intended to be acquired for a public purpose

As per the provisions of this clause, a portion of the site (88sq/m) along the frontage of the property of Lister Avenue, identified in yellow below and as per submitted survey, is to be dedicated for the purpose of local road widening.



The proposed development is clear of the land reserved for acquisition and thus complies with the provisions of this clause.

6.7 – Stormwater Management

Councils development engineer reviewed amended plans / information submitted and raised no objections with regards to proposed mechanisms for stormwater management. i.e. OSD, 5,000L rainwater tank, tanking of basement etc. The proposal has been conditioned accordingly.

6.12 – Essential services

Services will generally be available on the site. The proposal is satisfactory with regards to the provisions of this clause. Conditions of consent address the provision of services.

6.14 – Design Excellence

The objective of this clause is to deliver the highest standard of architectural, urban and landscape design. This clause applies to the proposal as the applicant seeks to benefit from the LEP height bonus which applies to the site.

As per the provisions of this clause, development consent must not be granted to development to which this clause applies unless the consent authority considers that the development exhibits design excellence.

In accordance with the provisions of this clause, development consent must not be granted unless:

- a) *an architectural design competition that is consistent with the Design Excellence Guidelines has been held in relation to the development, and*
- b) *the design of the development is the winner of the architectural design competition, and the consent authority considers that the development exhibits design excellence.*

The assessing officer confirms that the applicant undertook a design competition for the site, consistent with the requirements noted (a) above. It is confirmed that Mako Architecture was selected by the Jury as the successful candidate in 2018.

The proposal was reviewed by the Design Excellence Panel on two occasions throughout the assessment of the Development Application. The reduction in bulk, scale, mass and density and increase in building setbacks was confirmed by the design excellence panel in the final scheme presented in April 2022.

Post the April 2022 Design Excellence Panel meeting, matters in relation to ESD and Landscape required further refinement and modifications to the scheme were undertaken by the Applicant.

Final revised plans were submitted to Council on 12/05/2022. Revised plans were assessed against the April 2022 minutes of the Panel previously within this report. The proposal is considered to satisfy the requirements of the panel and the provisions of this clause, thus demonstrating that design excellence has been achieved. The proposal is satisfactory in this regard.

S.4.15(1)(a)(ii) – Provisions of any Draft EPI's

Planning Proposal – Rockdale Town Centre (PP-2021-3892)

Rockdale Town Centre is currently the subject of a draft Planning Proposal (PP-2021-3892). The PP increases building height within the town centre, removing the current minimum site area requirement for amalgamation, in order to achieve the bonus height.

The draft PP does not benefit nor disadvantage the subject site or proposal given the existing site area permits the bonus height to be afforded as part of this DA. The proposal remains satisfactory with respect of the draft.

Draft Local Character Clause

The department has developed a draft Local Character Clause which is proposed to be included in the Standard Instrument Local Environmental Plan and was exhibited from 12/11/2020 – 29/01/2021.

The clause will allow council to adopt a map overlay which identifies the boundaries of a local character area and will require the council to consider its local character statement when addressing development applications.

The local character statement is to be developed in accordance with the Local Character and Place Guideline and will describe an area's existing character and detail its desired future character. It will also set out how future growth will be consistent with the identified character.

Whilst the above remains a draft, with nil further detail provided in relation to the subject site, the proposal is consistent with the future desired character of the site as envisaged by Rockdale DCP 2011. In this regard the proposal is satisfactory with regards to the intent of the draft.

Employment Zones Reform

The aforementioned is a Department of Planning & Environment led change to replace all current business and industrial zones in LEPs across NSW with a new set of zones developed by the Department.

The exhibition will commence on Friday 27 May and conclude 8 July 2022. In summary, DPE proposes to translate the entirety of each of Bayside's employment as follows:

- B1 Neighbourhood Centre and B2 Local Centre will combine to become *E1 Local Centre*;
- B3 Commercial Core will become *E2 Commercial Centre*;
- B4 Mixed Use will become *MU1 Mixed Use*;
- B5 Business Development, B6 Enterprise Corridor and B7 Business Park will combine to become *E3 Productivity Support*;
- IN1 General Industrial and IN2 Light Industrial will combine to become *E4 General Industrial*.

A number of changes and inclusions to zone objectives and permissible land uses are also proposed for the new zonings.

The aforementioned results in the change of the current B4 Mixed Use zone to be renamed MU1 Mixed Use. The proposal remains a permissible use within the revised zone and remains consistent with the Zone objectives. The proposal is satisfactory with respect of the draft revisions.

S.4.15(1)(a)(iii) – Provisions of any Development Control Plan

The following is relevant to this application:

Rockdale Development Control Plan 2013

The development proposal has been assessed against the controls contained in RDCP 2011 as follows:

| Relevant Clauses | Compliance with Objectives | Compliance with Standard / Provision |
|--|-----------------------------------|---|
| 4.1.1 Views and Vista | Yes | Yes |
| 4.1.3 Water Management | Yes | Yes – Refer to discussion in 6.7 – Stormwater |
| 4.1.4 Soil Management | Yes | Yes |
| 4.1.6 Development on Sloping Sites | Yes | Yes |
| 4.1.9 Lot size and Site Consolidation - Mixed use | Yes | Yes |
| 4.4.2 Solar Access - Residential Flat Buildings and Shop Top Housing | Yes | Yes |
| 4.4.4 Glazing - General Controls | Yes | Yes |
| 4.4.6 Noise Impact - Non - Residential | Yes | Yes |
| 4.4.7 Wind Impact | Yes | Yes |
| 4.5.1 Social Equity - Housing Diversity and Choice | Yes | Yes |
| 4.5.2 Social Equity - Equitable Access | Yes | Yes |
| 4.6 Parking Rates - Shop - Top Housing | Yes | Yes |
| 4.6 Parking Rates - Retail Premises | Yes | Yes |
| 4.6 Car Park Location and Design | Yes | Yes |
| 4.6 Vehicles Enter / Exit in Forward Direction | Yes | Yes |
| 4.6 Basement Parking - General | Yes | Yes |
| 4.6 Driveway Widths | Yes | Yes |
| 4.6 Traffic - Classified Roads | Yes | Yes |
| 4.6 Access to Parking | Yes | Yes |
| 4.6 Design of Loading Facilities | Yes | Yes |
| 4.6 Car Wash Facilities | Yes | Yes |
| 4.6 Pedestrian Access and Sustainable Transport | Yes | Yes |
| 4.7 Air Conditioning & Communication Structures | Yes | Yes |
| 4.7 Waste Storage and Recycling Facilities | Yes | Yes |
| 4.7 Service Lines/Cables | Yes | Yes |
| 4.7 Laundry Facilities and Drying Areas | Yes | Yes |

| | | |
|---|-----|--|
| 4.7 Letterboxes | Yes | Yes |
| 4.7 Storage Areas | Yes | Yes |
| 4.7 Hot Water Systems | Yes | Yes |
| 5.3 Mixed Use - Retail | Yes | No – Refer to discussion below. |
| 7.5 Rockdale Town Centre | | |
| 7.5.1 Building use & Function | Yes | Yes |
| 7.5.1 Street Role - Centre Edge Residential | Yes | Yes |
| 7.5.2 Building Form & Character | | |
| c) Local Edge (Lister Ave Frontage) | Yes | No – Refer to discussion below. |
| d) Arterial Edge (Princes Hwy Frontage) | Yes | No – Refer to discussion below |

4.1.4 Soil Management

The proposal was accompanied by a Sediment and Erosion Control plan, which details the location of stockpiles on site, temporary sediment basins and the extent of bulk excavation proposed. Temporary catch drains and sediment fencing is proposed in addition to a shaker grid and wash down facility at the construction site vehicular entry / exit from Lister Avenue. The proposal is satisfactory with respect of the provisions of this part.

4.1.6 Development on Sloping Sites

The proposed development has been designed to accommodate the existing topography of the site. Independent lift access is provided to commercial tenancies to ensure equitable access, with finished floor levels at Basement 01 & Level 01 (Ground) stepped in order to accommodate a change in level on site. The proposal is satisfactory in this regard.

4.1.9 Lot size and Site Consolidation

As per the provisions of this clause, all proposed mixed use development of 4 storeys or greater requires a minimum frontage width of 18m. The proposed development site comprises a frontage of 32.4m to Princes Highway and 27m to Lister Avenue and complies with this requirement. The subject development site as proposed does not result in the isolation of adjoining parcels of land. The proposal is satisfactory in this regard.

4.4.2 Solar Access Residential Flat Buildings and Shop Top Housing

Rockdale DCP 2011 requires that living rooms and private open spaces for at least 70% of units within adjoining properties receive a minimum of 3 hours of solar access between 9am 3pm in midwinter.

Whilst the provisions of this clause require a minimum of 3 hours of solar access, the Apartment Design Guide stipulates 2 hours and as such the ADG requirements supersede the 3 hours specified in this clause.

The residential flat building upon 1A Lister Avenue is positioned to the east / north east of the subject site. Given the aforementioned, this building is not overshadowed by the development. Existing buildings to the north of the site, specifically 4 / 9 / 12 storey buildings result in the overshadowing of this property.

5 Hayburn Avenue is positioned to the east of the development and is overshadowed by the proposal from approximately 1pm onwards. Prior to this time, existing buildings to the north of the site i.e. 1A Lister Ave and the building itself given its east west orientation, result in shadows cast onto this property.

With respect of 594-600 Princes Highway, the adjoining approved building to the south is an L shaped form, with serviced apartments in the wing closest to the common boundary with the site and residential dwellings furthest from the northern boundary. As approved and given the shadows cast by the proposed development, the living rooms / private open spaces of 70% of the units within this approved adjoining development will retain a minimum of 2 hours of solar access in midwinter.

The proposal is satisfactory in this regard.

4.4.7 Wind Impact

The proposal was accompanied by a Wind Report prepared by Windtech, dated 24/05/2019 and supplementary correspondence dated 23/10/2020 and 10/02/2022 post revisions to the development.

The aforementioned documents conclude that recommendations proposed will ensure appropriate wind mitigation and enhance local wind conditions to ensure areas within the development and adjoining public domain are acceptable for their intended uses.

The proposal has been conditioned to ensure that the proposal is consistent with the specific wind amelioration measures recommended. i.e. inclusion of densely foliating street trees, balcony screening etc. The proposal as conditioned satisfies the requirements and objectives of this clause.

4.5.1 Social Equity Housing Diversity and Choice

The proposal is required to provide the following unit mix as per the provisions of this clause.

| <i>Requirement</i> | <i>Proposed</i> | <i>Complies</i> |
|--|-----------------|-----------------|
| 1 Bed Min 10%(10) – Max 30% (30) | 20 x 1 bed | Yes |
| 2 Bed Min. 50% (50) – Max. 75% (75) | 68 x 2 bed | Yes |
| 3 Bed Min. 10% (10) – Max. 20% (20) | 13 x 2 bed | Yes |

The proposal complies with the requirements of the DCP with regards to the required unit mix on site. The proposal provides for a varied range and size of units within the development in order to cater for a varied demographic and different household types and is satisfactory in this regard. As such the proposed development satisfies the objectives of the requirement and is satisfactory in this regard.

4.5.2 Social Equity Equitable Access

As per the requirements of this clause a minimum of 10% (10) of residential units within the development are required to be provided as adaptable units. The proposal indicates the provision of 10 accessible dwellings of unit type 2G i.e. 2 bedroom, within the development.

Further to the above, equitable access is provided to, within and throughout the development including basement car parking levels, ground level areas and communal open space areas allowing equitable access for persons with a disability / mobility impairment. Accessible car parking spaces and amenities are also provided.

A Disability Access Report prepared by Cheung Access dated 15 February 2022 confirms that the proposal is capable of compliance with the requirements of the Access to Premises Standards, Building Code of Australia and accessibility legislation. The proposal is

consistent with the requirements and objectives of this clause and has been conditioned to adhere & implement the recommendations of the aforementioned report.

4.6 - Car Parking Rates

The following table identifies the minimum RMS rate of car parking required for the development, given the site is within 800m of Rockdale railway station, compared to the maximum rate of parking required as per Rockdale DCP.

| <i>Use</i> | <i>DCP Maximum</i> | <i>RMS Minimum</i> |
|---------------------|------------------------|--|
| Residential | 114 | 92 |
| Visitor | 21 | 21 |
| Retail / Commercial | 12 | 12 |
| Total | 147 | 125 <i>(inclusive DCP retail / commercial rate)</i> |
| Motorbike | 7 | - |
| Bicycle | 11 | - |

The proposal provides for a total of 140 car parking spaces within the development which achieves the minimum required number of spaces for the development in line with the RMS Guide to Traffic Generating Development. The development further incorporates 12 motorbike and 42 bicycle spaces and is thus satisfactory in this regard.

4.6 Access to Parking

The design of the basement car parking areas and lift arrangements as proposed, facilitate and ensure vehicles can enter, utilise car parking spaces and exit the site in a forward direction. Access and manoeuvrability to parking areas on site as proposed is satisfactory in this regard.

4.6 Design of Loading Facilities

As per the provisions of this clause, the proposal is required to accommodate loading and unloading on site, to prevent conflict with pedestrian / vehicular movement within or surrounding the site.

The proposal incorporates on site loading and unloading for 2 x small rigid vehicles which are sufficient to service the commercial / residential development and facilitate twice weekly waste collection on site and enable future loading and unloading as required. The proposal is satisfactory in this regard.

4.6 Car Wash Facilities

As per the requirements of this clause, 2 car wash bays are required to be provided within the development. Plans indicate the provision of the required car wash bay within basement level 1 of the development. The proposal has been conditioned to require 2 car wash bays, shared within visitor spaces. Conditions further require that these spaces be equipped with a cold water tap and sewer system connection. The proposal is satisfactory in this regard.

4.6 Pedestrian Access and Sustainable Transport

The requirements of this clause require the provision 1 bicycle space per 10 dwellings. A total of 10 bicycle spaces are required for the development. The proposal incorporates 50

bicycle spaces far beyond the minimum required. The proposal complies with the requirements of this clause.

4.7 Air Conditioning and Communication Structures

Air conditioning systems are nominated on each floor and discreetly located within service cupboards adjoining the lift core. Associated ducting will be provided in bulkheads during construction. The proposal is satisfactory with regards to this clause.

4.7 Waste Storage and Recycling Facilities

General waste on site is to be collected twice weekly, with recycling collected on a weekly basis. Waste will be collected on site within basement level 1 within the loading / unloading area of the development, designed to accommodate 2 x SRV.

The development incorporates waste chutes and recycling bins to each level of the development, with separate commercial / residential bin rooms and a bulk waste store within basement level 1. Bin storage rooms as proposed are of sufficient width and area so as to accommodate the necessary number of bins i.e. 6 x 1100 red bins / 25 x 240L yellow bins for the development.

4.7 Letterboxes

Letter boxes are proposed to be located in lobby, perpendicular to the street alignment. The proposal is satisfactory in this regard.

4.7 Hot Water Systems

Nil detail of proposed hot water systems are depicted upon submitted plans. The proposal has been conditioned appropriately to ensure that any hot water systems/units located on the balcony of boarding room be encased in a recessed box with the lid/cover of the box designed to blend in with the building. All associated pipe work is to be concealed. As conditioned the proposal is satisfactory with respect of the provisions of this clause.

4.7 Service Lines/Cables

Sufficient service rooms and areas are provided within the building form to accommodate for the operations of the development once constructed. The frontage of the building to Lister Avenue incorporates a substation, main switch and communications room into the building form. The proposal is satisfactory in this regard.

5.2 RFB Lift Size and Access

The provisions of this clause require a minimum width of 2m to communal corridors to enable bulky goods (white goods, furniture etc) to be easily transported through the building. Additionally lift cars are to have minimal internal dimensions of 2.1m x 1.5m.

The proposal incorporates lifts with cars of 2.4m width x 2.6m depth and communal corridors 1.5m – 2.2m in width. Whilst a 0.5m variation is proposed to certain areas of internal circulation corridors, such corridors as proposed are not of a proportion which is excessively narrow such that the manoeuvring of bulky goods would be unable to occur. Corridors as proposed are satisfactory given their limited length. The proposal is satisfactory with respect to the objectives of this clause.

5.3 Mixed Use Retail

As per the requirements of this clause, a minimum of 10% of the gross floor area of a mixed use development is to be for retail and/or commercial uses. Given the development incorporates a gross floor area of 9,312.5sq/m, a minimum of 931.2sq/m is to be provided as commercial / retail floor area.

The proposal provides for a total of 453sq/m of commercial floor area, which equates to 4.86% of the gross floor area of the development provided as commercial space.

Whilst a deficiency is identified above, the proposal has been designed to maximise commercial activation of the streetscape at ground level within the Rockdale town centre. Commercial activation is provided to the entire Princes Highway frontage of the site, with the Lister Avenue frontage of the site benefiting from two retail / commercial tenancies activating the corner.

Notwithstanding the aforementioned, the proposal is deemed to be acceptable given the provision of commercial / retail space which spans the majority of the site frontage, addresses the public domain, provides a commercial focus and active street frontage within the Rockdale Town Centre. The proposal is satisfactory in this regard and satisfies the objectives of this requirement.

Part 7.5 - Rockdale Town Centre

7.5.2 - Arterial Edge (Princes Highway Frontage)

As per the requirements of this part, the following is required.

- a) *Lower 3 storeys are to be setback 3m from the property boundary to support the landscape frontage of the Green Gateway.*
- b) *Levels above the 3rd storey are to be setback at least 6m from the property boundary.*
- c) *The portion of the building above the 3rd floor is to have a side setback of at least 4.5m, a separation between buildings of at least 9m, and a maximum facade length of 40m.*
- d) *A minimum 9m rear setback is to be provided where development shares a boundary with a residential property.*
- e) *The design of the street wall buildings should complement the proportion/scale of the neighbouring street wall buildings.*

In response to the above it is noted.

- a) A 3m front building setback is provided for the entire length of the site to the Princes Highway.

The 3m strip of land forward of the proposed building line is provided as deep soil, as required by the requirements in this clause, in order to facilitate a 'Green Gateway' along the frontage of the site. *Note - a gas regulator and hydrant booster are located in this green gateway, this was discussed earlier in this report.*

- b) The development as designed provides a "Tower" (northern) and "Tail" (southern) building form.

The northern portion of the development i.e. Tower, positioned at the junction of the Princes Highway / Lister Avenue does not setback levels above the third storey a further 3m, in accordance with the requirements of this part.

The “Tower” as designed is setback 3m from the Princes Highway frontage for the full height of the building. Upper levels are not setback to provide a podium / tower form as intended by the requirements of this part.

Whilst the northern ‘Tower’ portion of the development does not adhere to the upper level setbacks required by this part, the tower form addresses its corner location, was supported by the Design Excellence Panel and is not inconsistent with building forms to the north of the site, which as constructed do not setback levels above the 4th storey.

The proposal provides a street wall development as intended and whilst not strictly adhering to the aforementioned upper level setback, provides an appropriate bulk, scale, mass and design outcome on site which is consistent with the future desired character of the Rockdale Town Centre. A variation in this instance is thus supported on this basis.

The ‘Tail’ component of the development is setback 3m for a height of 3 storeys, with upper levels 4-10 setback a further 5.1m, thus providing a setback of 8.1m to the Princes Highway, which is greater than that required by this part.

The increased setback proposed is to ameliorate future residential dwellings from traffic noise / pollution and provide a building form on site which transitions & is setback in line with the approved adjoining development to the south at 594-600 Princes Highway which is setback substantially from the Princes Highway frontage as a result of a classified road dedication / resumption.

- c) The portion of the building above the 3rd floor is to have a side setback of at least 4.5m, a separation between buildings of at least 9m, and a maximum facade length of 40m.

The ‘Tail’ component of the development comprises a façade length of 25.5m and a southern side setback of 3.2m – 4.35m with the common side boundary to 594-600 Princes Highway for the full height of the development. A total of five south facing windows (bedroom, bathroom, study, living room, kitchen) are provided at each level, to a total of 10 units within the development.

The approved adjoining development to the south provides a party wall to a height of 3 storeys on the boundary, with levels above setback 4.5m for a height of up to 10 storeys akin to the proposed development. This northern wall of the adjoining approved development is solid with no window openings.

Given the aforementioned, the proposal does not generate adverse visual privacy impacts between adjoining developments and appropriate building separation is retained at this southern boundary. The proposal is satisfactory in this regard.

- d) A 10.925m rear building setback to the common boundary with 5 Hayburn Avenue is proposed, the proposal is consistent with this requirement.
- e) The design of the development as proposed complements the proportion and scale of the development within context of the site and within the Rockdale town centre as previously discussed in this report.

The proposal is satisfactory with respect of the objectives and design intent of this part.

7.5.2 - Local Edge (Lister Avenue Frontage)

As per the requirements of this part, the following is required.

- a) *Lower 4 storeys are to be setback 2m from the property boundary*
- b) *Levels above the 4th storey are to be setback at least 3m from the lower build to line.*
- c) *A minimum 9m rear setback is to be provided where development shares a boundary with a residential property.*

With regards to the above it is noted;

- a) The lower 4 storeys of the building, fronting Lister Avenue are setback 2.030m from the new northern property boundary which will eventuate post dedication of the road reservation.

Levels 4 to 10 are setback akin to levels below, however curved balcony elements as designed result in minor protrusions up to 0.7m maximum within this front setback.

This is depicted below.



Protrusions are minor and not of a manner which exacerbate the building form or bulk, provide visual interest to the development and as such are supported.

- b) The northern section of the development, i.e. Tower, fronting Lister Avenue does not setback levels above the 4th storey a further 3m as required by this part.

As designed the proposal presents as a tower form, addressing the corner location of the site. The tower form was supported by the Design Excellence Panel and is not inconsistent with building forms to the north of the site, which as constructed do not setback levels above the 4th storey.

The proposal provides a street wall development as intended and whilst not strictly adhering to the aforementioned upper level setback, provides an appropriate bulk, scale, mass and design outcome on site which is consistent with the future desired character of the Rockdale Town Centre. A variation in this instance is thus supported on this basis.

- c) The southern component of the development i.e. Tail, is setback 10.925m from what is deemed to be the boundary of the site i.e. that which shares a common boundary with 5 Hayburn Avenue. Further discussion is provided in 3F – Visual Privacy section of this report.

The proposal is satisfactory with respect of the objectives and design intent of this part.

The Regulations were updated by the State Government of NSW on 17 December 2021 and came into force on 1 March 2022. The provisions of the Regulations relating to demolition have been considered in the assessment of the application.

Pursuant to clause 69 of the Regulations building works must be carried out in accordance with the requirements of the Building Code of Australia. The proposal has been conditioned accordingly to ensure compliance with the requirements of the BCA.

S.4.15(1)(b) - Likely Impacts of Development

As previously noted, DA-2019/312 for the demolition of existing structures and construction of a ten (10) storey mixed use building consisting of 49 residential apartments, 42 serviced apartments and 2 basement levels was approved upon the adjoining southern site at 594-600 Princes Highway Rockdale, by the Bayside Planning Panel on 9 June 2020. Construction has not as yet commenced.

594-600 Princes Highway

PARKLET

MASTERPLAN

SUBJECT SITE

10 PM
4 EP
9 PX
5 AB
6 MAB
10 BR
8
6
9 MAB
76 T
10
11

A 600mm high planter is proposed along the common southern side boundary with the parklet, this wall will adjoin and be screened by a landscaped planter on the adjoining southern site.

This wall is of sufficient height so as to delineate the property boundary and integrate the proposal appropriately with the landscaped parklet adjoining to the south. This is an appropriate public domain response to the public domain and adjoining approved development site.

Construction

Construction of the proposed development includes excavation works, piling and the construction of the development. Impacts will be minimized through the use of standard conditions of consent relating to hours of construction, noise, dust suppression traffic management and the like. Additional conditions of consent are imposed to ensure traffic and pedestrian safety is considered.

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

The relevant matters pertaining to the suitability of the site for the proposed development have been considered in the assessment of the proposal, specifically within State Environmental Planning Policy (Resilience and Hazards) 2021.

It is reiterated that the applicant has not conclusively demonstrated the suitability of the site for the proposed development.

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

The proposal was publicly notified in accordance with the requirements of RDCP 2011. Following the public notification of the proposal a total of twelve (12) submissions were received by Council. The following issues were raised.

Excessive bulk & Scale / Overdevelopment

Comment: The density of the development along with the mass, bulk and scale was reduced from the original scheme submitted. From the originally proposed 129 units at the commencement of the DA, the final revised scheme comprises 101. The proposal was reviewed by the Design Excellence Panel and Council staff and is deemed to be satisfactory with respect of the final design. The proposal is not an overdevelopment of the site.

Height of building

Comment: The height of the development has been previously discussed and is considered to be satisfactory.

Traffic flow impacts and safety at intersection of Lister Ave & Princes Highway

Comment: The existing road network is considered adequate in accommodating additional trips given that the Princes Highway is an arterial road with a signalised intersection. The future committed inclusion of the M6 upgrade is expected to significantly reduce traffic along the Princes Highway. Traffic modelling shows that the performance of the Lister Ave / Princes Highway intersection operates within acceptable limits.

Car Parking

Comment: The proposal complies with the car parking requirements of Rockdale DCP 2011 and provides sufficient car parking for residential dwellings and commercial tenancies proposed.

Privacy to 1A Lister Avenue

Comment: The matter of visual privacy to 1A Lister Avenue has been addressed previously in this report in 3F – Visual Privacy. The proposal is satisfactory and does not generate adverse visual privacy impacts to this or adjoining existing or proposed buildings.

Illegally dumped rubbish

Comment: This matter is beyond the scope of this application.

Overshadowing and loss of natural light to properties in 555 Princes Highway

Comment: The objectors property is positioned to the north west of the subject site and is not affected by any overshadowing from the proposed development.

Overshadowing to 1A Lister Avenue units

Comment: The matter of overshadowing to 1A Lister Avenue has been addressed previously in this report.

Overcrowding / Congestion / No new green spaces

Comment: The proposed development is consistent with the B4 Mixed Use zoning of the site and provides a building of appropriate scale mass and density within the Rockdale Town Centre. The development is sited 120m to the west of Chapel Street Reserve which is a public open space area incorporating seating, shade and a children's play area.

Electricity demands fail in locality i.e. black outs / Excessive noise & vehicle emissions

Comment: An increase in density on the subject site is unlikely to result in blackouts as suggested. The proposal was referred to Ausgrid who raised nil objection to the development. The proposed use of the site is for commercial and residential purposes.

Given the location of the site within the Rockdale Town Centre, building setbacks / separation provided and the internalisation of the vehicular entry / exit it is unlikely that the proposal will generate excessive noise of vehicular emissions.

Blocked views from 555 Princes Highway

Comment: Nil detail was provided in respect of what "views" are proposed to be obscured or from what level.

555 Princes Highway is a 4-10 storey development, located on the western side of the Princes Highway, with 8,10 & 12 storey buildings located opposite on the eastern side of this property as illustrated below. Additionally this site is positioned to the north west of the subject site as detailed in the aerial below.



Any potential 'views' are likely to be from balconies of upper level south facing dwellings which front onto Hegerty Street as illustrated below, via a view corridor illustrated by 2 blue lines above.



Southern façade of 555 Princes Highway fronting Hegerty St

Any potential 'views' would be via a view corridor across the site which is not developed to its full potential and may be distant glimpses of botany bay. Given the site is not as yet developed to its full potential in accordance with the relevant planning controls, it is not realistic to expect the retention of any such views within a high density area.

Demolition / excavation would adversely impact the basement and building on 1A Lister Avenue / Concern regarding foundation issues i.e. Mascot Towers

Comment: Conditions of consent would require the preparation of appropriate dilapidation reports prior to the commencement of any works on the subject site, to ensure the existing condition of adjoining infrastructure / buildings is established and ensure nil adverse impacts to adjoining buildings during construction.

Wind tunnel effects in Lister Avenue making communal areas at 1A Lister unable to be used.

Comment: A Wind Report was submitted with the application which confirms that the proposal as designed will not result in adverse wind tunnel effects.

Oversupply of commercial spaces in town centre, these will remain empty.

Comment: The site is located within the Rockdale Town Centre and is required to provide commercial areas in this regard.

Devaluation of property

Comment: Nil detail has been provided to substantiate this claim.

Craigburn is an iconic building on the site and should be preserved

Comment: This building is not a heritage item as per Rockdale LEP 2011. The site is zoned for redevelopment and its preservation is not likely nor required.

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

The proposal will facilitate the orderly economic development of the land and provide for a demonstrable public benefit as previously discussed, however is not in the public interest given the suitability of the site from a contamination standpoint has not been demonstrated.

S7.11

The redevelopment of the site will increase demand for public amenities within the area, and in accordance with Council's Section 7.11 Contributions Plan. Development applications

which increase the density of a site are subject to the payment of developer conditions. The proposal has been conditioned to require the payment of relevant contributions.

Conclusion & Reasons for Decision

The proposed development at 588-592 Princes Highway Rockdale has been assessed with regard to the s4.15 of the Environmental Planning and Assessment Act 1979 including relevant State Environmental Planning Policies, Rockdale LEP 2011 and Rockdale DCP 2011.

The proposed development, is a permissible land use within the zone with development consent. In response to the public notification twelve (12) submissions were received. The matters raised in these submissions have been discussed within this report. Accordingly, the proposal is supported for the following reasons.

1. The proposed development complies with the objectives of relevant environmental planning instruments and the development control plan with the exception of the Height of Building standard of which the variation proposed is considered acceptable having regard to the justification provided in the Council assessment report.
2. The Clause 4.6 – Exception to Development Standards as submitted by the Applicant is deemed to be well founded, the non compliance with the height standard is reasonable in the circumstances of the case and the proposal provides for a demonstrable public benefit as required by Rockdale LEP 2011.
3. The proposal is consistent with the zone objectives, was supported by the Design Excellence Panel and complies with the intent of the Apartment Design Guide.
4. The proposed design is consistent with the desired future character of the Rockdale Town Centre and the proposal provides a demonstrable public benefit.
5. The proposal will not result in unreasonable amenity impacts on site or to neighbouring properties and is in the public interest.