

# BAYSIDE COUNCIL

## Supplementary Planning Assessment Report

Application Details	
Panel Reference:	PPSSEC 187
DA Number:	DA-2022/46
Date of Receipt:	18 February 2022
Property:	427-429 Princes Highway Rockdale
Owner:	City West Housing Pty Ltd
Applicant:	Mr Matthew Holt – Urbis
Applicant Address:	123 Pitt Street, Sydney
Proposal:	Integrated Development - Demolition of existing structures, site and remediation works, removal of three trees and construction of an eleven (11) storey mixed use development comprising two commercial tenancies, basement car parking, eighty (80) residential units, comprising of 80% affordable units (64 of 80) and 20% (16 of 80) rented at market rate.
Recommendation:	Deferred Commencement Approval
Value:	\$29,526,500.00
No. of submissions:	Four (4)
Author:	Fiona Prodromou - Senior Assessment Planner
Date of Report:	December 2022

### Background

On 1 December 2022, this application was briefed to the Sydney Eastern City Planning Panel (the Panel), as the Consent Authority for determination.

The Panel was unable to determine the application based on a jurisdictional threshold in relation to Section 6.7 – Airspace Operations of Bayside LEP 2021, whereby approval from the Department of Infrastructure, Transport, Regional Development, Communications and the Arts had not been receipted.

It is confirmed that on 9 December 2022, Approval was granted by the Department of Infrastructure, Transport, Regional Development, Communications and the Arts for the 'controlled activity' to occur on site. As such the requirements of Section 6.7 – Airspace Operations of Bayside LEP 2021 have been satisfied and the Sydney Eastern City Planning Panel (the Panel), as the Consent Authority may now determine the application.

Further to the above, the below matters were discussed.

1. *Federal authority approval re height obstacle limitation remains outstanding. Deferred commencement not possible. Urbis met with authorities Thursday 1 December and discussion resolved can proceed with construction. Advice and approval forthcoming.*
2. *Car parking allocation for commercial and residential component, number (deficient 27 spaces in total) and reconfiguration– applicant does not support Council's request. Council's intention is to provide as many spaces as possible to the affordable housing component of the development (deficient 22 spaces out of the total 27).*
3. *Applicants' intention is to open a satellite office within the proposed commercial space with further expansion into Bayside.*

4. *Contributions.*
5. *Applicant seeks an amendment to the s7.11 contributions based on commercial car parking levies and only calculate contributions on market units, equating to approximately \$7,000/market units. Further consideration and justification required by the Applicant with a feasibility analysis and impact upon social services, noting Council is bound by its Contributions Plan with fixed limits.*
6. *Design and face brickwork – whilst intention is to offer longevity and texture, the Panel hold concerns re colour of brickwork.*
7. *Canopy trees within setback to be an appropriate species.*
8. *DRP recommendation that podium includes landscaping, however not provided in final set of architectural plans. Concerns relayed regarding maintenance and cost however Council will seek to impose conditions regarding planting to soften the façade, should consent be granted. The Panel will reconsider the matter further.*
9. *Applicant is seeking conditions of consent which allow for staged construction. Applicant will discuss further with Council.*
10. *Applicant will be responding to the above matters before Council can provide the SECPP with a Supplementary Assessment Report prior to determination.*

The Panel confirmed that further discussion was to be held between Council and the Applicant in relation the following.

- A. Reallocation of commercial car parking and a motorcycle space for residential purposes as stated in the original assessment report.
- B. Application and extent of 7.11 Contributions to be applied
- C. Provision of a podium planter forward of unit 3.09
- D. Conditions to permit staged construction of the development.

Discussion of matters A – D has been undertaken below within this Supplementary Report. Due consideration has been given to the Applicants correspondence dated 8 December 2022.

## **Discussion**

---

### **A. Reallocation of Car & Motorcycle Spaces**

As noted in the original assessment report, the two commercial tenancies proposed by virtue of their gross floor area and the relevant car parking requirement applicable in Rockdale DCP 2011, generate a requirement for 5 commercial car spaces.

The proposal as designed incorporates 3 commercial car spaces and indicates a deficiency of 2 spaces.

The original assessment report and draft conditions of consent seek to reallocate the 3 proposed commercial car spaces and 1 motorcycle space to residential uses within the development. The motorcycle space is to function as a small car space.

The applicant states as follows.

*“The applicant supports the reallocation of 1 commercial car parking space and the conversion of 1 motorcycle space into a small car space.*

*This arrangement will allow 1 commercial car parking space to be retained, per each commercial tenancy. It is a strong preference for City West Housing that the tenants are*

*provided with at least 1 car space each due to the anticipated nature of the intended commercial uses.*

*Further, it is requested the commercial parking shortfall levy (or Rockdale Local Car Parking Fund (retail only)) as adjusted for the revised commercial parking provision above be deleted from the conditions of consent, on the basis that this was an amendment imposed by Council.*

*This was discussed at length at the Panel meeting and Council confirmed a willingness to support the deletion of the condition."*

Notwithstanding the justification provided within the original assessment report with respect to the residential car parking deficiency, given that the site is located within an area which permits Council to levy 7.11 contributions for a shortfall in commercial carparking, in order to reduce the residential car parking deficiency proposed, aid in the justification to vary carparking for the development and maximise the extent of residential car spaces within the development for the convenience of future occupants, the reallocation of car parking and imposition of 7.11 contributions was recommended.

Noting the Applicants position above, a revised car parking calculation has been undertaken.

Use	Required	Proposed	Complies	Revised Position	Complies
Affordable Residential 64 of 80 dwellings 0.4 per 1 bed 0.5 per 2 bed 1 per bed	34	12 (6 x car share / 6 x accessible)	No 22 deficient	14 (6 x car share / 6 x accessible / 1 x standard)	No 20 deficient
Market Residential 16 of 80 RMS Guide Rates 0.6 per 1 bed 0.9 per 2 bed	13	12 (10 x standard / 2 x accessible)	No 1 deficient	12 (10 x standard / 2 x accessible)	No 1 deficient
Visitor 1 per 5 dwellings	4	0	No 4 deficient	0	No 4 deficient
Retail / Commercial RDCP 2011 1 space per 40m2 with 20% reduction	5	3 (2 x standard / 1 x accessible)	No 2 deficient	2	No 3 deficient

The Applicants correspondence supports the reallocation of 1 x commercial car space and the conversion of 1 x motorcycle space to a small car space. These 2 x spaces will be retained for use by the two commercial tenancies.

Given the Applicants revised position above, the overall residential car parking deficiency of the development is reduced by 2 car spaces, yet the commercial deficiency of the development is consequentially increased by 1 space, from 2 to 3.

Further to the above, the applicant seeks to delete applicable 7.11 contributions in relation to the commercial car parking deficiency.

The Applicants proposed parking reallocation and the deletion of car parking contributions as originally proposed is not supported on the basis of the following.

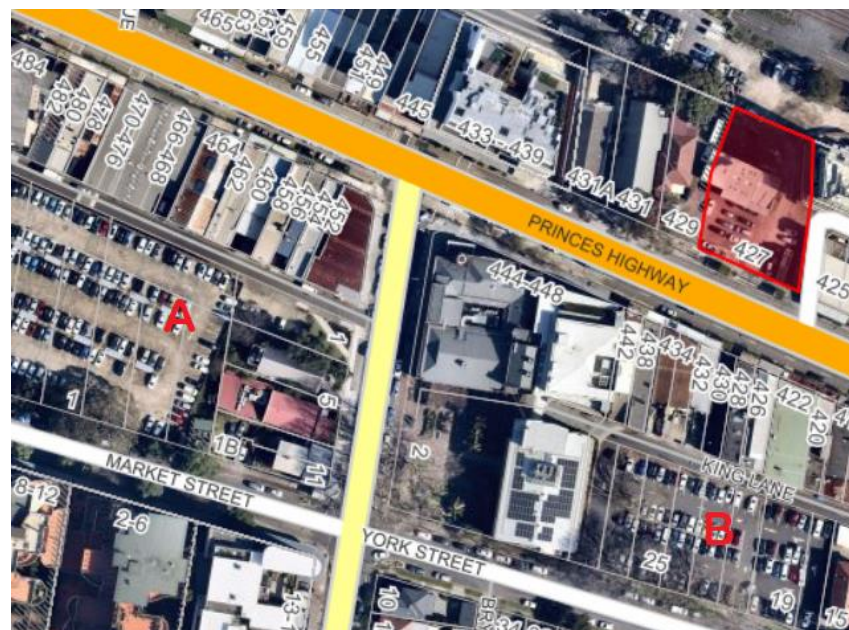
- i. Rockdale Town Centre is a sub-regional metropolitan centre with high levels of local employment. The site is located 316m from the Rockdale bus and train interchange in a highly accessible location with adequate public transport facilities.

Future tenants of the commercial tenancies have a reliable and accessible public transportation system within close proximity of their future place of employment. Dedicated car parking for commercial tenancies is not essential.

- ii. Commercial tenancies will benefit from a shared loading and unloading area on site, thus deliveries and any collection of items is catered for.
- iii. Two public car parks with in excess of 200 car parking spaces exist in close proximity to the subject site and proposed commercial tenancies.

Identified as “A” below is a multi level public car parking facility at 1 Market Street, 211m from the subject site. This car park has in excess of 200 x 3 hour car parking spaces on multiple levels, with parking at rooftop level being all day parking until 8.30pm.

Identified as “B” below is a ground level public carpark located 65m opposite the subject site and behind Rockdale Library. This car park has approximately 100 car spaces which are timed 3 hour spaces.



Both timed and unrestricted carparking is also located within 200m walking distance of the site within Market, York and George Streets.

- iv. Multiple commercial tenancies within the Rockdale Town Centre, as existing and as recently approved exist and function with nil on site car parking. Such uses include small offices, cafés and retail premises.
- v. An objective of the B4 Mixed Use zoning of the site is to ‘*To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*’

In any new development, opportunities to optimise the use of public transport must be pursued. Reduced car parking for the commercial component of the development will ensure less traffic generation within the town centre and thus provide a more sustainable development.

Given the size of commercial tenancies i.e. 138sq/m and 101sq/m, their location and likely limited uses, it is not unreasonable or uncommon for tenancies of this size within a metropolitan sub regional centre, which provides high levels of local employment to have nil carparking on site for staff.

The Assessing Officer maintains Councils position that parking should be reallocated as recommended in the original assessment report and applicable s7.11 contributions levied.

**B. Application of 7.11 Contributions**

- (a) As discussed on 1 December 2022, Council is bound by its Rockdale Section 7.11 Contributions Plan 2004 (amendment 5). Staff are unable to reduce, waiver or vary applicable s7.11 contributions based on the nature of a development application i.e. 64 of 80 units as affordable housing, or at the request of an Applicant.

As noted above, the reallocation of 3 x commercial car parking spaces, cover shortfall as proposed by the Assessing Officer in the original assessment report results in an ability for Council to levy contributions for a total of 5 commercial car parking spaces that are deficient and must be provided elsewhere in the town centre.

Given the above, draft conditions 36 and 41 require the payment of s7.11 Contributions, totalling \$786,516.20. Of this, \$236,596.30 relates to a shortfall of 5 commercial car spaces as previously discussed. A breakdown of contributions is provided below.

Regional Open Space Fund	\$ 65,359.58
City Wide Open Space Fund	\$ 103,456.30
Rockdale Local Open Space Fund	\$ 257,704.64
Rockdale Local Car Parking Fund (retail only)	\$236,596.30
City Wide Town Centre & Streetscape Fund	\$ 11,618.84
Rockdale Local Town Centre & Streetscape Fund	\$ 9,106.96
Pollution Control Contribution	\$ 59,797.58
Child care services	\$ 2,435.74
Community services	\$ 2,610.20
Library services	\$ 35,274.44
Administration & Management Contribution	\$ 2,555.62

In correspondence to Council dated 8 December 2022 the applicant requests;

- Waiver of the levy for 5 x commercial car spaces i.e.\$236,596.30
- 25% reduction in the 7.11 contributions for the development excluding the parking levy i.e. 25% x \$549,919.90 = \$137,479.97 reduction sought

The applicant requests the above with justification provided as follows.

*“City West Housing, is a not-for-profit organisation, the affordable rental apartments can only be rented for a maximum of 75% of the typical market rent, representing a 25% reduction in rental yield. The contribution plan applicable to the site is the Rockdale City Council Section 94 Contributions Plan 2004 (Amendment 5) and was last updated in 2010. The rental market has shifted substantially over the last decade and Australia is in the midst of an affordable housing crisis.*

*This is recognised at a State Government level where the draft Infrastructure Contribution Reforms sought to remove the requirement to pay s7.11 contributions for the delivery of affordable housing. Local Government Areas (LGAs), which have more up-to-date contribution plans, have recognised this and exclude the payment of s7.11 contributions for components of the development which contain affordable housing. These LGAs include, but are not limited to, City of Sydney, North Sydney, Willoughby, Campbelltown, City of Parramatta, and Ryde.*

*Whilst we acknowledge that the affordable housing still places a reliance on community infrastructure, given the proposed development is of a social asset class that is providing a significant and much needed benefit to the community, it is requested that a proportional reduction in the s7.11 contributions be applied.*

*The proposed 25% reduction in s7.11 contributions simply reflects the reduction in rental yield and is considered to be an appropriate adjustment. The remaining s7.11 contribution balance would equate to \$412,439.93.”*

Whilst the above is noted, the proposed reform has been abandoned as there is no relationship between rental yield and the loss of infrastructure.

It is reiterated that Council is bound by its contributions plan and has a duty to ensure social and infrastructure services are provided to its local community, inclusive of future residents occupying the development, irrespective of their social class and whether such dwellings are intended to be rented at below market rate by the Applicant.

The development site is positioned opposite Rockdale Library and public carparking areas exist nearby of which are likely to be utilised by future occupants of the development.

Whilst Councils Contributions Plan has not been updated recently, Council intends to review this plan in 2023 and seeks to publicly exhibit a revised version late in 2023. This revised plan may or may not exclude ‘*affordable housing*’ from s7.11 contributions as this is a decision for Council and will take into account public opinion. It is pre-emptive at this stage to determine whether this will be the case.

The maximum current contributions levied in the Bayside local government area are as follows.

Component	Current Rate
1 Bedroom Units	\$27,458.19
2 Bedroom Units	\$38,513.68
3 Bedrooms Units	\$46,778.47
Per Deficient Car Space	\$47,319.26

In this instance the Applicant is being charged a maximum of \$10,129 per dwelling which is significantly less than the maximum rates above. The current maximum rates above more closely align with the cost of infrastructure provision and this cost has increased in the past 2 years. It is noted that the minimum rate likely to be levied per dwelling within a future plan will be no less than \$20,000 per dwelling.



Given the above, Council does not support a reduction or waiver of the relevant contributions. The obligation of the developer to pay s7.11 contributions given the increase in residential density on site and consequential increase in demand for local services, the relevant s7.11 contributions should not be forfeited nor imposed upon Council or local ratepayers.

Council recommends that the relevant draft conditions remain as originally imposed.

C. Podium planter forward of unit 3.09

As noted in the original assessment report, the provision of a planter in this location was a recommendation of Councils Design Excellence Panel.

The intention of the Design Excellence Panel and Assessing Officer, in conditioning a planter in this location in lieu of ballast as proposed, was to provide greenery and visual amenity to an otherwise masonry east facing façade at the podium setback.

The proposal had been conditioned to provide for low maintenance plants, with species to be at the discretion of the applicant prior to the issue of any construction certificate.

The Applicants correspondence confirms the provision of such a planter is not supported for the following reasons.

- *The inclusion of planters on the podium would require additional access arrangement and maintenance protocols for the podium level.*
- *Considering the landscape treatment for the proposed development, the proposed greening of the podium will not significantly contribute to the landscape quality and softening the built form.*
- *The proposed development includes 395sqm of deep soil landscaped area (noting 234.2sqm of minimum 6m deep soil planting), 21% of the total site area and well in excess of the Apartment Design Guide requirements. To this, there are significant trees located along the Princes Highway frontage that soften greater areas of the built form than the conditioned planters would.*
- *While it is acknowledged the inclusion of additional landscaping will benefit the site, the cost to include access to the podium and implement a maintenance schedule outweigh the benefits already provided by landscaping onsite.*

The Assessing Officer notes the above, however is of the view that the recommended condition should be retained given Design Excellence provisions of BLEP 2021 apply to the site, the planter was a recommendation of the Design Excellence Panel, access via a boom lift / cherry picker is available and given that the planter would provide a green element upon the eastern façade of the building.

D. Amend Conditions to Permit Staged Construction.

Council does not object to the staged construction of the development and draft conditions of consent have been modified accordingly and are attached.

## **Conclusion**

---

Council refers the above matters to the Sydney Eastern City Regional Planning Panel for consideration, discussion, and determination.