

COUNCIL ASSESSMENT REPORT

SYDNEY EASTERN CITY PLANNING PANEL

Panel Reference	PPSEC-273
DA Number	DA-2023/106
LGA	Bayside Council
Proposed Development	Integrated Development - Amalgamation of lots, demolition of existing structures, and construction of a ten (10) storey mixed-use building containing a childcare centre with capacity for 96 children, operating 7:00am to 6:00pm Monday to Friday and eighty-eight (88) residential apartments, communal and private roof top terraces and basement parking
Street Address	594-600 Princes Highway, Rockdale
Applicant/Owner	<u>Applicant</u> : Fuse Architecture Pty Ltd <u>Owner</u> : The Trustee for Chandru Property Unit Trust No 5
Date of DA lodgment	8 May 2023
Number of Submissions	7 in total: 4 (in the first round) and 3 (in the second round)
Recommendation	Approval, subject to conditions.
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011)	Private infrastructure over \$30 million (Nominated CIV: \$38,269,781)
List of all relevant s4.15(1)(a) matters	State Environmental Planning Policy (Planning Systems) 2021 State Environmental Planning Policy (Sustainable Buildings) 2022 State Environmental Planning Policy (Biodiversity and Conservation) 2021 State Environmental Planning Policy (Resilience and Hazards) 2021 State Environmental Planning Policy (Transport and Infrastructure) 2021 State Environmental Planning Policy (Housing) 2021 Bayside Local Environmental Plan 2021 Bayside Development Control Plan 2022

List all documents submitted with this report for the Panel's consideration	Architectural Plans – Fuse Architects Landscape Plan – Sturt Noble Associates Statement of Environmental Effects – Planning Ingenuity Clause 4.6 Statement for Height of Building – CPS Planning
Report prepared by	Andrew Ison, Senior Development Assessment Planner
Report date	3 June 2024

Summary of s4.15 matters Have all recommendations in relation to relevant s4.15 matters been summarised 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)? <i>Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions</i>	N/A
Conditions Have draft conditions been provided to the applicant for comment? <i>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</i>	Yes

EXECUTIVE SUMMARY

The development application (DA-2023/106) seeks consent for Integrated Development - Amalgamation of lots, demolition of existing structures, and construction of a ten (10) storey mixed-use building containing a childcare centre with capacity for 96 children, operating 7:00am to 6:00pm Monday to Friday and eighty-eight (88) residential apartments, communal and private roof top terraces and basement parking.

The subject site is known as 594-600 Princes Highway, Rockdale ('the site'). The site occupies an irregular shaped area of 2,877m². The current vehicular access to the site is via Princes Highway.

The site is located on the eastern side of Princes Highway, a Classified Road, between Lister Avenue to the north and Rockdale Plaza Drive to the south. The area contains a mix of land uses, with residential, mixed use and commercial buildings. It is located within an area identified as the Princes Highway Southern Gateway Precinct as per Part 7.2 of the Bayside DCP 2022.

The site is located in the MU1 Mixed Use zone pursuant to Clause 2.2 of the Bayside Local Environmental Plan 2021 (LEP). The approved development subject to this application is defined as

a residential flat building and child care centre, both of which are permissible with consent in the MU1 Mixed Use zone.

The principal planning controls relevant to the proposal include the State Environmental Policy (Housing) 2021, Chapter 3 of the State Environmental Planning Policy (Transport and Infrastructure) 2021, the Bayside Local Environmental Plan 2021 ('LEP'), and the Bayside Development Control Plan 2013 ('DCP'). The proposal is inconsistent with a number of provisions of the planning controls, however the proposal is acceptable for reasons discussed in the report. The key non-compliant provisions include:

- Section 4.4 of the Bayside Local Environmental Plan 2021, in relation to height of building (an extra 6.25m above the 31m development standard, a 20.16% variation); and
- Part 7.2.6.6 of the Bayside Development Control Plan 2022, in relation to side setbacks.

The subject application was referred to Council's Design Review Panel (DRP) on two separate occasions, that being:

- 6 July 2023
- 7 May 2024

The DRP supports the amended scheme, concluding that the application achieves the Design Quality Principles from the Housing SEPP and the Design Excellence requirements in Clause 6.10 of the Bayside LEP 2021, subject to incorporation of minor amendments detailed in their report which have been included as conditions of consent.

Referrals from external agencies were undertaken, with the following below being satisfied:

1. **Water NSW:** Section 4.47 of the Environmental Planning and Assessment Act 2000 in relation to General Terms of Approval (GTAs) from Water NSW. GTAs have been issued.
2. **Ausgrid:** Section 2.48 of the State Environmental Planning Policy (Transport and Infrastructure) 2021 in relation to proposed works in proximity to an electricity transmission or distribution network. They have no objections to the proposed development.
3. **Transport for NSW (TfNSW):** Section 2.119 of the Transport and Infrastructure SEPP with relation to development with frontage to a classified road (Princes Highway). They have issued concurrence.

The subject application is related to the previous approved development on site which approved a building of a similar scale and design, however that development contained 49 residential units and 42 serviced apartments, with two levels of basement. The ground floor has now been replaced by a child care centre and the 42 serviced apartments have been redesigned and converted into residential units. Additional communal open space has been provided at Level 3 and roof top level, in lieu of ground floor which is now used as play area for the child care centre.

The site is impacted by road widening on the Princes Highway frontage to facilitate the widening of Princes Highway for a future reconfiguration of the Rockdale Plaza Drive intersection further to the south.

The application was placed on public exhibition from 24 May to 23 June 2023, with four (4) submissions being received. Upon the lodgement of amended plans, the application was placed on re-exhibition from 13 to 22 May 2024, with three (3) submissions being received. These submissions and their issues are considered further in this report.

The application was referred to the Sydney Eastern City Planning Panel for determination pursuant to Clause 3 of Schedule 4A of the Environmental Planning and Assessment Act 1979 (EP&A Act) as the Capital Investment Value of the proposal was \$32,289,781.

A briefing was held with the Regional Panel on two different occasions:

- 2 August 2023
- 27 February 2024

The key issues associated with the proposal included:

- Land acquisition – The four sites are affected by road widening, with Transport for NSW (TfNSW) acquiring the land, extending up to 6 metres deep into the property.
- Child care centre – The proposed child care centre on balance is considered to be appropriately designed and located in compliance with the relevant provisions of the Transport and Infrastructure SEPP.
- Building Height – The proposal exceeds the height of building development standard for the stage 2 office building and the application is accompanied by a Clause 4.6 variation that is supported.
- Design Excellence – The proposed development, on balance, achieving design excellence in accordance with Clause 6.10 of the BLEP 2021, subject to further amendments as detailed throughout this report.
- Green Gateway & Pocket Park – The proposal is located in the 'green gateway' entrance to Rockdale Town Centre in accordance with the Bayside DCP 2022, and a 'pocket park' has been provided in the Princes Highway frontage that is required to be available to the public and maintained by the future owners of the site.

Following consideration of the matters for consideration under Section 4.15(1) of the EP&A Act, the provisions of the relevant State environmental planning policies, in particular the Housing SEPP, the LEP and the DCP, the proposed amendments subject to this application can be supported.

Following a detailed assessment of the proposal, pursuant to Section 4.16(1)(b) of the EP&A Act, DA-2023/106 is recommended for APPROVAL subject to recommended conditions.

THE SITE AND LOCALITY

The Site

The subject site is located at 594-600 Princes Highway, Rockdale (Lot E in DP 16288, Lot Y in DP 408144 and Lots 4 and 5 in DP 5863). The proposed development site has a frontage of 48.84 metres to Princes Highway, with a total site area of 2,877m², however the four sites are affected by road widening, with Transport for NSW (TfNSW) acquiring the land, extending up to 6 metres deep into the property. The subject sites currently consists of a number of buildings on site, all of which are commercial in nature, with also a large hardstand area located forward of these buildings. Three separate vehicle sales and hire premises business are currently occupying the subject sites – Family Vehicle Centre at 594-596 Princes Highway, UR Car at 598 Princes Highway and Car Co-op at 600 Princes Highway. The site has a cross fall from north to south of approximately 2.5 metres.



Figure 1: Aerial of subject sites, marked in red [Source: Bayside IntraMaps]



Figure 2: Extent of road widening [Source: Bayside IntraMaps]

This TfNSW acquisition continues south, affecting adjoining properties up to the intersection with Rockdale Plaza Drive. It is understood that TfNSW are seeking to undertake upgrade works to the intersection of Princes Highway / Rockdale Plaza Drive as part of their Gateway to the South program of works.



Figure 3: Subject site, looking from the opposite side of Princes Highway at the Subway Road intersection



Figure 4: Looking south down the Princes Highway from the same point as Figure 3



Figure 5: Looking north up the Princes Highway from the same point as Figure 3



Figure 6: Looking towards the rear of the site from Hayburn Avenue

The Locality

The subject site is located within the Rockdale Town Centre precinct, on the eastern side of Princes Highway. The subject site is surrounded by a number of land uses with (in a clockwise direction) with a low rise residential flat building and commercial building to the north at 588-592 Princes Highway, detached dwellings and low rise residential flat buildings to the east at 15, 17 and 19-21 Hayburn Avenue, cleared site under construction to the south at 602-606 Princes Highway and vehicle sales and hire premises to the east (Stewart Toyota at 591-597 Princes Highway and Rockdale Volkswagen at 589 Princes Highway).

The subject sites are located in an area that has a mixture of buildings and land uses but is transitioning into a high density residential area with commercial uses at ground level along the Princes Highway corridor. It is located within an area identified as the Princes Highway Southern Gateway Precinct, which is generally bounded by Bay Street to the north and Rockdale Plaza Drive to the south. The subject site is located approximately 400 metres to the south east of Rockdale railway station.

THE PROPOSAL AND BACKGROUND

The Proposal

The subject application seeks consent for Integrated Development - Amalgamation of lots, demolition of existing structures, and construction of a ten (10) storey mixed-use building containing a childcare centre with capacity for 96 children, operating 7:00am to 6:00pm Monday to Friday and eighty eight (88) residential apartments (14 x 1, 65 x 2 and 9 x 3 units), communal and private roof top terraces and basement parking.



Figure 7: Photomontage [supplied by applicant]

Table 1: Development Data

Control	Requirement	Proposed
Site area	> 2,000m ² to achieve bonus height	2,877m ²
Gross Floor Area (GFA)	Not mapped in the LEP	8,537.75m ²
Floor Space Ratio (FSR)	Not mapped in the LEP	2.96:1
Maximum Height	22m (plus 9m bonus as the site is greater than 2,000m ² in area) for a total of 31m	37.25m (top of lift over run), a Section 4.6 variation has been lodged
Landscaped area	186.6m ²	511.24m ² (19%)
Car parking spaces	116	129

A detailed description of the proposal is provided below:

Demolition & Earthworks

- Demolition of existing buildings
- Excavation for three levels of basement parking

Construction

Construction of a ten (10) storey mixed use building with basement parking as shown in the images below:



Figure 8: Western elevation [supplied by applicant] – to be amended to include additional glazing at ground level and include other minor changes as per the Design Review Panel.

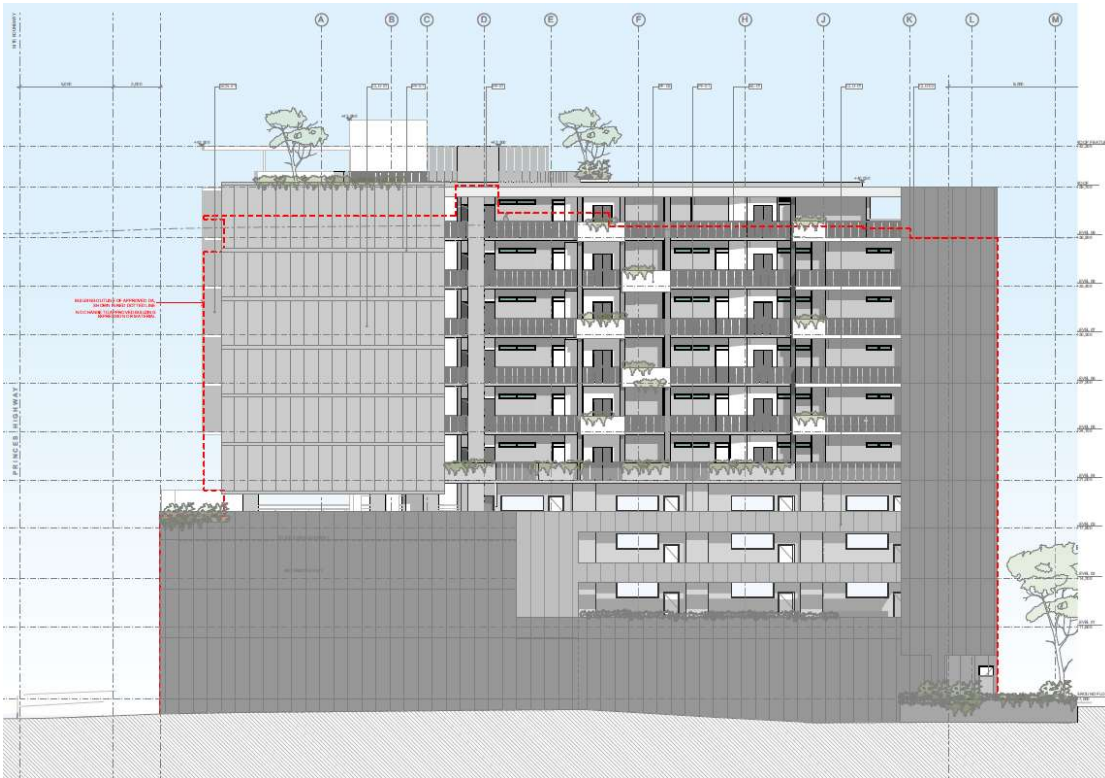


Figure 9: Southern elevation [supplied by applicant]. The red dashed line shows the outline of the approved building.

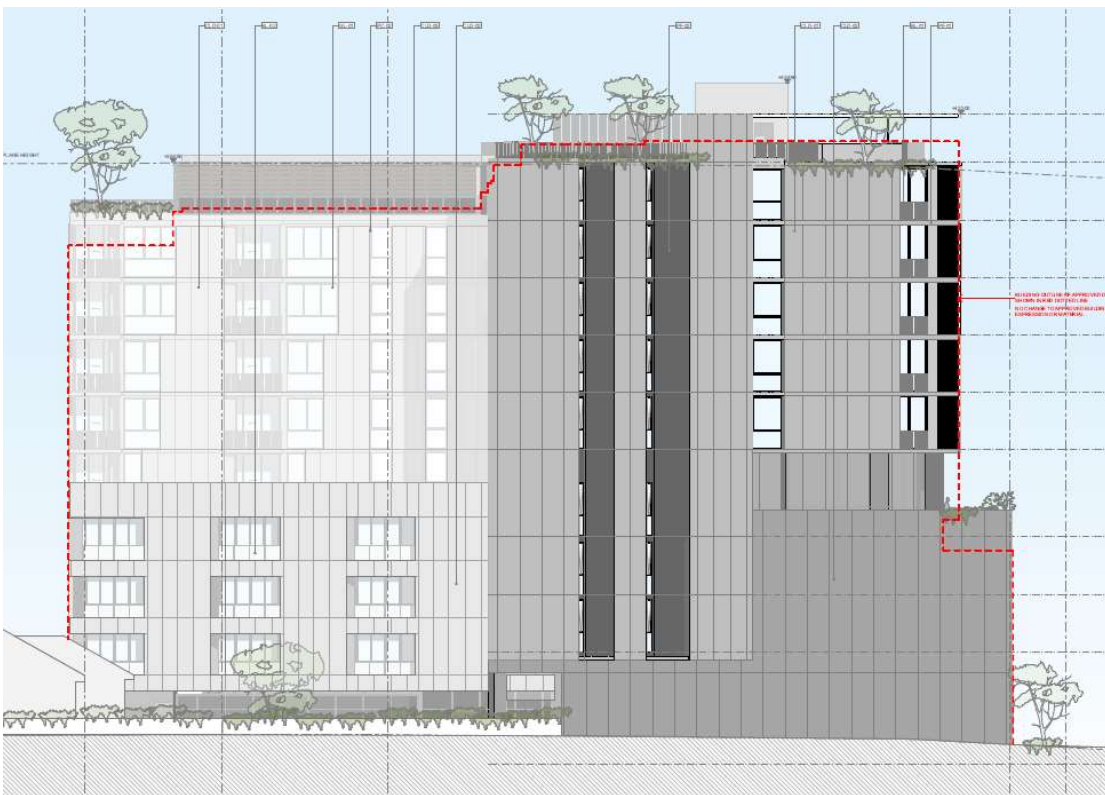


Figure 10: Northern elevation [supplied by applicant]. The red dotted outline shows the building envelope for the approved building.

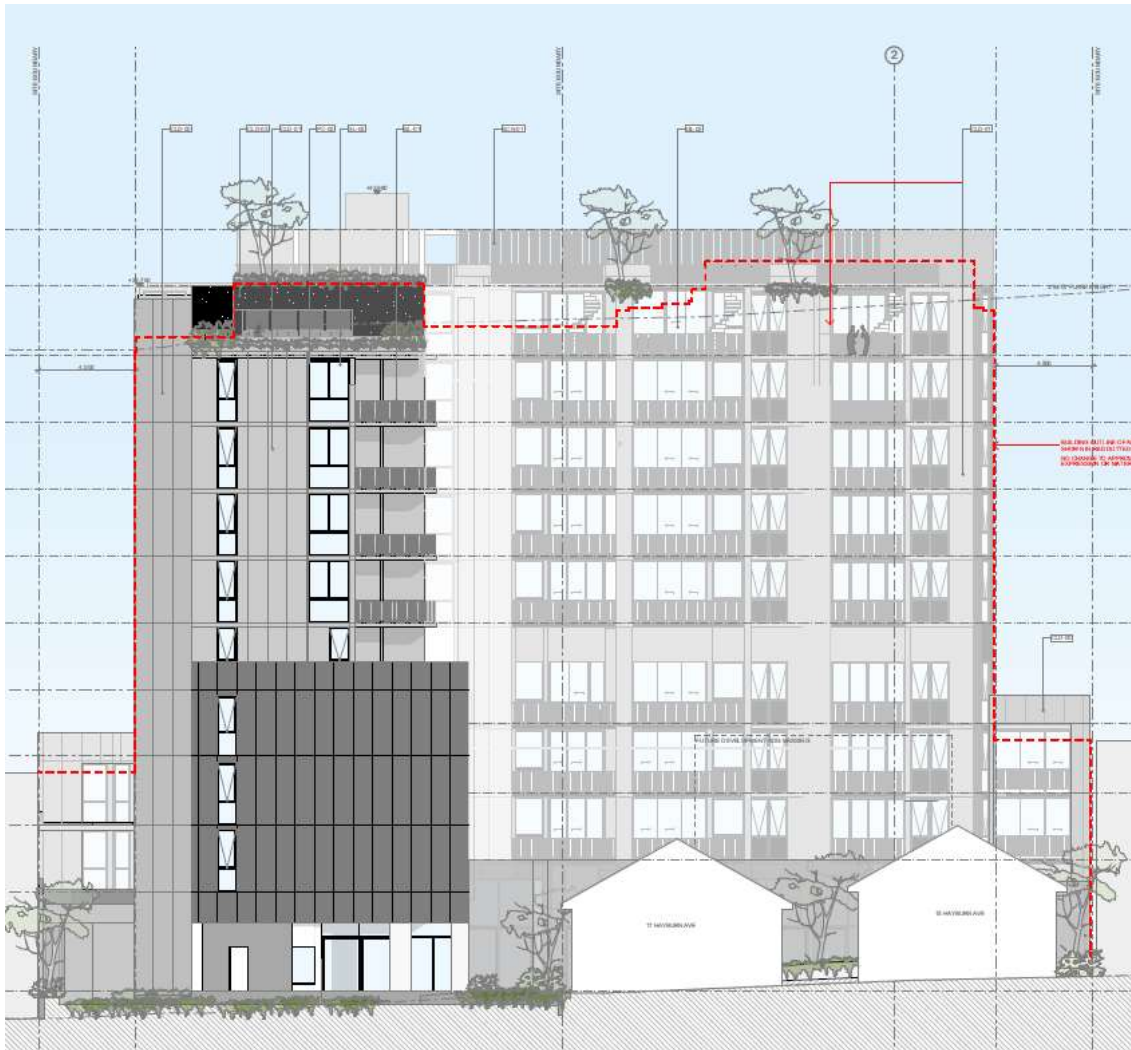


Figure 11: Eastern elevation [supplied by applicant]. The red dashed line shows the outline of the approved building envelope.

Further detail of the proposed development is as follows:

Basement Level 3

- Car parking (32 spaces);
- Bicycle parking (56 spaces);
- Storage; and
- Lift access and fire stairs

Basement Level 2

- Car parking (55 spaces);
- Bicycle parking (56 spaces);
- Motorcycle parking (6 spaces);
- Storage; and
- Lift access and fire stairs

Basement Level 1

- Car parking (42 spaces – 18 visitor, 17 for the child care centre, 5 car share and 2 car wash);
- Bicycle parking (28 spaces);
- Services;
- Storage; and
- Lift access and fire stairs

Ground Floor Plan

- Child care centre for 91 children (16 x 0-18 months, 40 x 2-3 years and 40 x 3+ years);
- Lobbies for child care centre and residential units;
- Garbage bin holding bays;
- Loading for MRV vehicles;
- Services;
- Substation

Level 1

- 14 residential units (4 x 1, 9 x 2 and 1 x 3 units);
- Lobby area; and
- Services

Level 2

- 14 residential units (4 x 1, 9 x 2 and 1 x 3 units);
- Lobby area; and
- Services

Level 3

- 7 residential units (1 x 1, 5 x 2 and 1 x 3 units);
- Communal open space located along the western elevation with a size of 713.22m²;
- Lobby area; and
- Services

Level 4

- 4 residential units (4 x 2);
- Lobby area; and
- Services

Level 5

- 10 residential units (1 x 1, 8 x 2 and 1 x 3 units);
- Lobby area; and
- Services

Level 6

- 10 residential units (1 x 1, 8 x 2 and 1 x 3 units);
- Lobby area; and
- Services

Level 7

- 10 residential units (1 x 1, 8 x 2 and 1 x 3 units);
- Lobby area; and
- Services

Level 8

- 10 residential units (1 x 1, 8 x 2 and 1 x 3 units);
- Lobby area; and
- Services

Level 9

- 9 residential units (1 x 1, 6 x 2 and 2 x 3 units);
- Lobby area; and
- Services

Roof plan

- Communal open space and private rooftop terraces located along the western and southern elevations with a size of 316.09m²;

Landscaping

- Public domain (i.e along the Princes Highway frontage);
- Child care centre on ground floor at rear;
- Level 3 communal area; and
- Upper levels

Background

The development application was lodged on 8 May 2023. A chronology of the development application since lodgement is outlined below including the Panel's involvement (briefings, deferrals etc.) with the application:

Table 2: Chronology of the DA

Date	Event
8 May 2023	The DA was lodged with Council.
16 May 2023	A site inspection was carried out.
24 May 2023	The start of the advertising period with the closing date being 23 June. A total of four submissions were received, with all four of these considered to be unique.
6 July 2023	Referred to the Bayside Design Review Panel (DRP), recommending that changes and refinements be made and that the amended proposal be referred to the Panel for further consideration
13 July 2023	General Terms of Approval (GTAs) received from Water NSW
2 August 2023	Kick off briefing with the Sydney Eastern City Planning Panel, with the following key issues identified for consideration: <ul style="list-style-type: none">• Height of building variation to be clarified• Electric vehicle charging cable to be provided, with adequate

Date	Event
	substation capacity <ul style="list-style-type: none"> • Child care centre access, safety and parking, with traffic management to be outlined • Location of child care centre in relation to the Princes Highway – road noise and emissions • Service location and public domain options to be identified • DRP to consider the aesthetics of street frontage
12 October 2023	A request for information (RFI) letter was issued to the applicant, requesting additional information on the following: <ul style="list-style-type: none"> • Address the key issues from the SECPP kick off briefing • Driveway width at Princes Highway • Design Excellence • Traffic, parking and access • Stormwater management • Architectural amendments
27 February 2024	Second briefing with the Sydney Eastern City Planning Panel, with the following key issues identified for consideration: <ul style="list-style-type: none"> • Child care centre access and safety – option to relocate • Council and applicant to resolve height of ceilings compliance issue, noting previous approval variation and amended CI 4.6 request • New RFI to be sent a week after meeting • Response to RFI to be provided within 5 weeks (end of April) • DRP meeting to be held in mid-May (minutes to sent within 2 weeks)
23 April 2024	Response to the RFI letter provided
7 May 2024	Second DRP meeting, recommending that subject to changes that the application satisfies the design quality principles within SEPP 65 and in accordance with the design excellence provisions of Section 6.10 of the Bayside LEP
13 May 2024	The start of the re-notification period with the closing date being 22 May. A total of three submissions were received, with all of these considered to be unique.
31 May 2024	Concurrence provided by Transport for NSW

Site History

DA-2019/312

This was approved on 9 June 2020 by the Bayside Local Planning Panel for the following:

- Integrated Development Demolition of existing structures on site and construction of a ten (10) storey mixed use building consisting of 49 residential apartments, 42 serviced apartments and 2 basement levels.

STATUTORY CONSIDERATIONS

When determining a development application, the consent authority must take into consideration the matters outlined in Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* ('EP&A Act'). These matters as are of relevance to the development application include the following:

- (a) *the provisions of any environmental planning instrument, proposed instrument, development control plan, planning agreement and the regulations*
- (b) *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- (c) *the suitability of the site for the development,*
- (d) *any submissions made in accordance with this Act or the regulations,*
- (e) *the public interest.*

These matters are further considered below.

It is noted that the proposal is considered to be (which are considered further in this report):

1. Integrated Development (s4.46)
2. Requiring concurrence/referral (s4.13)

An assessment of the application has been undertaken pursuant to the provisions of the *Environmental Planning and Assessment Act, 1979*.

Environmental Planning and Assessment Act 1979 – Section 4.47 Integrated Development

The relevant requirements under Division 4.8 of the EP&A Act and Part 6, Division 3 of the Environmental Planning and Assessment Regulation 2000 have been considered in the assessment of this application.

Section 91 – Water Management Act 2000

It is Integrated Development in accordance with the Water Management Act 2000 as the development is deemed to be a specified controlled activity as excavation works for the basement will intercept groundwater. In this regard, the Development Application was referred to Water NSW.

On 13 July 2023, Water NSW provided General Terms of Approval (GTAs), advising that the GTAs issued for the previous application (DA-2019/312) were still active and can be applied for this application.

Section 4.15(1)(a)(i) – Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments (EPI) are relevant to this application:

- State Environmental Planning Policy (Planning Systems) 2021
- State Environmental Planning Policy (Sustainable Buildings) 2022
- State Environmental Planning Policy (Biodiversity and Conservation) 2021
- State Environmental Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy (Transport and Infrastructure) 2021
- State Environmental Planning Policy (Housing) 2021
- Bayside Local Environmental Plan 2021

A summary of the key matters for consideration arising from these State Environmental Planning Policies are outlined in **Table 3** and considered in more detail below.

State Environmental Planning Policy (Planning Systems) 2021

This SEPP applies to the proposal as it is a modification application of an approved development that is identified as regionally significant development. In this case, pursuant to 3.10 of this SEPP, the proposal is a regionally significant development as it satisfies the criteria in Clause 2 of Schedule 6 as the proposal is general development with a capital investment value (CIV) over \$30 million. Accordingly, the Sydney Eastern City Planning Panel is the consent authority for the application. The proposal is consistent with this Policy.

State Environmental Planning Policy (Sustainable Buildings) 2022

The applicant has submitted a BASIX Certificate for the proposed development. The Certificate number is 1017552M_04.

The commitments made result in reductions in energy and water consumption on site. The proposal has been conditioned to ensure BASIX requirements are adhered to.

State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 2 – Vegetation in non-rural areas

This SEPP applies to the proposal. The three subject sites contains no significant vegetation.

This application was referred to Council's Tree Management Officer, and the following comments were received:

- No tree of significance on site or adjoining properties, the tree replacement as per the approved landscape plan will far exceed the tree replacement requirements.
- Tree located on adjoining properties are to be retained and protected.

It is considered that it complies with the SEPP.

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

The subject sites contain a history of commercial uses, including vehicle sales and repairs.

The applicant has provided the following documentation as part of the application:

- Review of Detailed Site Investigation, prepared by EI Australia and dated 23 September 2022; and
- Remediation Action Plan, prepared by EI Australia and dated 23 September 2022

EI Australia previously prepared a Detailed Site Investigation (DSI) in 2015 for the previous application

The field program comprised drilling of 9 boreholes. Soil testing identified isolated heavy metal and total recoverable hydrocarbons (TRH). Groundwater testing identified minor heavy metal impacts exceeding the groundwater guidelines for protection of marine ecosystem, but typical of background concentrations. The DSI concluded that the identified contamination can be remediated to allow the site to be used for the approved mixed use development. The DSI recommended that a Remediation Action Plan (RAP) would be required, which would include further investigation to

delineate the extent of the contamination hotspots, and appropriate management of the proposed deep soil areas at the site (outside the basement excavation footprint).

EI Australia subsequently prepared a review of the DSI due to a new development including a childcare centre on the ground floor. The review identified that contamination assessment results would be required to be reviewed against health-based investigation levels for low density residential sites (HIL-A) with accessible soils due to the inclusion of a childcare facility at the site. It identified heavy metal and TRH impacts exceeding the HIL-A, Health Screening Levels (HSL-D) and the EIL/ESL within shallow soil samples (less than 1m below ground level) that are present on site within the basement excavation and deep soil zone. The review concluded that the recommendations outlined in the 2015 DSI remain applicable for the proposed redevelopment. It concluded that the site can be made suitable for the proposed mixed childcare and high-density residential land use with deep accessible soils along the eastern and western site boundaries. However additional intrusive investigations are required to address data gaps. If the recommendation was for approval, this would have been imposed as a condition.

EI Australia prepared a RAP in 2019 and updated the RAP in 2022 to include the updated development information. The RAP outlines the additional investigations required to address the data gaps (including the deep soil zones), a remediation plan based on an excavation and offsite disposal approach, and a validation plan.

Based on the information provided, Council's Environmental Scientist agreed with the RAP approach.

Remediation and validation activities will need to be carried out in accordance with the RAP, and signed off by an accredited NSW EPA Site Auditor

Based on the above, it is considered that it complies with the SEPP, subject to the imposition of conditions.

State Environmental Planning Policy (Transport and Infrastructure) 2021 – Part 2 Infrastructure

Section 2.48 – Development likely to affect an electricity transmission or distribution network

The application is subject to Section 2.48 of the SEPP as the development proposes works within the vicinity of electricity infrastructure and therefore in accordance with this Section 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.

The application was referred to Ausgrid for comment. No objections were raised to the proposed development, subject to conditions.

The proposal satisfies Section 2.48 of the SEPP.

Section 2.119 – 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, Section 2.118 Development with frontage to a classified road, of the SEPP must be considered before consent can be granted.

The proposed development involves access to and from the site via a driveway from Princes Highway adjacent to the southern property boundary.

The application was referred to Transport for NSW (TfNSW) who provided concurrence on 31 May 2024.

Council's Development Engineers have also not raised any concerns with the proposal subject to recommended conditions.

Therefore the proposal does not satisfy this Chapter of the SEPP.

Section 2.120 – Impact of Road Noise or Vibration on Non-Road Development

The proposed development is for serviced apartments and a residential flat building, that is on land in or adjacent to the road corridor for a freeway, a tollway or a transitway or any other road with an annual average daily traffic volume of more than 40,000 vehicles and that the consent authority considers is likely to be adversely affected by road noise or vibration.

Accordingly, Section 2.120 of this SEPP required to be considered as part of this assessment. For residential use the consent authority must not grant consent unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded:

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

The proposal was accompanied by an Acoustic Report, prepared by Acoustic Dynamics, dated 4 October 2022, which considered the potential impact of road noise upon the proposed development.

The report concludes that the development will satisfy noise level requirements as outlined above subject to compliance with the recommendations of the report. Accordingly, the proposal has been conditioned to ensure acoustic mitigation measures are implemented on site. The proposal is satisfactory in this regard.

State Environmental Planning Policy (Transport and Infrastructure) 2021 – Part 3 Educational Establishments and Child Care Centres

The table below outlines the key controls within the SEPP that are applicable to the application:

Applicable Clause	Provision	Proposed	Complies
22 - Concurrence of Regulatory Authority for certain applications	a) Concurrence of regulatory authority required where a variation to the minimum required indoor / outdoor play areas is proposed. <i>(Reg.107/108 of Education & Care Services National Regulations)</i>	No variations proposed	N/A
23 – Child Care Planning Guideline	The consent authority must take into consideration any applicable provisions of the Child Care Planning Guideline, in relation to	The provisions of the Child Care Planning Guideline have been taken into consideration.	Yes

Applicable Clause	Provision	Proposed	Complies
	the proposed development		
25 – Non Discretionary Development Standards	a) Location - the development may be located at any distance from an existing or proposed early education and care facility.	Noted.	Yes
	b) Indoor / Outdoor space (i) 3.25sq/m per child indoor (ii) 7sq/m per child outdoor	Based on 96 children, the development is required to provide 312m ² of indoor space and 672m ² of outdoor space. 421m ² of indoor space is proposed and 672m ² of outdoor play area is proposed.	Yes
	c) Site Area & Site Dimensions - the development may be located on a site of any size and have any length of street frontage or any allotment depth.	The subject site has a total area of 2,877m ² .	Yes
	d) Colour of building materials or shade structures - the development may be of any colour or colour scheme unless it is a State or local heritage item or in a heritage conservation area.	The site is not within a heritage conservation area and does not contain a heritage item.	Yes
26 – Development Control Plans	A provision of a development control plan that specifies a requirement, standard or control in relation to any of the following matters (including by reference to ages, age ratios, groupings, numbers or the like, of children) does not apply to development for the purpose of a centre-based child care facility.	Noted.	Yes

Child Care Planning Guideline

3.1 Site selection and location

An acoustic report, titled Proposed Child Care Centre Assessment for DA, prepared by Acoustic Dynamics and dated 4 October 2022 was lodged as part of this application. It provided the following recommendations such as:

- Construction of an acoustic barrier for the outdoor play area along the property boundary (2.5m on northern boundary, 2.1m on eastern boundary and 1.8m on eastern and southern boundary);
- Underside of the awnings in all play areas required to have acoustic insulation;
- All air conditioning units are to be located together and should not exceed a cumulative sound power level of 75dB(A);
- Glazing of windows and doors to be constructed of laminated glass (or equivalent) with a minimum of R_w30 ;
- Windows to remain closed during designated play times, and be opened during quiet activities for natural ventilation;
- The maximum number of children playing simultaneously in the outdoor play area to not exceed 40;
- No amplified music to be played outside at any time; and
- Self-closing and automatic gates should have an anti-gate slammer installed.

Council's Environmental Health Officer has reviewed the report and is supportive of the recommendations subject to the imposition of conditions.

In the context of its location (i.e. ground floor), its setback is considered to be acceptable in relation to the nearest neighbouring residential dwellings and units at 15, 17 and 19-21 Hayburn Avenue.

The required parking spaces and pick up / drop off zone is integrated into the proposed development and are located within the basement level one parking area. The parking has been amended to provide a separate area for the child care centre to ensure safe movement of children to and from the car park.

The subject site is located within an area identified as the Rockdale Town Centre in the Bayside DCP 2022, which contains a number of land uses in close proximity including community facilities such as Subway Reserve on Subway Road and Chapel Street Reserve on Lister Avenue.

The subject site is not located near any heavy industries, service stations or odour generating uses.

3.2 Local character, streetscape and the public domain interface

The proposed child care centre site is integrated within the proposed development by way of being on the ground floor and also addresses Princes Highway by way of the main entry, office space and meeting rooms which activate the street frontage.

Based on advice from the Design Review Panel, a condition will be imposed in the attached draft schedule of conditions to provide additional windows for the staff room at the front of the child care centre to further increase activation to the Princes Highway in accordance with the objectives of the MU1 zone. The applicant has amended the floor plan to reflect these changes, however, the western elevation plan has not been amended at the time of this report and hence the condition will cover this requirement.

The pedestrian entry from both Princes Highway as well as within the car park is clearly defined and identified.

3.3 Building orientation, envelope, building design and accessibility

A large portion of the outdoor play area will receive satisfactory solar access in mid-winter.

The outdoor play area is in a location that is protected from wind and other climatic conditions.

The zero lot line setback to Princes Highway is deemed acceptable as it is prevailing when compared to the approved developments to the north at 588-592 Princes Highway and to the south at 602-606 Princes Highway.

It is considered to respect and respond to its physical context by way of adjoining built form, neighbourhood character and streetscape.

Being located in a proposed mixed use development, there are clearly defined entries from Princes Highway as well as within the car parking area, and are separated from other uses within the building.

With relation to access and mobility, a lift is proposed from the basement level and a standard condition will be imposed relating to compliance with Part D3 of the National Construction Code.

3.4 Landscaping

Landscape details have been provided and have been reviewed by Council's Landscape Architect. In general, it is supported however, additional planting will be imposed as a condition in the attached draft schedule of conditions to deliver increased amenity and privacy to neighbouring properties.

3.5 Visual and acoustic privacy

There are a number of upper floor residential units directly above the outdoor play area and may potentially overlook into the outdoor play area. A condition has been imposed relating to the installation of retractable louvres affixed to the balcony balustrades, which would still allow for natural ventilation but minimise overlooking. The outdoor play area is bounded by an acoustic wall with a height that varies between 1.8 and 2.5 metres in height.

The outdoor play area does not propose any shade sails or similar structures, as required under Section 114 of the Education and Care Services National Regulations. However, there are sections of the outdoor play area that are covered due to the podium structure directly above being cantilevered over. As such, it is considered that satisfactory shading has been provided.

On this basis both it is considered that the visual and acoustic privacy is capable of being protected for the surrounding units, including those in the building above.

No public areas nor the communal open space can overlook into the indoor and outdoor play areas.

The fences that enclose the outdoor play area will minimise overlooking into neighbouring internal living areas and private open spaces on that level.

As stated previously, a 1.8m to 2.5m high acoustic wall is proposed to envelop the outdoor play area. Further detail on its effectiveness will be required to be included in the acoustic report that will accompany the future application for the fit out and use.

A suitably qualified acoustic professional has prepared an acoustic report, as discussed earlier in this section of the report.

3.6 Noise and air pollution

The front section of the proposed child care includes staff and meeting rooms which provides a sufficient buffer to any road noise to any play areas that is generated from Princes Highway.

Given the buffer to Princes Highway as well there being no heavy industries, service stations or any odour generating activities, it is considered that an air quality assessment report is not required.

3.7 Hours of operation

The proposed hours are 7:00am to 6:00pm Monday to Friday which are deemed acceptable and will be imposed as a condition if approval is granted.

3.8 Traffic, parking and pedestrian circulation

The car parking rates comply with those prescribed in the Bayside Development Control Plan 2022. This will be discussed further later in this report.

All parking as well as the pick-up and drop off zones have been provided on basement level one of the car park and are appropriately located to ensure that there is minimum vehicle and pedestrian conflict. Any loading can be carried out from within the designated loading bay at ground level.

Education and Care Services National Regulations

Regulation	Design Guidance	Proposal	Complies
104 – Fencing or barrier that encloses outdoor spaces	Outdoor space that will be used by children will be enclosed by a fence or barrier that is of a height and design that children preschool age or under cannot go through, over or under it.	The outdoor play area is fully enclosed by an acoustic fence.	Yes
106 - Laundry & Hygiene Facilities	On site laundry facilities should contain: a washer or washers capable of dealing with the heavy requirements of the facility a dryer laundry sinks adequate storage for soiled items prior to cleaning an on site laundry cannot be calculated as usable unencumbered playspace for children	A laundry is proposed	Yes

Regulation	Design Guidance	Proposal	Complies
107 - Indoor Space Requirements	A minimum of 3.25m ² unencumbered indoor space per child.	Based on 96 children, the development is required to provide 312m ² of indoor space. 421m ² of indoor space is proposed.	Yes
	Storage - min 0.3m ³ per child external min 0.2m ³ per child internal	Based on 96 children, the development is required to provide 28.8m ³ of external storage and 48m ³ of internal storage.	Yes, conditioned to comply
108 - Outdoor Space Requirements	A minimum of 7m ² per child unencumbered outdoor space <i>Note - Calculating unencumbered space should not include areas of dense hedges / plantings along boundaries which are designed for landscaping purposes and not for children's play.</i>	Based on 96 children, the development is required to provide 672m ² of outdoor space. 672m ² of useable outdoor play area is proposed.	Yes
109 - Toilet & Hygiene Facilities	Toilet and hygiene facilities should be designed to maintain the amenity and dignity of the occupants.	Compliance demonstrated	Yes
110 – Ventilation & Natural Light	To achieve adequate natural ventilation, the design of the child care facilities must address the orientation of the building, the configuration of rooms and the external building envelope, with natural air flow generally reducing the deeper a building becomes. It is recommended that child care facilities ensure natural ventilation is available to each	The proposed child care centre has aspects to the east and west, with openings on each of these elevations. This allows for a maximisation of natural light and ventilation.	Yes

Regulation	Design Guidance	Proposal	Complies
	indoor activity room. Consideration should be given to: providing windows facing different orientations using skylights as appropriate ceiling heights.		
111 – Administrative Space	A service must provide adequate area or areas for the purposes of conducting the administrative functions of the service, consulting with parents of children and conducting private conversations.	Compliance demonstrated	Yes
112 – Nappy Change Facilities	Design considerations include: properly constructed nappy changing bench or benches a bench type baby bath within one metre from the nappy change bench the provision of hand cleansing facilities for adults in the immediate vicinity of the nappy change area a space to store steps positioning to enable supervision of the activity and play areas.	Compliance demonstrated	Yes
113 – Outdoor Space Natural Environment	Outdoor spaces provided must allow children to explore and experience the natural environment.	There is a variety of materials, equipment and surfaces to maximise tactile learning	Yes
114 – Outdoor Space Shade	Adequate shaded areas required.	The outdoor play area is suitably shaded by way of cantilvered covered areas created by the Level 1 podium area	Yes

Regulation	Design Guidance	Proposal	Complies
115 – Premises Designed to Facilitate Supervision	Rooms and facilities within the premises (including toilets, nappy change facilities, indoor and outdoor activity rooms and play spaces) are designed to facilitate supervision of children at all times, having regard to the need to maintain their rights and dignity.	Compliance demonstrated	Yes
97 / 168 - Emergency & Evacuation Procedures	Emergency and evacuation plan should be submitted with a DA.	Emergency evacuation procedures have been outlined in the Plan of Management, prepared by Ology Childhood Consulting and dated June 2022	Yes

State Environmental Planning Policy (Housing) 2021

On 14 December 2023 SEPP 65 was repealed, with replacement provisions added to Chapter 4 of the Housing SEPP 2021. This repeal contained no savings provisions and therefore an assessment has been made under Chapter 4 of the Housing SEPP 2021.

Chapter 4 – Design of residential flat buildings

In accordance with Section 145(2) of this SEPP, the consent authority must take into consideration the following:

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

This DA was reported to the DRP twice, on 6 July 2023 and 7 May 2024.

The DRP supports the proposed development (as amended), subject to recommended changes:

- Further amendments to the articulation of the western façade;
- Relocation of air conditioning units;
- Additional glazing at ground floor along the Princes Highway elevation;
- Improvements to the materiality of the western elevation façade;
- Improvements to sustainability including EV charging and PV panels;
- Improvements to ventilation for lobby areas; and
- Screening for Level 3 units addressing communal open space

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

The design quality principles under Schedule 9 of this SEPP have been considered in the assessment of the proposal and are found to be satisfactory as indicated below.

Principle 1: Context and Neighbourhood Character

The subject site is located within the Rockdale Town Centre area and is zoned MU1 Mixed Use as prescribed under the Bayside LEP 2021. The existing streetscape of the eastern side of Princes Highway is characterised by a mixture of land uses and buildings, including existing and approved mixed use applications to the north and south. To the east are low rise residential flat buildings that address Hayburn Avenue.

The zone objectives for the MU1 Mixed Use zone is to provide a mixture of compatible land uses, and 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. Accordingly, this is an area that has gradually been undergoing transition, with a large number of mixed use and shop top housing developments recently constructed within the Rockdale Town Centre area. Furthermore, the proposal is consistent with the desired future character, with respect to generally meeting the relevant development standards in the Bayside LEP 2021 (with the exception of Height of Building, which will be further discussed later in this report) and all of the relevant standards in the Apartment Design Guide (ADG) as prescribed under this SEPP and controls in the Bayside DCP 2013.

The DRP was satisfied that it complied with this Principle, by way of the following:

- The new proposal is for a Childcare Centre with residences above. This is considered an acceptable use for the area and the Applicants' strategic approach to the site is supported by the Panel generally.

Principle 2: Built Form and Scale

The built form of the proposed development will actively contribute towards the evolving nature of the streetscape and character for the Rockdale Town Centre Precinct, with respect to the scale, bulk and height of the building, and also manipulation of building elements adding visual interest from the street. Internal amenity, outlook and surveillance opportunities are provided through the location of living areas and the communal open space on the roof top.

The DRP was satisfied that it generally complied with this Principle, however it has recommended the following design amendments:

- Western podium façade can be further developed with more modulation and articulation defining the bays. This includes further refinement of the building materiality (as described in aesthetics) and
- Configuration of air conditioning (A/C units) and their integration into the façade needs further consideration to avoid heat load being added to wintergardens.

It is recommended that the following is imposed as amendments in the attached draft schedule of conditions:

- Additional glazing at ground floor (for the staff room only) to allow for additional surveillance;
- Screens to be moved outside of the balustrade;
- Frames to be concrete for articulation; and
- A/C units to be relocated with details to be provided by way of amended plans.

Principle 3: Density

The density is considered acceptable with respect to the bulk and scale of the development. Furthermore, there is sufficient communal open space as well as private open space areas. The

application of these principles means that it is not considered to be overdevelopment of the site. It is in within the Rockdale Town Centre Precinct, which is in close proximity to Rockdale railway station, and is within walking distance of a number of public parks and reserves, as well as schools.

The DRP was satisfied that it complied with this Principle, by way of the following:

- It was noted that the site does not have an FSR control and the desire to maximise the FSR appears to be leading to compromises on parameters such as the floor-to-floor heights; and
- The Panel supports the inclusion of Specialist Disability Accommodation (SDA) and market units within the proposal. Due to the site's proximity to public transport, the proposed mix of apartment types and sizes is considered acceptable.

Principle 4: Sustainability

The applicant has submitted a BASIX Certificate, demonstrating that the proposal achieves the relevant energy efficiency standards as specified by the Sustainable Buildings SEPP. It also complies with the minimum 70% requirement of the proposed apartments living area windows and private open space (balconies) needing to receive at least two hours sunlight between 9am and 3pm in midwinter.

The DRP was satisfied that it generally complied with this Principle, however the following needs to be addressed:

- Confirmation of EV charging is required;
- Confirmation of a commitment to providing an 'all electric' (no gas) outcome for the power to appliances;
- Indication of PV panels is required; and
- Configuration of A/C units and their integration into the façade needs further consideration to avoid heat load being added to wintergardens.

It is recommended that the following is imposed as amendments in the attached draft schedule of conditions:

- EV charging spaces to be provided;
- PV panels on rooftop to be provided;
- Fully electric within the entire development; and
- A/C units to be relocated with details to be provided by way of amended plans.

Principle 5: Landscape

Landscape details have been provided, with respect to the public domain at ground level, the communal open space areas as well as the private courtyard areas. This has been reviewed by our Landscape Architect, and is deemed acceptable, subject to the imposition of modified conditions.

The DRP was satisfied that it generally complied with this Principle, however the following needs to be addressed:

- Level 3 COS needs further development to ensure appropriate separation from residential accessways;
- Level 3 COS needs further development to ensure that a variety of uses in various sized and scaled spaces are created;
- Use of synthetic turf is not supported;
- Rooftop COS needs further development to ensure that appropriate shelter is provided from the lift and landscape buffers to edges and private terraces are maintained; and

- Consideration of further tree planting to the deep soil areas to consolidate urban tree targets, a feature deciduous tree may be considered to the child care zone supplementing the proposed tree plantings to the periphery.

It is recommended that the following is imposed as amendments in the attached draft schedule of conditions:

- Synthetic turf to be removed;
- Shelter structure on rooftop to be provided;
- Residential units to be separated to the Level 3 communal open space by way of screening to the front courtyard areas adjacent to the common area; and
- Additional plantings to be provided in deep soil areas.

Principle 6: Amenity

The proposed design provides a good level of amenity for future occupants by providing appropriate room dimensions, suitable solar access to most units, natural ventilation through each floor, appropriately sized courtyards and balconies for each residential unit as well as communal open space, and ease of access for all age groups and degrees of mobility.

The DRP was satisfied that it generally complied with this Principle, however the following needs to be addressed:

- Level 3 COS needs further development to ensure appropriate separation from residential accessways and appropriate .
- Provision of natural light and ventilation to circulation areas.
- Use of synthetic turf is not supported. It has significant environmental impacts.
- Provision of a legible 'hub' for the organisation of all childcare functions and spaces in the lobby/lift area.
- Extent of 'blast wall' area on ground level Princes Highway façade looks excessive and detracts from the street interface amenity. This should be addressed to minimise the blank walls created. Additional windows could be provided to the childcare centre rooms along this frontage. and
- Balconies facing the street on Levels 1 and 2 should be increased in depth to allow outdoor dining tables etc. Suggest min 3m depth.

It is recommended that the following is imposed as amendments in the attached draft schedule of conditions:

- Additional glazing at ground floor (for the staff room only) to allow for additional surveillance;
- Residential units to be separated to Level 3 communal open space by way of screening to the front courtyard areas adjacent to the common area;
- Synthetic turf conditioned to be removed;
- Relocation of balconies for NW units on podium to the front, reconfigure the front entry area to extend the walkway to northern boundary and add an opening on the northern elevation to further increase natural light into circulation area; and
- Meeting room adjacent to child care centre lobby to be removed to create a "hub"

Level 1 and 2 balconies could potentially have their depth increased, however, there are concerns that by imposing this as a condition that it may create other non-compliances with the Apartment Design Guide, such as unit and room sizes, and hence on balance it is considered that the current design of these balconies are acceptable.

Principle 7: Safety

It provides for an easily identifiable, prominent and generous residential lobby entries for both the residential units as well as the proposed child care centre off Princes Highway. Residential apartments and car parking areas on site will be accessible via a secure electronic system. Common areas will be well lit with clearly defined legible pathways.

The application was referred to the NSW Police for comment. It was supported subject to a number of recommendations that will be imposed as conditions in the attached draft schedule of conditions.

The DRP was satisfied that it complied with this Principle, by way of the following:

- The current proposal is generally considered acceptable by the Panel, however consideration should be given to the proximity of the driveway to the entry lobby space.

It is recommended that the following is imposed as amendments in the attached draft schedule of conditions:

- Installation of bollards along the northern portion of the crossing between the planter bed and property boundary

Principle 8: Housing Diversity and Social Interaction

The proposed development will provide for a mixture of housing types that will cater for different budgets and housing needs, including Build to Rent Housing. This will aide in addressing housing affordability.

The DRP was satisfied that it complied with this Principle, by way of the following:

- The Panel supports the inclusion of SDA and market units within the proposal. Due to the site's proximity to public transport, a range of apartment types are provided and this mix is considered acceptable; and
- The two communal open spaces have an opportunity to create diverse spaces for residents, however consideration is to be given to the above comments.

Principle 9: Aesthetics

The proposal incorporates a varied palette of colours and materials to create visual interest when viewed from the public domain. Materials proposed include but are not limited to pre-cast concrete, off-form concrete, frameless glass and aluminium louvres. These materials will provide a modern, contemporary, high quality and visually appealing development on site.

The DRP was satisfied that it generally complied with this Principle, however the following needs to be addressed:

- Building finishes should be reviewed to remove painted and rendered finishes and instead use integral finishes (brick, concrete) instead; and
- Sliding panels need to be attached to the base building where they will not be damaged by balcony use. This could be resolved by placing them 'outside' the balcony balustrade.

It is recommended that the following is imposed as amendments in the attached draft schedule of conditions:

- Screens to be moved outside of the balustrade; and

- Frames to be concrete

(c) the Apartment Design Guide

The proposal has been assessed against the Apartment Design Guide (ADG) The proposed development is considered to have performed adequately in respect to the objectives and design criteria contained within the ADG. The relevant issues are discussed below:

Section	Design Criteria	Proposed	Complies
Part 3 Siting the Development			
Part 3C – Public Domain Interface	Max 1m level change from footpath to ground floor level of building. Landscaping to soften building edge and improve interface.	Levels between site, development, TfNSW and Council land will be aligned and no greater than 1m. Development is stepped to align with topography of site and context.	Yes
	Front fences / walls along street frontage to be visually permeable & limited to 1m	No front fencing proposed	Yes
	Mailboxes located in lobbies or integrated into front fence	Mailboxes located within lobby	Yes
	On sloping sites protrusion of car parking above ground level to be minimised by using split levels to step underground car parking	Basement car parking proposed	Yes
Part 3D: Communal and Public Open Space	Communal open space has a minimum area equal to 25% of the site.	The communal open spaces located on Levels 3 and the rooftop has a total area of 1,029m ² , which is equal to 39% of the site.	Yes
	Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (midwinter).	A detailed plan has been provided in the architectural plans that demonstrates that at least 2 hours of sunlight will be received to at least 50% of both the Level 3 and rooftop communal open space areas, by way of modelling based off the approved development to the north at 588-592 Princes Highway	Yes
Part 3E: Deep Soil Zones	For sites greater than 1,500m ² , a deep soil area equal to 7% of the	511.24m ² (19%) proposed	Yes

Section	Design Criteria	Proposed	Complies
	site and with a minimum dimension of 6m		
Part 3F: Visual Privacy	For developments up to 8 storeys: <ul style="list-style-type: none"> - 9m between habitable/balconies and non-habitable - 4.5m between non-habitable rooms 	Ground to Level 9 ranges between 8.1m to 14.6 to rear	Yes, considered appropriate as properties to Hayburn Avenue are subject to a 14.5m height of building limit
	For developments over 9 storeys: <ul style="list-style-type: none"> - 12m between habitable/balconies and non-habitable - 6m between non-habitable rooms 		
Part 3J: Car Parking	On sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan Area the minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less	Refer to car parking assessment under the Impacts of the development section of this report	
Part 4 Designing the Building			
Part 4A: Solar and Daylight Access	Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9am and 3pm at midwinter.	The living rooms and private open space areas for 62 out of the 88 apartments (70%) receive at least 2 hours of direct sunlight between 9am and 3pm on 21 June.	Yes
	A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter	No direct facing southern units	Yes
Part 4B: Natural Ventilation	At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building.	56 out of the 88 apartments (64%) will be naturally cross ventilated.	Yes
Part 4C: Ceiling Heights	Measured from finished floor level to finished ceiling level, minimum ceiling heights are:	6.1m is proposed for the ground floor child care centre, 3.1m for residential levels	Yes

Section	Design Criteria	Proposed	Complies
	3.3m for ground floor to promote future flexibility of use 2.7m for habitable rooms 2.4m for non-habitable rooms		
Part 4D: Apartment Size and Layout	Apartment are required to have the following minimum internal areas: - 1 bedroom: 50m ² - 2 bedrooms: 70m ² - 3 bedrooms: 90m ² The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m ² each.	The minimum area for the 1-bedroom units are 52m ² . The minimum area for the 2-bedroom units are 75m ² . The minimum area for the 3-bedroom units are 95m ² .	Yes
	Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.	All habitable rooms have windows of acceptable size to facilitate acceptable solar access and natural ventilation.	Yes
	Habitable room depths are limited to a maximum of 2.5 x the ceiling height.	The habitable room depths comply.	Yes
	Master bedrooms have a minimum area of 10m ² and other bedrooms 9m ² (excluding wardrobe space).	The size of all bedrooms comply.	Yes
	Bedrooms have a minimum dimension of 3m (excluding wardrobe space).	All bedrooms have a minimum dimension of 3m, excluding wardrobe space.	Yes
	Living rooms or combined living/dining rooms have a minimum width of: 3.6m for studio and 1-bedroom apartments 4m for 2- and 3-bedroom apartments	The width of the studio and 1-bedroom units is at or greater than 3.6m, and the width of the 2-bedroom units is at or greater than are 4m.	Yes
	The width of crossover Or cross through apartments are at least 4m internally to avoid deep narrow apartment	The width of each apartment is greater than 4m.	Yes

Section	Design Criteria	Proposed	Complies
	layouts.		
	The width of crossover or cross through apartments are at least 4m internally to avoid deep narrow apartment layouts.	The width of each apartment is greater than 4m.	Yes
Part 4E: Private Open Space and Balconies	All apartments are required to have primary balconies as follows: Minimum area of 8m ² and minimum depth of 2m for 1-bedroom units Minimum area of 10m ² and minimum depth of 2m for 2-bedroom units Minimum area of 12m ² and minimum depth of 2m for 3-bedroom units The minimum balcony depth to be counted as contributing to the balcony area is 1m.	The minimum area for of the balconies for the 1-bedroom units are 8m ² . The minimum area for the 2-bedroom units are 10m ² . The minimum area of the balconies for the 3-bedroom units are 12m ² . All balconies have minimum depth of 2m.	Yes
Part 4F: Common Circulation and Spaces	Maximum number of apartments off a circulation core on a single level is eight	Each circulation core/lobby has no more than 8 apartments at each level.	Yes
	Daylight and natural ventilation should be provided to all common circulation spaces that are above ground	Lobbies are naturally lit and there is opportunity for natural ventilation, however further amendments will be provided as specified earlier in this report to the circulation spaces within the podium levels.	Yes
Part 4G: Storage	In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided: 6m ³ for 1-bedroom units 8m ³ for 2-bedroom units 10m ³ for 3-bedroom units At least 50% of the required storage is to be located within the apartment.	There is a mixture of storage located within the units as well as within the basement areas.	Yes

Bayside Local Environmental Plan 2021

The provisions of the Bayside Local Environmental Plan have been considered in the assessment of the development application as per the table below.

Relevant Clauses	Compliance with Objectives	Compliance with Standard / Provision
2.3 Zone and Zone Objectives MU1 Mixed Use	Yes – see discussion	Not Applicable
2.7 Demolition requires consent	Not Applicable	Yes – see discussion
4.3 Height of buildings	Yes – see discussion	No – see discussion
4.6 Exceptions to development standards	Yes – see discussion	Yes – see discussion
6.1 Acid Sulfate Soil – Class 5	Yes – see discussion	Yes – see discussion
6.2 Earthworks	Yes – see discussion	Yes – see discussion
6.3 Stormwater and water sensitive urban design	Yes - see discussion	Yes - see discussion
6.7 Airspace operations	Yes – see discussion	Yes – see discussion
6.10 Design Excellence	Yes – see discussion	Yes – see discussion
6.11 Essential services	Yes – see discussion	Yes – see discussion

Clause 2.3 – Zone MU1 Mixed Use

The subject site is zoned MU1 Mixed Use under the provisions of Bayside Local Environmental Plan 2021. The proposal is defined as a residential flat building and child care centre, both of which constitute a permissible development only with development consent. The **objectives of the** zone are:

- To encourage a diversity of business, retail, office and light industrial land uses that generate employment opportunities.
- To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.
- To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.
- To ensure built form and land uses are commensurate with the level of accessibility, to and from the zone, by public transport, walking and cycling.

The proposed development provides employment opportunities, has been amended to increase the extent of glazing / activation to the street frontage, will minimise conflict between land uses (subject to compliance with conditions), and will provide increased housing and services within the town centre and within proximity to good public transport. The proposal is therefore considered to satisfy the objectives of the zone.

Section 2.7 – Demolition

The proposal seeks consent for demolition of the existing buildings and associated structures. In this regard, the proposal satisfies the provisions of this Section.

Section 4.3 – Height of Buildings

A height standard of 22m applies to the property. As the site comprises a combined site area greater than 2,000m², a 9m height bonus applies to the site as permitted by the provisions of Section 4.3(2A)(i). Accordingly, a height standard of 31m applies to the subject site.

The proposed development has a maximum height of 37.25 metres (RL 43.98 AHD) which does not comply with the provisions of this Section. This is a height exceedance of 6.25 metres to the top of the lift overrun and results in a variation of 20.16%. The non-compliance is discussed in Section 4.6 – Exceptions to Development Standards below.

Section 4.6 – Exceptions to Development Standards (Height of Building)

Note: On 1 November 2023, amendments to Section 4.6 came into force. The changes to Section 4.6 result in only minor changes to delete the requirement to satisfy the public considerations of Section 4.15(1)(e) of the EP & A Act 1979. However, the changes include savings provisions where development applications lodged prior to the 1 November 2023 that have not yet been determined are to be assessed as though the amendments have not yet commenced. In this regard, the subject application was lodged prior to 1 November 2023 and therefore, the recent changes have no effect.

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

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

Section (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. *Section 4(a)(1)- the applicant's written request is satisfactory in regards to addressing subsection (3) above, and*
- ii. *Section 4(a)(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.*
- iii. *Section 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*
- iv. *Section 5(b)- the public benefit of maintaining the development standard.*

The assessment of Section 4.6 below has been undertaken in accordance with the principles established by the Chief Judge in ***Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*** where it was observed that:

- in order for there to be 'sufficient' environmental planning grounds to justify a written request under section 4.6, the focus must be on the aspect or element of the development that contravenes the development standard and the environmental planning grounds advanced in the written request must justify contravening the development standard, not simply promote the benefits of carrying out the development as a whole; and
- there is no basis in Section 4.6 to establish a test that the non-compliant development should have a neutral or beneficial effect relative to a compliant development.

The applicant is seeking to contravene the Building Height development standard by 6.25 metres to the top of the lift overrun which equates to a 20.16% variation. A contravention request in accordance with Clause 4.6 of the LEP, seeking to justify the proposed contravention, has been

prepared by CPS Planning.

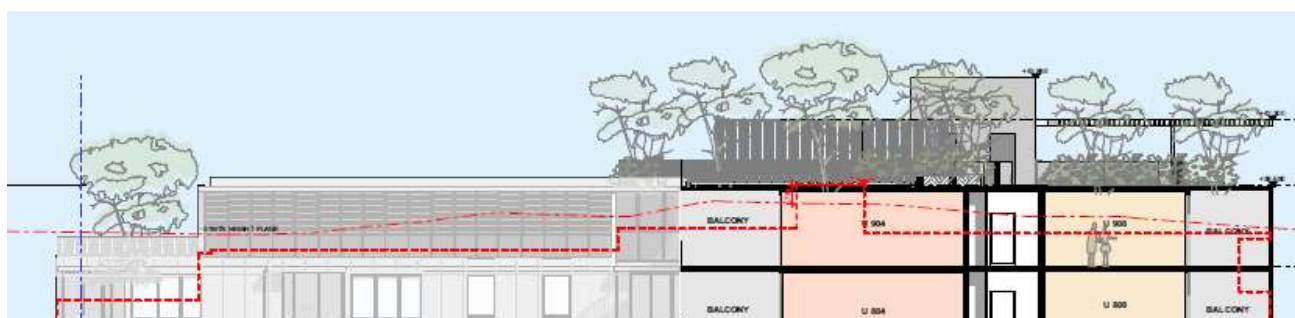


Figure 12: Section showing extent of variation (thinner red dotted line) [supplied by applicant]

The applicant's Section 4.6 contravention request argues that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case there and are sufficient environmental planning grounds to support the non-compliant Building Height. These components are summarised below, with the assessing officer's response provided:

Section 4.6(3)(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case,

Applicant Comments / Arguments (summarised):

The applicant has used point 1 in *Wehbe v Pittwater (2007) NSW LEC 827*, in which “the objectives of the standard are achieved notwithstanding non-compliance with the standard”.

- The development directly to the north at 588-592 Princes Highway was approved with a building height of 41.8m which exceeded the building height development standard by 20%.
- Higher buildings are possible on the site. For example, the Housing SEPP provides a building height bonus of up to 30% for projects that include 15% of the gross floor area (GFA) as affordable housing. In this circumstance it is possible for a building to be constructed on site with a compliant height of 40.3m.
- To the north of the site along the eastern side of Princes Highway a maximum building height ranging from 34m – 40m can be achieved, and across the road on the western side of Princes Highway, a maximum building height ranging from 25m – 47.15m can be achieved under LEP.
- All habitable floor levels generally contained within the 31m height plane. The exceedance will have no measurable impact on the natural and built environment and will be barely perceptible from the public domain or adjoining properties.
- The development respects the potential view corridors of neighbouring sites.
- The separation distances provided to the eastern and southern boundaries along with the treatments to the facades of the building allow the privacy of neighbouring sites to be retained.
- The shadow and solar access diagrams provided in the architectural package demonstrate good solar access is maintained to neighbouring residential receivers because of the proposed development.
- The proposed development will include a 37.25m building height, which provides a physical and visual transition between the taller buildings possible on the opposite side of Princes Highway, to the north of the site and to the east of the site.
- As the site is currently located within a transitioning area, it is expected that some degree of irregularity with the existing character is to be expected in terms of existing building heights and the building heights permitted under the planning controls. This is consistent with the planning principles associated with *Project Venture Developments v Pittwater Council [2005] NSWLEC 191*, which recognises that compatibility between proposed and existing is not always desirable, and that there are situations where the planning controls envisage a change of character, in which case compatibility with future character is more appropriate than with

existing character.

Council Assessment:

- It is noted that an approved development with a greater than building height than what was proposed was approved at 588-592 Princes Highway
- It is noted that under the affordable housing provisions of the Housing SEPP would allow a building height greater than what is subject to this variation
- It is agreed that the proposal as designed does not generate adverse overshadowing impacts which are directly correlated or contributable to the portions of the development subject of the height exceedance. Solar amenity to the public domain, nor adjoining sites is not compromised as a result of the proposed noncompliance with the height standard.
- It is agreed that the proposed development respects the potential view corridors of neighbouring sites
- It is agreed that the separation distances to the neighbouring properties are generally acceptable, as specified earlier in this report under the ADG assessment
- It is agreed that the proposed development will provide an appropriate transition between the taller developments to the north and the lower heights to the east at Hayburn Avenue
- The proposed area of height non compliance is not considered to result in a mass, size or scale of development that is incompatible with the future desired character of the precinct.
- The proposal is consistent with the principles of SEPP 65 and the Apartment Design Guide with respect of Context & Neighbourhood Character, Built Form and Scale and Density.
- The proposal is consistent with the aims of the Apartment Design Guide with respect of 2C Building Height.
- The scale and nature of the non compliance is unlikely to set an undesirable precedent given the size, scale and topographical circumstances of the subject site.
- Components of the development which penetrate the height standard are recessed substantially from the edge of the development on site and are not visually discernible from neighbouring properties or the public domain.
- The proposal has been designed to consider and relate to the topography of the subject site. The ground floor level of the development has been stepped by up to align with the natural fall of the property and accommodate the natural landform, so as to minimise height exceedance as far as practicable.
- The scheme is consistent with the objectives of the MU1 Mixed Use zone and the desired future character of the Rockdale Town Centre.
- The proposal was supported by the Design Review Panel and is deemed to demonstrate Design Excellence as required by the provisions of Section 6.10 of the LEP.
- The proposal is consistent with the objectives of Clause 4.3 Height of Buildings of Rockdale LEP 2011.

Section 4.6(3)(b) - Are there sufficient environmental planning grounds to justify contravening the development standard?

Applicant Comments / Arguments (summarised):

The environmental planning grounds to justify contravention of the development standard are detailed as follows:

Floor to Floor Heights

The building adopts floor to floor heights of 3.1m, rather than 3m as originally lodged, which can satisfy the floor to ceiling heights of 2.7m prescribed by Part 4C of the Apartment Design Guide. The additional 100mm per floor over the 9-storey building height contributes to the building height contravention but ensures a better amenity outcome for occupants.

The National Construction Codes (the Building Code of Australia) requires all apartment buildings to be sprinklered. It requires space between the ceiling and the slab and this takes up space that could previously be taken up by other services.

There is also a design desire to achieve level floors, including between interiors and balconies, and between bathrooms and adjacent areas. Balconies and bathrooms are often set down (i.e. the level of the top of the slab is lower) by 50-100mm to allow tiling and falls. In the 2023 amendments to the National Construction Codes (the Building Code of Australia) there was a change to the way these setdowns were treated. While in the past there might have been a 200mm thick slab that was 150mm on the balcony, these are no longer being certified as deemed to comply - now the 200mm is a minimum, so the main slab is 250mm and the bathrooms 200mm, taking up an additional 50mm of the ceiling to floor zone.

The Australian Standard relating to wind effects on buildings also has an impact on the floor to floor heights for taller buildings. This arises from the way rainwater can be blown horizontally along an outdoor deck to the glazing and can then be blown to rise vertically up the step in the setdown of a slab - this can be as much as 150mm depending on the site-specific circumstances. This would mean that the main slab could be as thick as 350mm to provide for the set down balcony spaces (200mm plus the 150mm set down).

Based on the above, additional floor-to-floor height is needed, and 3.1m is emerging as a reasonable height that should be manageable for most situations given the new design, planning and certification environment.

Ongoing servicing and maintenance of the development

Part 3.5.7 of the Bayside DCP 2022 introduced the provision of a minimum vertical clearance of 4.5m for MRV vehicles.

The provision of a 4.5m vertical clearance distance has been adopted for the building which will allow the future building owners through the delegation of a strata corporation to decide if the waste collection on the site is serviced by either Council or a private contractor. As a result of adopting a 4.5m clearance into the basement, the resultant height of the building has increased by 1m. As the building height is increasing to comply with the current DCP, it would be unreasonable not to support a development that is merely trying to comply with the current DCP.

Design and amenity of the built environment

The architectural roof features and landscaping provided on the roof will enhance the building's appearance when viewed from the local area.

Part of the contravention to the building height standard relates to the lift overrun and awning provided over the communal open space. These aspects of the building are located in the central portion of the rooftop. These structures are not clearly visible from the public domain due to their central building location.

The provision of the lift to the roof ensures the communal open space area (which is provided with adequate solar access) is accessible to all residents and visitors. The roof area provides numerous opportunities for passive recreation and also affords the development with views of Bayside to the east. As such, the contravention to the standard will deliver positive and inclusive amenity outcomes for residents of the building.

Public benefit

As required by Section 4.6(8)(b-d) of the LEP, the development may only contravene the building height development standard if it has been demonstrated that the development provides a public benefit.

The development provides a pocket park at the north west corner of the site which will contribute to the green gateway envisaged by the DCP. This pocket park will be provided by way of an easement, with the area maintained by the owners of the site in perpetuity for the benefit of the public.

It was also demonstrated within the assessment carried out by Council as part of DA-2019/312, that contravention of the building height development standard was satisfied via the provision of a pocket park which has been retained as part of this DA. Therefore, it follows the same precedent should be applied to this development, as the redevelopment of the site will continue to provide a public benefit to the surrounding locality and the local government area more broadly.

This development does not seek to increase the FSR that has previously been approved over the site under DA-2019/312, nor does it increase upon the FSR submitted with the original documentation lodged with this application. As such, the development does not create any additional demand for public services, therefore the comparative public benefit derived from the public park under DA-2019/312 continues with the subject DA.

No significant or unreasonable impacts on surrounding public areas

The variation to the building height development standard will be largely indiscernible when viewed from the surrounding public domain. Especially considering that the development to the north of the site has an approved building height of 41.8m.

The redevelopment of the site will improve the public domain and appearance of the site as viewed from Princess Highway through the provision of a well-designed building. The aspects of the building that contravene the building height standard will not result in significant or unreasonable impacts on surrounding public areas.

No significant or unreasonable impacts on surrounding residences

As demonstrated both above and by the submitted information, the proposal will not significantly nor unreasonably affect adjoining and nearby residences to the north, south, and east of the subject site in terms of visual privacy, overshadowing, view loss, and visual amenity. Visual impacts associated with the proposal will therefore be extremely minor.

Council Assessment:

Floor to floor heights

It is agreed that the proposed development needs to demonstrate compliance with the BCA on this matter, hence the proposed floor to floor ceilings heights are supported.

Ongoing servicing and maintenance of the development

It is agreed that that the proposed development needs to demonstrate compliance with the DCP on this matter, hence the proposed clearance height is supported.

Public benefit

The triangular landscaped area in the north western corner is designed as a passive recreation space and incorporates a range of soft landscaping, pathways and integrated sculptural concrete bench seating areas. The applicant has attractively designed and landscaped this area to be functional and aesthetically pleasing and proposes to provide a public access easement over this portion of the site. A mix of groundcovers, shrubs and trees are proposed within this space including but not limited to natural turf, kangaroo paw, swamp banksia, red yucca and waratah up to a mature height of 3m. Given the location of the space, it is highly visible and illuminated given existing street lighting and lighting to be incorporated within the development.

The creation of such an easement upon the aforementioned landscaped area, adjoining existing and future public domain along the Princes Highway will enable members of the public and the local community to utilise this space as a passive recreation area, akin to a pocket park and result in a 'pedestrian friendly environment' which is a core principle in the Rockdale Town Centre Masterplan.

The provision of this easement and subsequent public access to this well located and easily accessible space within the Rockdale Town Centre is deemed to provide a 'demonstrable public benefit' as is required to be provided by the provisions of clause 4.6(8)(ca) and thus sufficient so as to support the minor height variation proposed as part of this application.

As this landscaped area is situated upon private land, the onus remains on the owner of the property to maintain this space in perpetuity. This is beneficial to Council as whilst members of the public can passively use this space, future maintenance, waste management and the like, will remain the responsibility of the owner of the land. Subsequently given the ownership remains private, Council is not required to dedicate time or resources in order to prepare or implement a Plan of Management for the space or manage this space as community land in accordance with the relevant requirements of the Local Government Act 1993.

The proposed 'pocket park' will provide visual respite from a highly urbanised environment which is still evolving and not as yet developed to its full potential, within the Rockdale Town Centre. It is noted that pedestrians value and seek the perceived quiet of pocket parks as they provide a deviation from roadside footpaths. Given the location of the site along a classified road, this is of particular importance as is the recessed location of the space.

Given the above, the proposal has been conditioned to require the provision of a public easement in order to facilitate public right of access to this component of the site. This easement once established will only be capable of modification with the consent of Council.

The achievement of the aforementioned is considered akin to a pocket park within the Rockdale Town Centre and it is reiterated that the proposal thus clearly incorporates a demonstrable public benefit which permits the consent authority to consider and support the variation to the height standard.

No significant or unreasonable impacts on surrounding public areas and surrounding residences

The proposed area of height non-compliance is not considered to result in a mass, size or scale of development that is incompatible with the future desired character of the precinct.

The proposal as designed does not generate adverse overshadowing impacts which are directly correlated or contributable to the portions of the development subject of the height exceedance. Solar amenity to the public domain, nor adjoining sites is not compromised as a result of the proposed noncompliance with the height standard.

The proposal is consistent with the principles of SEPP 65 and the Apartment Design Guide with

respect of Context & Neighbourhood Character, Built Form and Scale and Density.

With the above considered, it is recommended that this variation is supported by the Sydney Eastern City Planning Panel.

Section 6.1 – Acid Sulfate Soils

Acid Sulfate Soils (ASS) – Class 5 affects the property. However, development consent is not required as the site is not within 500 metres of adjacent Class 1, 2, 3 or 4 that is below 5 AHD.

Section 6.2 – Earthworks

The proposal involves extensive excavation within the site to accommodate the basement levels. The impacts of the proposed earthworks have been considered in the assessment of this proposal. Conditions of consent have been imposed in the draft Notice of Determination to ensure minimal impacts on the amenity of surrounding properties, drainage patterns and soil stability. The proposal meets the objectives of this clause.

Section 6.3 – Stormwater and WSUD

The proposal involves the construction of an on-site detention system to manage stormwater. The proposed stormwater system has been reviewed by Council's Development Engineer and conditions of consent are recommended, to require the submission of revised stormwater plans prior to the issue of the Construction Certificate, in order to ensure that the requirements and objectives of this clause are satisfied. As conditioned the proposal satisfies the requirements of this clause and is satisfactory in this regard.

Section 6.7 – Airspace Operations

The proposed development is affected by the 51 AHD Obstacle Limitation Surface (OLS). The proposed building height is at 43.98 RL at the highest point and in this regard, the proposed development will have minimal adverse impact on the OLS. Notwithstanding, Sydney Airport Corporation Limited have consented to the erection of a building to a maximum height of 44 RL on the subject site. The proposal is satisfactory with regards to this clause.

Section 6.11 – Essential Services

Services are generally available on site. Additional conditions have been incorporated in the draft Notice of Determination requiring consultation with relevant utility providers with regard to any specific requirements for the provision of services on site.

Section 6.10 – Design Excellence

The proposed development is subject to the requirements of this clause. In accordance with the requirements of Section 6.10(4), the application was reviewed by the Design Review Panel (DRP) on two separate occasions:

- 6 July 2023
- 7 May 2024

At the second meeting, the DRP made the recommendation that subject to further amendments, the proposed development would achieve design excellence. These further amendments were listed earlier in this report under the Housing SEPP section of the report and, where relevant, have been included as conditions of consent to be addressed during the detailed design submitted with the Construction Certificate.

In considering whether the development exhibits design excellence, the consent authority must have regard to the following matters:

- (a) *whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,*

DRP comments

This can be achieved with consideration of the issues noted within the Design Principles section.

Council assessment

Agreed. As discussed in the under the Housing SEPP section earlier in this report, if approval was recommended, conditions would have been imposed to satisfy this requirement such as additional glazing at the ground floor and increase in the amount of concrete for the frames.

- (b) *whether the form, arrangement and external appearance of the development will improve the quality and amenity of the public domain,*

DRP comments

This can be achieved with consideration of the issues noted within the Design Principles section

Council assessment

Agreed. As discussed in the under the Housing SEPP section earlier in this report, if approval was recommended, conditions would have been imposed to satisfy this requirement.

- (c) *whether the development detrimentally impacts on view corridors,*

DRP comments

It does not impact on view corridors.

Council assessment

Agreed

- (d) *the requirements of any development control plan made by the Council and as in force at the commencement of this clause,*

DRP comments

Satisfies

Council assessment

Agreed

- (e) *how the development addresses the following matters:*

- (i) *the suitability of the land for development, existing and proposed uses and use mix,*

DRP comments

Suitable

Council assessment

Agreed

(ii) *existing and proposed uses and use mix*

DRP comments

Suitable

Council assessment

Agreed, the proposed child care centre will appropriately activate the ground floor

(iii) *heritage issues and streetscape constraints,*

DRP comments

This can be achieved with consideration of the above noted issues

Council assessment

Agreed. As discussed in the under the Housing SEPP section earlier in this report, if approval was recommended, conditions would have been imposed to satisfy this requirement

(iv) *the relationship of the development with other development (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,*

DRP comments

Acceptable

Council assessment

Agreed, the proposed development generally complies with the relevant controls for separation, setbacks, amenity and urban form.

(v) *bulk, massing and modulation of buildings,*

DRP comments

This can be achieved with consideration of the above noted issues

Council assessment

Agreed. As discussed in the under the Housing SEPP section earlier in this report, if approval was recommended, conditions would have been imposed to satisfy this requirement

- (vi) *street frontage heights,*

DRP comments

Acceptable

Council assessment

Agreed. The proposed development complies with the relevant street wall height controls in the DCP.

- (vii) *environmental impacts such as sustainable design, overshadowing, wind and reflectivity,*

DRP comments

Refer to Sustainability comments above

Council assessment

Agreed. As discussed in the under the Housing SEPP section earlier in this report, if approval was recommended, conditions would have been imposed to satisfy this requirement.

- (viii) *the achievement of the principles of ecologically sustainable development,*

DRP comments

Refer to Sustainability comments above

Council assessment

Agreed. As discussed in the under the Housing SEPP section earlier in this report, if approval was recommended, conditions would have been imposed to satisfy this requirement, such as the provision of EV car parking spaces and PV cells on the roof.

- (ix) *pedestrian, cycle, vehicular and service access, circulation and requirements,*

DRP comments

Cycles and EV charging facilities to be provided. Consider Go Get carparking spaces.

Council assessment

If approval was recommended, conditions would have been imposed to satisfy this requirement by way of EV charging spaces.

- (x) *the impact on, and any proposed improvements to, the public domain,*

DRP comments

This can be achieved with consideration of the above noted issues.

Council assessment

Agreed. As discussed in the under the Housing SEPP section earlier in this report, if approval was recommended, conditions would have been imposed to satisfy this requirement.

- (xi) *achieving appropriate interfaces at ground level between the building and the public domain,*

DRP comments

This can be achieved with consideration of the above noted issues

Council assessment

Agreed. As discussed in the under the Housing SEPP section earlier in this report, if approval was recommended, conditions would have been imposed to satisfy this requirement.

- (xii) *excellence and integration of landscape design.*

DRP comments

This can be achieved with consideration of the above noted issues

Council assessment

Agreed. As discussed in the under the Housing SEPP section earlier in this report, further amendments are recommended which will satisfy this requirement, and also satisfies the landscape controls, subject to further amendments.

Based on the above assessment, the proposed development in its current form does achieve design excellence.

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

There are no draft Environmental Planning Instruments that apply to this proposal.

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

The following Development Control Plan is relevant to this application:

Bayside Development Control Plan 2022

The application is subject to the Bayside Development Control Plan 2022 ("the DCP"). This is the comprehensive DCP relevant to the proposal. The DCP was adopted by the elected Council on 22 March 2022 and came into effect on 10 April 2023, and supports the provisions of the LEP.

The following table outlines the relevant Clauses of the DCP applicable to the proposal, while aspects warranting further discussion follows:

Relevant Clauses	Compliance with Objectives	Compliance with Standard / Provision
PART 7.2 – ROCKDALE TOWN CENTRE		
Built Form	Yes - see discussion	Yes - see discussion
Public Domain	Yes - see discussion	Yes - see discussion
Building Typologies	Yes - see discussion	Yes - see discussion
Site Access and Servicing	Yes - see discussion	Yes - see discussion
Urban Greening	Yes - see discussion	Yes - see discussion
Development on Busy Roads	Yes - see discussion	Yes - see discussion
Princes Highway Southern Gateway	Yes - see discussion	Yes - see discussion
PART 3 – GENERAL DEVELOPMENT PROVISIONS		
Site Analysis and Locality	Yes - see discussion	Yes - see discussion
Design Excellence	Yes - see discussion	Yes - see discussion
Energy and Environmental Sustainability	Yes - see discussion	Yes - see discussion
Transport, Parking and Access	Yes - see discussion	Yes - see discussion
Social Amenity, Accessibility and Adaptable Design	Yes - see discussion	Yes - see discussion
Landscaping, Private Open Space and Biodiversity	Yes - see discussion	Yes - see discussion
Tree Preservation and Vegetation Management	Yes - see discussion	Yes - see discussion
Stormwater Management and WSUD	Yes - see discussion	Yes - see discussion
Contamination	Yes - see discussion	Yes - see discussion
Waste Minimisation and Site Facilities	Yes - see discussion	Yes - see discussion
Noise, Wind, Vibration and Air Quality	Yes - see discussion	Yes - see discussion
Utilities and Mechanical Plant	Yes - see discussion	Yes - see discussion
PART 4 – SUBDIVISION, CONSOLIDATION AND BOUNDARY ADJUSTMENTS		
General	Yes - see discussion	Yes - see discussion
PART 5 – RESIDENTIAL AND MIXED-USE DEVELOPMENTS		
Quality of Design and Housing Choice and Diversity	Yes - see discussion	Yes - see discussion
Solar Access and Overshadowing	Yes - see discussion	Yes - see discussion

PART 6 – NON-RESIDENTIAL DEVELOPMENT		
Uses Involving the Preparation and Storage of Food	Yes - see discussion	Yes - see discussion
Early Education and Child Care Centres	Yes - see discussion	Yes - see discussion

The following Sections elaborate on Key matters from the above table.

Part 7 is dealt with first, as the DCP states: *“Provisions in the chapter [7] prevail over any similar provisions in other sections of the DCP”*.

Part 7.2 – Rockdale Town Centre

This section of the DCP provides controls and guidelines for 17 areas within the Local Government Area. Not all areas are included. The areas chosen are either unique or have been subject to detailed masterplanning controls, with more specific controls to guide development.

As stated, the provisions of this Section prevail over other sections of the DCP, including where there is any inconsistency.

The site is located within the Princes Highway Southern Gateway area between Lister Avenue and Rockdale Plaza Drive.

As the Town Centre grows, it will expand along the Princes Highway into the stretch south of the centre which contains more traditional highway business uses and older building stock, and presents a pedestrian unfriendly environment due to traffic noise and lack of environmental protection (awnings, street trees).

The existing uses along the highway and the Muddy Creek corridors have created a barrier to the rapidly growing number of residents in Kogarah and Rockdale to access services and retail across the two suburbs, dampening the economic opportunities of the area.

Permeability along and around the highway and Muddy Creek corridors will be key to allowing a supporting residential population within convenient walking distance to patronise the Town Centre.

Part 7.2.5.2 – Built Form

The built form presents as a tower that sits atop a three storey podium.

The building length of the street wall is 49 metres (boundary to boundary).

The design of the towers, podiums and open spaces have been designed so that adjoining properties retain development potential and amenity.

The height of the podium suitably responds to the lower maximum building height for the properties to the east at Hayburn Avenue (14.5 metres or approximately three storeys). The built form above the podium is appropriately set back to minimise amenity impacts on neighbours.

The street wall height does not exceed the three storey height as mapped in the DCP.

With the exception of the south east corner units, a minimum of 9 metres setback is proposed to the residential zoned properties to the east on Hayburn Avenue.

A minimum front setback to Princes Highway of 3 metres is proposed.

An active ground floor use is proposed by way of a child care centre.

The building façades are generally well resolved, and proportioned with an emphasis on the human scale, however further amendments will be imposed as conditions in the attached draft schedule of conditions.

Access to residential lobbies is via the Princes Highway frontage.

Part 7.2.5.3 – Public Domain

An appropriate balance has been reached with relation to the provision of services along the Princes Highway frontage to ensure that it does not dominate the frontage.

The subject site is located within the Green Gateway, and hence a minimum 3 metre deep soil zone and setback with tree and landscape planting is proposed to the Princes Highway.

Part 7.2.5.4 – Building Typologies

Legible entries are proposed to Princes Highway for both the residential units as well as child care centre.

The proposed child care centre addresses Princes Highway, with a recommended amendment to the proposed plans being to further open up the façade in order to increase activation as well as safety.

Basement parking will not protrude above the existing natural ground level.

A diversity of housing is proposed, which will be discussed in further detail later in this report.

Part 7.2.5.5 – Site Access and Servicing

Servicing and loading is fully accommodated internally within the building, at grade along the southern boundary.

Pedestrian access is appropriately prioritised to maximise safety for residents and visitors, as well as for the child care centre.

Vehicular access to the proposed development is limited to the one driveway along the southern boundary.

The collection of residential waste will be at-grade and has been designed to accommodate on-site truck movement.

All on site parking is proposed within the basement with none located at-grade.

On site loading will accommodate for a medium rigid vehicle (MRV).

A communal garbage and recycling room is located at grade adjacent to the loading area.

Part 7.2.5.6 – Urban Greening

The proposed development has incorporated appropriate landscaping elements to soften the built form and introduce natural greenery. Further amendments have been recommended for Council's

Landscape Architect for additional plantings to deliver increased privacy to neighbouring properties.

Part 7.2.5.7 – Development on busy roads

Development along Princes Highway and other busy roads within the Rockdale Town Centre has addressed the relevant SEPP (Transport and Infrastructure) 2021 requirements.

Part 7.2.6.6 – Princes Highway Southern Gateway

The building massing reads distinctively as a 3-storey podium-tower form at the Princes Highway, and provide transitions towards adjoining residential areas.

The proposed development is set back a minimum 3 metres to Princes Highway.

The spacing of built forms is generally consistent with the objectives of the Apartment Design Guide (ADG).

Towers above the podium are set back more than 3 metres from the street wall and generally 6 metres from the property boundary, with the exception of two north facing elevations to 588-592 Princes Highway as well as 17 Hayburn Avenue (minimum of 4.5 metres), however, it is considered to be appropriately design by way of minimal openings.

The proposed development will deliver a Green Gateway as specified earlier in this part of the report.

Part 3.1 – Site Analysis and Locality

The proposed development has provided a detailed and comprehensive site analysis.

Part 3.2 – Design Excellence

Refer to the LEP section earlier in this report.

Part 3.3 – Energy and Environmental Sustainability

The proposed development provides appropriate sun protection during summer for glazed areas facing north, west and east, whilst allowing for penetration of winter sunlight

The location of windows, doors and internal layout of the building promotes air movement for cooling.

A condition will be imposed in the attached draft schedule of conditions ensuring that light reflectivity does not exceed 20%.

Part 3.5 – Transport, Parking and Access

The design and location of the parking facilities and pedestrian access on the site is acceptable having regard to the nature of the site and the proposal.

Given the range of proposed uses that are prescribed under different plans and policies, a detailed car parking assessment will be made under the Impacts of the Development section later in this report.

A Traffic and Parking Assessment report was submitted with the DA, prepared by CJP Consulting Engineers and dated 19 April 2023. This report and the application was referred to Council's Development Engineer who had no objections to the proposal, subject to conditions which have been

included in the recommended conditions.

The proposal does not trigger the need for a Green Travel Plan.

Proposed waste collection arrangements meet Council's specifications and requirements.

The proposal satisfies the transport and access requirements of the DCP.

Part 3.6 – Social Amenity, Accessibility and Adaptable Design

The proposal has been designed so that the development is accessible from the public domain and internally. The development provides level access from the footpath to the lift core and to communal open space.

The proposal provides 10 adaptable units within the development with these located at Levels 5 to 9. The development provides 12 accessible car spaces located within the three basement levels and these spaces are located in close proximity to the lifts.

The applicant has provided an access report prepared by Purely Access and dated 5 April 2023.

It concluded that the proposal is capable of meeting the requirements of the Housing SEPP for accessibility, the Bayside DCP 2022 and the Performance Requirements set out in the National Construction Code Building Code of Australia Volume One 2019 Amendment 1 (BCA) and referenced Australian Standards with respect to access for people with a disability. Further design information focusing on the detailed elements will be developed as the scheme progresses through to the construction phase to ensure compliance is achieved.

A Social Impact Assessment was not required for this proposal.

The proposal is satisfactory and complies with the objectives of this Part of the DCP.

Part 3.7 and 3.8 – Landscaping, Private Open Space, Biodiversity and Tree/Vegetation Management

The proposed use generates a required landscaped area of 15% of the site area. The proposal complies with this control, with a total landscaped area well in excess of this requirement.

At least one canopy tree is provided in the site.

Council's Tree Management Officer has recommended conditions be imposed, which have been included if the recommendation was for approval.

The proposal is satisfactory in regard to the objectives and provisions of Parts 3.7 and 3.8 of the DCP, subject to recommended conditions.

Part 3.9 – Stormwater Management and WSUD

Refer to the LEP section earlier in this report.

Part 3.11 – Contamination

Refer to the SEPP section earlier in this report.

Part 3.12 – Waste Minimisation and Management

A Waste Minimisation and Management Plan prepared by Dickens Solutions and dated June 2022 was submitted with the application listing methods for minimising and managing construction and ongoing waste on site.

Waste rooms and facilities are located within basement level 1 as well at grade adjacent to the loading area.

The proposed waste arrangements and report was reviewed by Councils' Waste Officer who had no objections to the proposal.

An appropriate condition has been included in the recommended conditions.

Part 3.14 – Noise, Wind, Vibration and Air Quality

Noise considerations related to road and rail noise have been addressed previously in response to *SEPP (Transport and Infrastructure) 2021*.

The acoustic considerations to and from the proposed use are acceptable in the context of the objectives and provisions of the DCP.

Part 3.18 - Utilities and Mechanical Plant

Appropriate site facilities are provided. Utilities are located in an appropriate location.

Part 4 – Subdivision, Consolidation and Boundary Adjustments

The proposed redevelopment does not result in the isolation of adjoining properties, that could not otherwise be redeveloped to their full potential.

Part 5.1.4 – Quality of Design and Housing Choice and Diversity

Design Excellence considerations have been addressed previously in response to the LEP provisions.

An adequate site analysis plan was provided with the DA.

As the proposal contains more than 20 units, the DCP contains provisions related to unit mix, as below:

- a. Studio: 5 - 10%;
- b. 1 bedroom: 10 – 30%
- c. 2 bedroom: 40 – 75%; and
- d. 3+ bedroom: 10 - 100%

The proposed development has 14 x 1 bedroom units (15.9%), 65 x 2 bedroom units (73.9%) and 9 x 3 bedroom units (10.2%). The percentage ranges for all three unit sizes and within the above ranges.

Matters relating to design and materials, internal design and balcony design have been addressed earlier in this report.

Part 5.2.4.5 – Solar Access and Overshadowing

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, it is noted that the Apartment Design Guide stipulates 2 hours and as such the ADG requirements supersede the 3 hours specified in this clause.

Given the orientation of the site, height of the development, existing setbacks of residential buildings to the east and north east of the site and information derived from the submitted shadow diagrams, it is evident that the midwinter shadows arising as a result of the proposed development do not adversely impact upon residential properties to the east.

The proposal is satisfactory with respect of the objectives and requirements of this clause and adjoining residential properties to the east and north east will retain sufficient solar access in midwinter.

Part 6.2.6 – Uses Involving the Preparation and Storage of Food

The proposed food preparation area has been reviewed by Council's Environmental Health Officer (in the context of the DCP, Food Act 2007 and relevant Australian Standards) and found to be acceptable, subject to the imposition of conditions. Appropriate conditions have been included into the recommended conditions.

Part 6.8 – Early education and childcare facilities

The following table responds to the objective and controls within this Part of the DCP.

Issue	Control	Compliance/comment
Objective	<i>To facilitate new childcare centres which do not unreasonably impact on the amenity of surrounding residences and provide for a safe environment for children and staff</i>	Complies , subject to recommended conditions. This objective is directly or indirectly considered throughout this report.
SEPP	Assess against relevant SEPP	Complies . Such an assessment undertaken and outlined in previous SEPP Section of this report.
Parking	Meet Controls in Part 3.5 of the DCP	Complies . Such an assessment undertaken and outlined in Impacts of the Development section of this report.
Traffic Calming	Provide in heavy trafficked or places with potential hazard	Complies . Design deemed appropriate
Landscaped Area	20% of site landscaped.	Complies . Greater than 20% is landscaped
Appropriate Planting	Avoid inappropriate plants listed	Complies . Appropriate subject to conditions, as specified earlier in this report.
Residential Component	Occupation, open space for residence size, solar access, location and parking	N/A, none proposed
Vehicular conflict on site	Separate vehicular and pedestrian movements	Complies . Design deemed appropriate

Issue	Control	Compliance/comment
	by fencing etc.	
Advertising	Provide detail, if any	N/A, none proposed. A condition will be imposed in the attached draft schedule stating that any proposed signage will be subject to a separate application

S4.15(1)(a)(iia) - Any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4

There are no proposed or existing planning agreements that relate to this proposed development.

S4.15(1)(a)(iv) - Provisions of regulations

Sections 92-94 of the Regulations outline the matters to be considered in the assessment of a development application. Section 92 requires the consent authority to consider the provisions of *AS 2601:1991 Demolition of Structures* when demolition of a building is involved. In this regard a condition has been imposed in the draft Notice of Determination to ensure compliance with the standard.

All relevant provisions of the Regulations have been taken into account in the assessment of this proposal.

S4.15(1)(b) - Likely Impacts of Development

Potential impacts related to the proposal have been considered in response to SEPPs, LEP and DCP controls. The impacts that have not already been addressed are as follows:

Car parking

As discussed earlier in various sections earlier in this report, the proposed development generates a number of car parking rates across a number of planning documents, as listed below:

Land Use	Document	Requirement	Number required
Residential: 88 units - 10 x 1 bed - 69 x 2 bed - 9 x 3 bed	RMS Guide to Traffic Generating Developments	0.6 spaces per 1 bedroom unit	$0.6 \times 14 = 8.4$ (9)
		0.9 spaces per 2 bedroom unit	$0.9 \times 65 = 58.5$ (59)
		1.40 spaces per 3 bedroom unit	$1.4 \times 9 = 12.6$ (13)
		1 space per 5 units (visitor parking)	$88 / 5 = 17.6$ (18)
Child care centre: - 96 children - 20 staff	Part 3.5.3 Bayside DCP 2022	1 space / 2 employees	$20 / 2 = 10$
		1 pick-up and set-down space / 20 children	$96 / 20 = 4.8$ (5)
Car wash	Part 3.5.3 Bayside DCP 2022	1 space per 60 dwellings	$88 / 60 = 1.5$ (2)
Car share	Part 3.5.9 Bayside DCP 2022	1 space per 25 car parking spaces	$117/25 = 4.68$ (5)

Based on the above, a total of 121 spaces will be required. A total of 129 have been provided, and therefore complies.

A total of 106 bicycle spaces is required, with 98 proposed. A condition will be imposed in the attached draft schedule of conditions to ensure compliance.

A total of 9 motorcycle spaces is required, with 6 proposed. A condition will be imposed in the attached draft schedule of conditions to ensure compliance.

Owners Consent

The subject site is landlocked by 4 small lots of land acquired by Transport for NSW (TfNSW) for future road widening purposes of which have not as yet been finalised. Given the aforementioned the land is not dedicated public road and remains in private ownership, currently zoned B4 - Mixed Use. The subject lots extend along the entire frontage of the site to the Princes Highway.

The applicant / owner of the site has obtained written land owners consent and provided this to Council, in order to facilitate both vehicular and pedestrian access over the affected lots in order to secure the future redevelopment of the property.

Works on Transport for NSW Land

As noted above, four lots of land owned by Transport for NSW and zoned B4 currently adjoin the site to the west along the frontage of the property. Works are required upon these lots as follows in order to facilitate the redevelopment of the site;

- Demolition of assets associated with the former sites e.g. bollards retaining walls etc..now located within the land acquired by TfNSW
- New services to be laid as required.
- Ensuring that levels adjoining the new front boundary correlate to the existing footpath, public domain and development.
- Construction of driveways and footpaths etc.. to connect to publicly owned land.
- Public Domain embellishment works i.e. turf, landscaping, expanded footpath etc..

Further to the above, in order to ensure that following the redevelopment of the subject site the expanded public domain, including the TfNSW lots, adjoining the new recessed front property boundary, is suitably repaired, restored and embellished, conditions have been imposed accordingly to ensure the design of the expanded public domain occurs in liaison with TfNSW and Council.

Post approval the developer will be required to obtain a "Works Authorisation Deed – WAD" from TfNSW prior to works within TfNSW lots being approved or permitted to commence. This requires the developer to submit to TfNSW, a copy of the Notice of Determination along with detailed design plans of proposed works upon TfNSW lots, which would include the public domain works listed in the consent as required by Council.

As conditioned the proposal is satisfactory with respect to ensuring that the newly widened public verge which includes TfNSW land will be safe, presentable and accessible following redevelopment of the site.

Natural Hazards

The property is affected by the provision of surface flows however, excavation for the proposed

dwelling is not deep enough to cause any adverse impact on the direction of the surface flows.

Construction

There are no specific issues relating to the BCA in the proposed design. Site and safety measures to be implemented in accordance with conditions of consent and Workcover Authority guidelines/requirements.

S4.15(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. Additional conditions of consent are proposed to further minimise any impacts on neighbouring properties. There are no known major physical constraints, environmental impacts, natural hazards or exceptional circumstances that would hinder the suitability of the site for the proposed development.

S4.15(1)(d) - Public Submissions

In accordance with Part 2 of the Bayside DCP, the DA was notified twice, firstly from 24 May to 23 June 2023 and then 13 to 22 May 2024. A total of 7 submissions were received (with all of them considered to be unique), with the primary issues raised discussed further below:

Large number of balconies on the northern elevation may not be consistent with the Apartment Design Guide, with the previously approved scheme to be retained

Comment: As discussed earlier in this report, a recommended amendment to the architectural plans in the attached draft schedule of conditions will be to relocate the private open space area balconies to the front of the units addressing the Princes Highway.

Solar access assessment does not take into consideration the neighbouring site to the north

Comment: Solar access modelling has been done factoring in the approved development at 588-592 Princes Highway and its impacts on the proposed development.

Overlooking from roof terraces

Comment: As assessed earlier in this report, it is considered that privacy impacts have been appropriately addressed in the design.

Photomontage does not reflect the design of the proposal

Comment: The applicant has provided a revised photomontage which more accurately reflects the proposed scheme.

No mechanical plant is to be located within proximity of the northern boundary and is also to be screed and attenuated

Comment: Based on the SEPP assessment earlier in this report it was concluded that the air conditioning units are to be relocated elsewhere, with details as to its relocation to be confirmed by way of amended plans.

Princes Highway is not an appropriate location for a child care centre

Comment: Based on the SEPP assessment earlier in this report it was concluded that the proposed child care centre is in an appropriate location.

Noise impacts from outdoor play areas on to neighbouring properties

Comment: Based on the SEPP assessment earlier in this report it was concluded that the noise impacts for the proposed child care centre can be appropriately managed, subject to conditions.

Large number of units have a sole aspect on to Princes Highway, which may impact on occupants well being

Comment: The layout of the proposed development as discussed throughout this report is deemed acceptable, however, there have been amendments to the western elevation to reduce the amount of glazing, thus reducing the heat load and improving the amenity of future residents in these units. In addition, the proposal must comply with the acoustic requirements of the Transport & Infrastructure SEPP to ensure an appropriate level of acoustic amenity is achieved for future occupants.

Operation of child care centre will impact on the Princes Highway / Lister Avenue intersection

Comment: The applicant prepared a traffic and parking assessment which in part investigated the performance of this intersection by way of the projected increase of traffic in peak periods as a result of the approved development. A widened driveway entrance has been provided to accommodate vehicle and truck movements. It was reviewed by Council as well as Transport for NSW and deemed to be acceptable.

Overlooking into indoor play area from neighbouring sites

Comment: Based on the SEPP assessment earlier in this report it was concluded that the overlooking into the indoor play area from neighbouring sites has been appropriately managed.

Child care centre does not contain a pick up and drop off area

Comment: Satisfactory pick and drop off spaces are located within the basement car parking area.

Non-compliant side and rear setbacks

Comment: These setbacks form part of the rear portion of the proposed building, which is consistent with the approved setbacks under DA-2019/312. On balance, they are considered acceptable.

What percentage will be affordable housing?

Comment: The proposed development has not been nominated by the applicant nor has been assessed under the affordable housing provisions of the Housing SEPP.

Site analysis does not include the current construction occurring to the neighbouring site at 602-606 Princes Highway

Comment: The site analysis has documented the neighbouring buildings that were located in situ at the time of lodgement. It is noted that at 602 Princes Highway it has erroneously marked a four storey brick residence, but that alone is not a satisfactory reason to not recommend refusal of this application.

Further to the above, the western elevation plan for the approved development at 602-606 Princes Highway has included the extent of the previously approved development (DA-2019/312) by way of its bulk and scale. As specified earlier in this report, the setbacks to the southern boundary remain

unchanged as part of this application.

Pocket park forming part of the public benefit that justifies the additional height is “nebulous at best”

Comment: The pocket park has been previously approved under DA-2019/312 in relation to providing public benefit, and this current application is simply retaining it (note - embellishment and maintenance of this publicly accessible pocket park are required by way of conditions).

Section 4.6 variation is poorly written

Comment: Based on the LEP assessment earlier in this report it was concluded that variation to the height is supported based on the assessment made in the Section 4.6 variation.

Non-compliant setbacks will create issues to the neighbouring site at 602-606 Princes Highway

Comment: These setbacks form part of the rear portion of the proposed building, which is consistent with the approved setbacks under DA-2019/312. Furthermore, the design of the northern elevation with no openings on the podium as well as limited openings on the tower provides a suitable response. On balance, they are considered acceptable.

S4.15(1)(e) - Public interest

The proposal has been assessed against the relevant planning policies applying to the site having regard to the objectives of the controls. As demonstrated in the assessment of the development application, the proposal will allow the development of the site in accordance with its environmental capacity. The proposed building is one that will add architectural value to the existing streetscape. Furthermore, the proposal does not create unreasonable impacts on surrounding properties. As such it is considered that the development application is in the public interest.

OTHER MATTERS

The Development Application was referred to Council's internal and external departments for comment. Appropriate conditions have been recommended to address the relevant issues raised. The following table is a brief summary of the comments raised by each referral department.

Referral Agency	Response Date	Comments
<i>External Referrals</i>		
Water NSW	13 July 2023	General Terms of Approval
Transport for NSW	31 May 2024	Concurrence
NSW Police	3 August 2023	Conditions
Sydney Airport	8 May 2024	Conditions
Ausgrid	25 July 2023	Conditions
Sydney Water	10 July 2023	Conditions
<i>Internal Referrals</i>		
Design Review Panel	6 July 2023 7 May 2024	Comments
Development Engineer	30 May 2024	Conditions
Environmental Scientist	21 July 2023	Conditions
Section 7.11 Contributions	14 May 2024	Conditions
Waste	19 May 2023	Conditions
Environment and Health Officer	5 September 2023	Conditions

Referral Agency	Response Date	Comments
Trees Officer	10 July 2023	Conditions
Landscaping	20 May 2024	Conditions

Section 7.11 Contributions

The provisions contained in Council's Section 94 Contributions Plan apply to developments involving the construction of additional residential development that creates further demand to improve or upgrade existing facilities, amenities or services.

A total of **\$723,621.25** has been calculated. This payment will be imposed as a condition in the attached schedule.

CONCLUSION

In accordance with Clause 3 of Schedule 4A of the Environmental Planning and Assessment Act 1979, the Application is referred to the Sydney East Central Planning Panel for determination.

The proposed development is permissible in the MU1 Mixed Use Zone. The applicant has submitted a Clause 4.6 Exception to the maximum Building Height standard of 31 metres.

The proposal has been assessed in accordance with Section 4.15 of the *Environmental Planning and Assessment Act 1979*.

On balance, the proposed development in its current form should be appropriate for the site and it is recommended that the Panel approve DA-2023/106 for the reasons outlined in this report.

The reasons for this recommendation are:

- The proposed variation to the Height of Building has been assessed in accordance with Section 4.6 of Bayside Local Environmental Plan 2021 and is considered acceptable.
- The development, subject to conditions, is consistent with the objectives of the MU1 Mixed Use zone and the relevant objectives of Bayside Local Environmental Plan 2021.
- The development, subject to conditions, is consistent with the Design Excellence provisions under Section 6.10 of the Bayside Local Environmental Plan 2021.
- The proposed child care centre on balance is considered to be appropriately designed and located in compliance with the relevant provisions of the Transport and Infrastructure SEPP and with minimal impacts to surrounding properties.
- The proposal is an appropriate response to the streetscape and topography and will not result in any significant impact on the environment or the amenity of nearby residents, and furthermore is consistent with the Desired Future Character as per Chapter 7.2 (Rockdale Town Centre) of the Bayside DCP 2022.
- The proposal will not result in any significant impact on the environment or the amenity of nearby residents.
- The issues raised by objectors have been considered and where appropriate, addressed via amendments to plans or conditions of consent.

- Recommended conditions of consent appropriately mitigate and manage potential environmental impacts of the proposal.