

JRPP No.	2009SYE021
Property	20 Levey Street, Wolli Creek
Subject	Staged Development (Masterplan) to upgrade and extend the existing hotel and erect a new part 7 and part 16 storey residential development with a private shareway, landscaping and associated car parking
File Number	DA-2010/237
Owner	Rockdale Hotel Pty Ltd
Applicant	Rockdale Hotel Pty Ltd T/A Mercure Hotel
Location	Western side of Marsh Street Wolli Creek at the northern end of the city, bounded by Levey Street to the west and Cahill Park to the north
Date of Receipt	14 December 2009
Previous Report	Nil
Report by	Rockdale City Council
Plans Reference	Plans prepared by Batessmart for the Winten Property Group titled Stage 1 – Masterplan Design Report dated November 2009 and received by Council on 14 December 2009; as amended by:  Plans prepared by Batessmart for the Winten Property Group titled Site and Roof Plan, sheets numbered 00, 001, 01 to 04, 05-06, 07-08, 09 to 11 and elevations, dated March 2010 and received by Council on 8 March 2010.

## EXECUTIVE SUMMARY

The proposal seeks to extend the existing hotel and refurbish the existing hotel building whilst including a new residential development on the northern part of the site which includes a seven storey and sixteen storey tower. The proposal will assist in improving the funding for the existing hotel and enable it to continue operation for some time. The proposal will result in an additional total of 160 new hotel rooms, a new lobby for the hotel, improved pedestrian and vehicular access on the site, a new residential complex with 159 units, future construction of the extension to Gertrude Street and car parking for 235 cars for the hotel and 205 spaces for the residential units in both a basement level and upper level car parking areas.

The proposal has been assessed against the provisions of Section 79C of the Environmental Planning and Assessment Act, 1979, Rockdale LEP 2000, Development Control Plan No. 62 – Wolli Creek and the Residential Flat Code pursuant to State Environmental Planning Policy (SEPP) No. 65 – Quality of Residential Flat Developments. The proposal will increase the floor space on the site with a total floor space ratio (FSR) of 2.5:1 which complies with the maximum permitted on the site of 2.85:1. The proposal will vary the current height controls of 7 storeys for the site to 16 storeys under the Rockdale LEP 2000 and DCP 62 – Wolli Creek. While the an objection under State Environmental Planning Policy No. 1 (SEPP 1) - Application of Development Standards, has been submitted with the application, Council has sought to amend the DCP to permit the current proposal given the property is a landmark site and can be redeveloped in a manner in keeping with the future desired character of the area.

As stated in this report, the proposal provides a positive design solution for the development and is considered to be consistent with the objectives of the height control and DCP 62. In this regard, it is considered that the proposed development is suitable for the site.

On 4 February 2010 the application was referred to the Design Review Panel who recommended approval of the application subject to investigating an improved central courtyard and drop off area in the middle of the site. This can be addressed through the imposition of a condition of development consent.

Adjoining owners were notified of the proposed modification in accordance with Council's Development Control Plan No. 50 (DCP 50) and three letters of objection was received by Council. The main reasons for objecting are the height of the building, traffic and parking, extension to Gertrude Street and increased noise. All of these issues have been addressed in this report.

Accordingly, the proposed development has been assessed on its merits and the application is recommended for approval as a masterplan subject to the recommended conditions of development consent.

## **BACKGROUND**

On 10 November 2009 Council issued a pre development application letter in relation to a draft proposed Masterplan for the hotel development on the subject site. The plan closely resembles the current Masterplan for this development application the subject. The letter detailed the information required to be submitted as well as non compliances, the latter of which included submission of a SEPP 1 in relation to the height variation of the tower building.

The current application includes the required information namely the SEPP 1 objection and has been designed with regard to the advice in the pre development application letter. The application has also been amended to include a general design consistent with the anticipated extension to Gertrude Street.

On 3 February 2010 Council resolved to amend Development Control Plan No. 62 which applies to Wolli Creek. The amendments sought to increase the height controls applying to the subject site and remove the specific footprint controls within the DCP given they bear no resemblance to the existing buildings on the site.

Recent development approvals include general advertising signage on 24 August 2009 (DA-2010/21) and 05 February 2004 (DA-2004/697) in respect to the hotel on the site.

## **TIMELINE**

14/12/09 - Lodgement  
23/12/09 - 11/02/10 Notification period  
31/01/10 – Additional information requested from applicant  
29/01/10 – Sydney Regional Development Advisory Committee meeting (RTA - Regional)  
04/02/10 - Design Review Panel meeting  
11/02/10 – Rockdale Traffic Development Advisory Committee meeting (Local)  
17/02/10 – JRPP Briefing meeting in PAC Office  
18/02/10 – Response from NSW Office of Water received  
19/02/10 – Response from RTA received requesting additional information from applicant  
08/03/10 – Amended plans received from the applicant  
25/03/10 – Revised RTA response received by Council  
01/04/10 – Response from Sydney Airport Corporation Limited (SACL)  
13/05/10 – Joint Regional Planning Panel meeting

## PROPOSAL

The current development application involves a Masterplan for the entire hotel site comprising an extension to the existing Mercure Hotel and new residential component at 20 Levey Street, WOLLI CREEK NSW 2205. The features of the proposal include:

- a) Refurbishment of the existing Mercure Hotel on the site including an additional 20 rooms on the top floor;
- b) Demolish and remove the existing car parking area around the hotel and construct a part 3 / part 7 storey building to the west of the site being an extension of the existing hotel over a basement car parking level comprising approximately 140 rooms, functions rooms and retail areas;
- c) Construct a new entry/lobby area between the two hotel buildings; and
- d) Demolish and remove the existing tennis courts and ancillary building and construct a seven (7) storey residential building in the northern corner and a sixteen (16) storey residential building in the north eastern corner both with lower car parking levels over a basement parking level. The residential buildings will contain 159 apartments and a private share-way to the north abutting Cahill Park. Car parking will include 235 spaces for the hotel and 205 spaces for the residential apartments.

## EXISTING AND SURROUNDING DEVELOPMENT

The subject site comprises a total of nineteen (19) lots which contain the existing Mercure Hotel being an 11 storey building, a tennis court, swimming pool, open car park and includes two small residential lots fronting Marsh Street at Nos. 34 and 36 which are vacant and contain a single storey dwelling house respectively.

The site the subject of the DA has a total area of 14,253.7m<sup>2</sup> which comprises 12,647m<sup>2</sup> of land known as Site 16 within the DCP 62 - Wollie Creek and 1,606.7m<sup>2</sup> of land proposed for the future extension to Gertrude Street. The site is an irregular shape almost a rectangle and is relatively flat with changes in levels of between 0.2m and 0.3m along each frontage.

To the north of the site is the eastern end of Cahill Park with and on the opposite side of Rockwell Avenue is the Rowing Club. The site has substantial views (180 degrees) out to the north over the Cooks River. To the east the site fronts Marsh Street and has views out over the golf course which was previously the Cooks Cove Redevelopment Site. An approval still applies to this adjoining site to the east.

To the south the subject site currently adjoins residential properties which are proposed to be redeveloped. However, the southern part of the site will form the extension to Gertrude Street and therefore will have a substantive separation from the residential properties to the south. The future redevelopment to the south will comprise between 6 and 9 storeys.

The subject site fronts Levey Street to the west and is opposite tennis courts in Cahill Park, and to the south Gertrude Street and an existing six storey hotel on the corner of the two streets.

While the proposal varies from the DCP in respect to the height of the tower the proposal involves a landmark site that is capable of supporting the scheme and the proposal is not considered an over-development in that it complies with the maximum permissible floor space ratio applying to the site.

## REFERRALS

## **External**

The application was referred to the following external government agencies / bodies and comments / concurrence were received by Council for each. In this regard, the application was considered acceptable by each agency subject to the imposition of recommended conditions of development consent (which included advisory conditions):

- a) Roads and Traffic Authority
- b) Sydney Airports Corporation Limited
- c) NSW Police
- d) NSW Office of Water

## **Internal**

### ***Traffic Development Advisory Committee (TDAC)***

The application was referred to the TDAC for comment and considered on 11 February 2010. The following comments were received from the committee:

- 1 That the proposed northern access laneway to Marsh Street (one way street) be closed off to vehicular traffic to enhance safety.
- 2 That Council verify that Innesdale Road will be closed off at the completion of the proposed Gertrude Street extension.
- 3 That the width of the Gertrude Street extension near this site be the same as the width of the other section of the Gertrude Street extension between Princes Highway and Arncliffe Street.

### ***Comment:***

The proposed private shareway along the northern edge of the subject site may result in an undesirable impact being considered as a public road and be prone to high parking rates due to the proximity of the airport. Further, it connects with Marsh Street directly adjacent to the cycle crossing associated with the "Bay to Bay" cycle route. While it is one way, it may also lead to traffic conflict as this is not adequate disincentive to prevent access from Marsh Street. In this case, queuing would also lead to conflict in the event of a vehicle seeking unauthorised entry having to wait for a vehicle to exit. For these reasons, it is considered that the private shareway be closed off to vehicular traffic. This is addressed through the imposition of a condition of development consent.

In relation to the closure of Innesdale Road, it has been established that traffic flows on this road may be reduced as a result of the extension to Gertrude Street and the latter becoming the main connecting road between Marsh Street and the Princes Highway. This is to be followed up in a formal report to be prepared by Council for consideration of the Rockdale TDAC at a later date.

The conditions of development consent to be imposed in the current application require a minimum width of the Gertrude Street extension to be 23m. This is largely consistent with the width of the other section of Gertrude Street between Princes Highway and Arncliffe Street.

### ***Council's Development Engineer***

The application was referred to Council's Development Engineer who raised no objections to the proposal subject to the previous discussions with the RTDAC and to the imposition of additional conditions of development consent. These conditions related to the traffic modelling required to be submitted (as per the RTA), public works to be undertaken within

Gertrude Street, traffic and parking, stormwater management, flood management and groundwater management.

### ***Urban Strategy and Design***

The application was referred to Council's Urban Strategy and Design section who advised that they raise no objections to the proposal subject to several issues which could be addressed through the imposition of conditions of development consent. Such conditions included the staging of development, central area of the site being improved, ground and first floor levels of the residential building adjacent to the park being modulated and the development containing a specific housing mix.

### ***Council's Building Surveyor***

The application was referred to Council's Building Surveyor for comment. However, given the application comprises a Masterplan with no specific building details an examination of development in respect to the Building Code of Australia could not be made. This would be undertaken within each subsequent development application for the later stages of the development.

### ***Council's Environmental Health Surveyor***

The application was referred to Council's Environmental Health Surveyor who raised no objections to the proposal subject to the imposition of recommended conditions of development consent.

### ***Council's Land Information Officer***

The application was referred to Council's Land Information Officer who raised no objections to the proposal subject to the imposition of a recommended condition of development consent.

### ***Council's Tree Preservation Officer***

The application was referred to Council's Tree Preservation Officer who raised no objections to the proposal subject to the imposition of recommended conditions of development consent.

### ***Council's Landscape Architect***

The application was referred to Council's Landscape Architect who raised no objections to the proposal subject to specific changes being made and the imposition of recommended conditions of development consent. Such changes and conditions included deletion of the vehicular access along the private shareway, support for the landscape strategy with exception to the street trees being changed and submission of a more detailed Landscape Plan in accordance with DCP 71.

## **PLANNING CONSIDERATION**

### **Provisions of Environmental Planning Instruments (S.79C(1)(a)(i))**

### **Environmental Planning and Assessment Act 1979**

The proposed development is classified as 'Integrated Development' under Section 91 of the Environmental Planning & Assessment Act (EP&A Act) due to the need to excavate for the basement level and therefore, breach the water table and require dewatering of the site. Accordingly, the application was referred to the NSW Office of Water on 17 December 2009, seeking concurrence to the proposed development and General Terms of Approval (GTA's).

If consent is granted, conditions will be imposed to require the applicant to obtain a permit under Part 3 of the Water Management Act 2000 and to comply with all other requirements of the NSW Office of Water.

#### *Staged Development*

The applicant has requested that the current proposal includes a Masterplan which will involve a staged development. Pursuant to section 83B of the Act, Council is not to authorise the development unless consent is subsequently granted to carry out the development on that part of the site the subject of a further development application. This has been addressed through the imposition of a condition of development consent. Accordingly, a second development application that relates to the current proposal is required to be submitted prior to commencement of any building works. In this regard, the proposal complies with the above requirement.

Pursuant to section 95(2) of the EPA Act 1979 (as amended) where a staged development granted by Council requires a subsequent development application and consent a reduction in the period of the consent to less than 5 years does not apply. Accordingly, should Council support the current proposal the recommendation will include granting of consent for the proposed development for a minimum period of 5 years.

#### ***State Environmental Planning Policy (Major Projects) 2005***

The proposed development will have a total capital investment value of approximately \$48,629,327 and therefore is identified as a Major Project under clause 13B of the SEPP. Accordingly, the application has been assessed and referred to the Joint Regional Planning Panel for determination pursuant to clause 13G of the SEPP.

#### ***SEPP 55 – Remediation of Land***

Council's records indicate that the subject site has been identified as potential contaminated. As such, consideration must be given to the provisions of State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55). Under Clause 7 of the SEPP, Council must not consent to a development application unless it has considered whether the subject land is contaminated. To do this, Council must be furnished with a report specifying the findings of a preliminary investigation of the land. If this preliminary report identifies any form of contamination, Council must be satisfied that the land will be suitable for the proposed development (either with, or without remediation). If remediation is required, Council must then be satisfied that remediation of the site will take place prior to construction commencing.

The application is accompanied by an Environmental Site Screening prepared by Environmental Investigation Services (EIS) Pty Ltd dated December 2009 reference number E17427Krpt3. This report details a search of contaminated land on the site and presents the results of preliminary site investigations. These investigations revealed that that part of the site sampled did not find elevated levels of any contaminants and the results from the examination of the samples were less than the appropriate Health Investigation Levels for "commercial/industrial" land uses.

Notwithstanding this, Council's Environmental Health Officer has reviewed the Environmental Site Screening report and is satisfied that the site can be remediated and be made suitable for the proposed use, provided a Site Remedial Action Plan is submitted and the recommendations identified in Section 12.5 of the report are adhered to. In this regard, appropriate measures to address site remediation and compliance with these requirements can be addressed through the imposition of a condition of development consent.

On the basis of the above, Council can be satisfied that it has fulfilled its statutory obligations under SEPP 55, in relation to this application.

### **State Environmental Planning Policy - Building Sustainability Index (BASIX)**

The applicant has indicated that individual BASIX Certificates will be submitted with each subsequent stage for the proposed development. The application is considered acceptable in this regard and a condition of development consent will be imposed on the subsequent development applications to ensure that the requirements under the SEPP are adhered to.

### ***State Environmental Planning Policy No 65 – Design Quality of Residential Flat Buildings***

The application was referred to the Design Review Panel on 4 February 2010. The Panel supported the Masterplan in its current form. The Panel recommended that the applicant should investigate alternative approaches to the design of the courtyard and drop-off area. While there are benefits to the sharing of the space between residents and the hotel, the geometry of the rear façade of the residential is an unrelieved straight line leading out to the main road. A greater sense of containment could be an improvement. Notwithstanding this the DRP was supportive of the design and agreed that it contained significant merit in respect to the design of the residential component of the development.

The applicant was advised of the DRP recommendations and agreed to the imposition of conditions of development consent in this regard and amended the plan to include the dedication of land to the RTA in the north eastern corner of the site. The plans now address the above concerns and subject to the imposition of conditions of development consent the proposal is considered acceptable in respect to SEPP 65.

### ***State Environmental Planning Policy (Infrastructure) 2007***

The proposed development has been identified within Schedule 3 of SEPP (Infrastructure) 2007 as it will contain more than 75 dwellings.

Clause 102 of the SEPP requires the consent authority to consider the guidelines issued by the Director General and ensure that the LAeq level of 35dB(A) is not exceeded in any bedroom or 40dB(A) anywhere else in the building. The current application involves a masterplan and as such, details in respect to the above have not been submitted with the current application but rather will be submitted with the subsequent applications/stages. This can be addressed through the imposition of a condition of development consent.

In accordance with Clause 104(3) of State Environmental Planning Policy (Infrastructure) 2007, before determining a development application for development to which this clause applies, the consent authority must give written notice to the RTA and take into consideration any response from them. The RTA was notified of the proposal and comments received by Council. The RTA comments have been noted and incorporated into the proposed conditions of development consent. In this regard, the requirements of the RTA have been satisfied in respect to the scheme.

For the reasons outlined above, the proposed development is considered to meet the requirements of SEPP (Infrastructure) 2007.

### ***State Environmental Planning Policy No. 1 – Development Standards***

The aim of the policy is to allow for flexibility in the application of development standards contained in Environmental Planning Instruments, in circumstances where strict compliance with those standards would, in any circumstances, be unreasonable and unnecessary, or tend to hinder the attainment of the objects specified in Section 5(a)(i) & (ii) of the Act.

Clause 55D(2) of Rockdale LEP 2000 sets a maximum height of 7 storeys for the site. The proposed development has a maximum height of 16 storeys and does not comply with this maximum height requirement for the site. Accordingly, the applicant seeks a variation to this requirement. The applicant's case for a variation to this development standard is supported by an objection under State Environmental Planning Policy No. 1 – Development Standards (SEPP 1).

There are three (3) main elements that must be satisfied before a consent authority can grant consent pursuant to a SEPP 1 Objection. Firstly, it must be demonstrated that the requirement is a development standard; secondly, it must be demonstrated that strict compliance with the development standard would be unreasonable or unnecessary in the circumstances of the case; and thirdly, that the granting of consent is consistent with the aims and objectives of SEPP 1.

In relation to the first element, Council can be satisfied that the height control at clause 55D(2) of the LEP falls within the parameters of a 'development standard' as defined at Section 4(1) of the Environmental Planning and Assessment Act 1979.

In support of the second element, the SEPP 1 objection submitted by the applicant puts forward the following reasons as to why they believe that strict compliance with the development standard would be unreasonable or unnecessary in the circumstances of the case:

- The proposal complies with the FSR for the development site as detailed in the Masterplan.
- The proposal responds to the context of adjoining development and seeks to represent as a transitional built form down from the larger scale mixed use development to the east and proposed form to the west down to the lower scale built form to the immediate south. In doing so, the tower element accommodates much of the building bulk and scale and represents a suitable built form for the landmark site.
- As part of the total development, the proposed FSR is well within the acceptable limits of development envisaged by the planning controls and relevant objectives, is consistent and compatible with surrounding development and expected future development under the current controls and those that may emerge as part of Destinations Rockdale.
- The applicant has indicated how the proposal is consistent with the following objectives identified under Clause 53 of the Rockdale LEP 2000:

- (d) to allow new buildings only if they will achieve a high standard of urban design, and
- (e) to require residential development to include an area of useable open space within the land for the benefit of the occupants, and
- (h) to promote optimum development while minimising adverse environmental impacts by facilitating the efficient use of and access to the Wolli Creek railway station and transport interchange and by controlling the amount of car parking within any development, and
- (i) to provide for adequate vehicular and pedestrian circulation and access and to ensure streetscapes are of a high visual standard, and
- (j) to ensure that future development will meet environmental requirements relating to flood prone land, stormwater management, waste management, noise and vibration, air and water quality and energy efficiency, and
- (n) to provide for the long term traffic access and circulation needs of the Wolli Creek area by limiting access and controlling development on land which will be required for new roads or the widening of existing roads.



- The applicant has indicated how the proposal is consistent with the following objectives identified under Clause 2.3.3 of Council's DCP 62 applying to the Wolli Creek area:
  - a) Ensure new development achieves good urban design outcomes by defining the urban design principles and urban form for the area;
  - b) Ensure the amenity of residents is enhanced by maximising attractive outlooks and views from dwellings and maximising solar access to dwellings;
  - c) Ensure a high standard and quality of housing through the design of buildings, public domain elements and utilities;
  - d) Change the character of the area from a degraded industrial environment to a high quality residential and commercial precinct;
  - e) Encourage developments to have active frontages to streets to increase security and passive surveillance for the safety of pedestrians and property;
- The additional height also allows redevelopment of the site incorporating the existing hotel to be feasible under a DCP which prescribes a built form with the hotel removed.
- The design will incorporate a high quality urban design solution and residential amenity consistent with the requirements of the relevant SEPPs, LEP and DCP.
- The variation does not raise any adverse issues or matters of significance for state or regional environmental planning. (I.e. consistent with clause 8 of SEPP 1).
- The adopted built form under the LEP and DCP 62 in respect to height is unworkable as it assumes the demolition of the existing 11 storey hotel and completely new perimeter development. With retention of the existing hotel further development as 6 or 7 storeys in the corner adjacent to it is not appropriate in urban design terms nor economically feasible.
- The proposed tower is only 9.25m higher than the existing hotel on the site and lower than the towers in other parts of the Wolli Creek precinct.
- The site is a landmark site being an important parcel on the eastern edge of the Wolli Creek Precinct. The area is undergoing major change and the site is under utilised.
- The public will receive a greater public benefit by the height exceedence in that the proposal allows for mixed use redevelopment with high quality housing and expansion of the existing hotel. If not supported, the upgrading of the site and existing hotel would be lost. Further, the development provides the Gertrude Street extension which is a required infrastructure item for the precinct generally.

The above reasons are considered satisfactory and should be supported. The proposed departure from the development standard is considered minor when considered in conjunction with the Masterplan for the site and surrounding locality.

With respect to the third element, the objective of SEPP 1, as set out in Clause 3 of the SEPP is as follows:

*"This policy provides flexibility in the application of planning controls operating by virtue of development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the Act."*

It has been argued above that strict compliance with the development standard is unreasonable and unnecessary in the circumstances of the case. In terms of whether or not strict compliance with the development standard tends to hinder the attainment of the objects of the EP& A Act 1979, the relevant objects are to 'encourage the promotion and coordination of the orderly and economic use and development of land' and to encourage 'ecologically sustainable development'.

In addition, the proposed development represents a high quality orderly and economic use and development of the subject land that will achieve an ecologically sustainable and appropriate development of the site, without compromising the potential to development adjacent lands. As such, the proposed development is considered to be consistent with the aims and objectives of SEPP 1.

Having regard to the above, it is considered that the SEPP 1 objection is well founded and it is recommended that a variation to the height requirement for the site above 7 storeys be supported in the circumstances of the case.

### ***Rockdale Local Environmental Plan (LEP) 2000***

The subject site is zoned Mixed Use 10(a) with a portion in the south west corner zoned 7(d) Local Road Reservation and a very small portion in the north eastern corner zoned 7(c) Transport Reservation under the provisions of the Rockdale LEP 2000. The proposed development is defined as a "hotel" and "mixed use premises" which are both permissible with Council consent in the Mixed Use 10(a) zone. The land zoned 7(d) Local Road Reservation is in readiness to the Gertrude Street extension while the 7(c) Transport Reservation is in readiness of the F6 corridor. The proposed development is limited to that part of the site zoned Mixed Use 10(a) and makes provision for the reservations on the site. Accordingly, the proposed development is permissible within the mixed use zone with Council consent and the proposal complies with the objectives of the relevant zones and is acceptable in this regard.

The proposal complies with the requirements of the Rockdale LEP and has been conditioned where relevant in the following regards:

Clause 15 – Trees  
Clause 18 – Noise and Vibration  
Clause 20 – Development on Flood Prone Lane  
Clause 21 – Excavation  
Clause 23 – Ecologically Sustainable Development  
Clause 25 - Hotel and Motel Development  
Clause 52 – Reservations  
Clause 55B – Mixed Use Zone

The proposal does not comply with the requirements of Clause 55D (2) in relation to the maximum building height of 7 storeys as identified under DCP 62. However, this has been addressed previously in this report (refer to the previous section).

Accordingly, the proposal is considered acceptable in respect to the provisions of the Rockdale LEP 2000.

### **Environmental Planning and Assessment Model Provisions 1980 (as adopted by clause 10 of Rockdale Local Environmental Plan 2000)**

The proposal will contain a maximum of 16 storeys which is not dissimilar to other tall buildings in the area including development in Arncliffe Street Wolli Creek to the west and airport buildings to the east. The applicant also contends the development is not unlike the approved (but not built) Cooks Cove site on the opposite side of Marsh Street. The upper levels will be visible from the foreshore of the Cooks River, Cahill Park and the entire tower itself will be visible from Marsh Street. Despite the number of storeys, the development would be obscured by the existing Mercure Hotel development as well as other high rise mixed use developments within the Wolli Creek precinct. The development will be lower than the proposed Cooks Cove redevelopment site on the opposite side of Marsh Street to the east. The proposal will be visible but largely due to the prominence of the site. The site is a landmark property which marks the northern boundary of the site. In this regard, the proposal

is not considered likely to result in any visual detrimental impacts given Cahill Park will be retained with its existing trees and natural setting. It is considered that the appearance of the proposed development is not likely to result in any significant adverse impact on the waterway or existing streetscape along Marsh Street.

The proposed development will be visible from Marsh Street and is considered to provide an appropriate streetscape response due to the increased facade articulation and modulation that will be proposed in the subsequent stages. The applicant is required to pay particular regard to the external appearance and design of the development, in order to achieve the final scheme for the site. As such, the proposal is not inappropriate in scale in relation to the street. Accordingly, the proposal is considered acceptable and generally satisfies the requirements of this clause.

Pursuant to the remaining clauses of the adopted model provisions of RLEP 2000, the proposal is considered acceptable in respect to parking, access and loading based upon the architectural plans and traffic and parking report submitted with the application. In this regard, the proposal is considered acceptable in respect to the Model Provisions.

#### **Provisions of any Draft Environmental Planning Instruments (S.79C(1)(a)(ii))**

There are no draft environmental planning instruments to be considered relevant to the current proposal.

#### **Provisions of Development Control Plans (S.79C(1)(a)(iii))**

##### ***Development Control Plan No 62 – Wolli Creek***

The proposal has been assessed against the applicable provisions of DCP 62, as summarised in the Compliance Table at the end of this report. The applicant has provided the following arguments in justification of the following non-compliances:

##### ***Height and Footprint***

As indicated, the current proposal seeks to vary the height and footprint controls under Council's DCP 62. As Council is currently undertaking a review of the controls applying to the site under the Comprehensive LEP for the Rockdale Local Government Area, the current proposal is not considered to be an unreasonable solution for the site. Indeed, the current proposal is the result of numerous meetings with Council held over the last two years. As indicated, Council's Urban Strategy and Design Section have reviewed the application and comments raised have been addressed by the applicant in the revised scheme.

The applicant has justified the height and scale of the proposal while the footprint will provide an improved internal aspect and amenity for the proposed residential units. The subject site is located in a precinct which is undergoing transition with infill redevelopments of considerably greater storeys and larger scale. These include the mixed use development to the west in Arncliffe Street Wolli Creek and the airport buildings to the east. In addition, the proposed setbacks and FSR comply with Council's requirements.

##### ***Building Separation***

The proposed development will contain a 10m gap between buildings B and C adjacent to the Levey Street frontage and between building C2 and C3 above the third level at the northern boundary to the site. The form will contain a driveway on the ground floor between the two buildings. While floor plates with no detailed floor layout has been given in the masterplan, it is considered that the scheme can be designed with appropriate levels of amenity within these two gaps given they relate to hotel rooms / residences along Levey Street and between

residential dwellings to the north. In this regard, the proposal is considered acceptable and a more detailed assessment will be made of this matter in the subsequent development application stages.

### *Landscaping*

Council's DCP 62 requires a minimum provision of 15% deep soil landscaped area on the site. The proposal will contain 9.3% deep soil area while it will contain over 15% of general landscaped elements across the site. Further, the scheme will contain podium levels with sufficient soil depth as to allow planting of larger species. In considering the amount of land dedicated to the Gertrude Street extension and the extent of landscaping works to be provided on the site, the variation to the landscaping control is not considered to be significant whilst the proposal will satisfy the objectives of the control. Accordingly, the proposal is considered acceptable in respect to landscaping.

The remaining elements of the proposal comply with the requirements of Councils' DCP 62. Accordingly, the proposal is considered acceptable in respect to Council's DCP 62.

### **Residential Flat Design Code**

The Residential Flat Design Code is a publication by the State Government which further expands on the 10 design quality principles by providing some detailed practical guidance for the design of residential flat buildings. The proposed development performed quite well in respect to the issues contained within the Residential Flat Design Code, such as balcony design and dimensions, spatial arrangement, cross flow ventilation, solar access to the proposed units and overall energy efficiency.

Some issues were raised with the proposal concerning the absence of deep soil landscaping in the proposal. It should also be noted that the Code recommends a minimum 25% of the open space area on the site being available for deep soil planting. While the proposal covers most of the site it contains small separated areas for landscaping portions throughout the site and area for deep soil planting adjacent to the northern and eastern side boundaries. Despite this the proposal will contain 9.3% deep soil planting and does not comply with the requirement.

It is important to acknowledge the urban context and that the existing hotel building and hard paved areas cover the entire site. In addition, the site borders a public park to the north and northwest. While additional landscaping is desirable, it is considered that the proposal is not unreasonable in respect to landscaping particularly given the land to be dedicated to the extension to Gertrude Street if so considered would mean the proposal complies with this requirement.

The proposal will include ground floor units that do not comply with the residential flat code requirement relating to the provision of an open space area, garden or terrace. In this instance, the terrace is limited to the small front / northern garden in which to place landscaping for each ground floor dwelling. Whilst small, this area is considered sufficient given the proximity of the public open space to the north, the communal open space areas provided on the site and that the dwellings back onto the ground floor car park within the same building.

As such, the proposal is considered to contain sufficient landscaping and open space areas and is considered acceptable in respect to the Residential Flat Code.

### **Development Control Plan No. 28 – Requirement for Access**

The proposed development can be designed to allow disabled access to and within the site. The proposed development therefore generally satisfies the requirements of Council's DCP No. 28. A condition is proposed requiring the proposal to satisfy the requirements of this DCP, which also includes compliance with the Disability Discrimination Act (DDA) 1992.

### **Development Control Plan No. 67 – Crime Prevention Through Environmental Design**

Consideration has been given to the requirements and objectives of DCP 67 in the assessment of this proposal. The application was referred to the NSW Police at the Kogarah Local Area Command and the crime prevention officer has provided comments and recommendations which are to be imposed as conditions of development consent where relevant. As such, the proposed development is considered to satisfy the objectives of DCP No. 67.

### **Development Control Plan No. 53 – Construction Site and Waste Management Plan**

The applicant will be submitting a waste management plan for construction in accordance with DCP No. 53 for each subsequent development application for the site.

### **Provisions of Regulations (S.79C(1)(a)(iv))**

Sections 92-94 of the Regulations outline the matters to be considered in the assessment of a development application. The only matter applicable to the proposed development concerns the demolition of the existing buildings/structures. The Regulations require this to take place in accordance with AS 2601:2001 - Demolition of Structures. This has been included as a condition of consent.

### **Impact of the Development (S.79C(1)(b))**

#### ***Natural Environment***

The proposal will involve the construction of new buildings within the existing car park areas on the site and is unlikely to have an adverse impact upon the natural environment.

#### ***Built Environment***

##### **Streetscape**

The proposal presents the buildings as separate elements from most vantage points with the tower building encapsulating a demarcation point for a prominent landmark site. In this regard, the extension to the existing hotel from Cahill Park with the tower building behind is considered to be compatible with the existing frontage to Marsh Street. Similarly, the proposal will have a significant but positive impact on the adjacent Cahill Park from which the tower element will be most visible.

The existing streetscape along Marsh Street contains a mixture of forms. However, the proposal is considered with the future desired character of the precinct and not unlike similar recent approvals along Marsh Street further to the south. In this regard, the proposal is not unreasonable in that it is an "anticipated" redevelopment that is consistent with DCP 62 and considered to respond well to its surroundings.

While the façade of the tower building will require modification to increase its articulation and incorporate various materials and finishes, this could be addressed by way of a condition of development consent. Accordingly, the proposal is considered acceptable in respect to its

streetscape outcomes.

### Bulk and Scale

The proposal is considered to be in keeping with the bulk and scale of nearby recently approved high rise mixed use developments in the precinct. The proposal complies with the maximum permitted floor space ratio for the site and is not unreasonable in respect to its context.

### Overshadowing

The proposed development will have a shadow impact on the existing streets surrounding the site, existing hotel on the subject site, the proposed extension to the existing hotel on the site and the residential properties within the street block immediately to the south. The proposal is not likely to result in any significant adverse impacts in respect to overshadowing over the residential development on the next street block to the south or Cahill Park to the north. The proposal will result in some shadows being cast to the south in the morning and east in the afternoons that may extend out over the existing properties and golf course on the other side of Marsh Street respectively. However, the likely shadows are not considered to be unreasonable given that the shadow will move over the site for a limited number of hours and given the nature of the use to the east. Furthermore, the golf course to the east is known as the Cooks Cove redevelopment and was earmarked to be redeveloped as a new commercial precinct with multi storey buildings of similar height to that proposed.

Accordingly, the shadows likely to be cast from the proposal are not likely to significantly adversely impact on the amenity of any adjacent residential properties. In this regard, the proposal generally complies with the requirements of Council's development control plans in respect to overshadowing.

While it is probable that the adjacent properties further to the south may one day be redeveloped for mixed use development and include residential units, those properties are so located a distance from the site that the current scheme is not likely to significantly affect them. Indeed, the subject site benefits from a unique position that lends itself to the current proposal. Accordingly, the proposed development is not considered unreasonable in respect to overshadowing.

### Privacy

The general location of the proposed units has been designed to retain adequate privacy between each and to those residential dwellings on adjoining properties. In this regard, there is adequate separation from the hotel and dwellings on adjoining/adjacent properties and the proposal is considered to be acceptable in respect to privacy.

### Traffic and Parking

This matter has been addressed elsewhere in this report. Please refer to the section headed Public Submissions.

### Communal / Private Open Space

It is noted that each individual unit within the development comprises balconies and has immediate access to the public open space areas to the north of the site namely, Cahill Park. The balconies would be located off the main proposed living areas and this will be considered in the subsequent development applications for each part of the site.

The development provides for a communal elevated Level 3 area, which incorporates planter boxes, terraced lawn areas, a pool, paved pathway access with associated deck areas.

The proposed open space provided on Level 3 is considered to provide an appropriate form of communal space to be utilised by residents of the development.

### ***Social Impact***

It is considered that the proposal will provide for a positive social impact within the Wolli Creek precinct, providing additional hotel floor space to be used for employment, as well as catering for residential demand within the locality. The development is considered to be compatible with the surrounding mixed use precinct and is considered to reflect the future desired character of the Wolli Creek area.

### ***Economic Impact***

The proposal seeks to provide additional floor space for the hotel and a residential development to the north of the site. The proposal is likely to generate employment during construction and subsequently in the growing operation of the hotel. In addition, it will assist in satisfying the growing need for housing in the area. As such, it is anticipated that the proposal will have a positive economic impact on the precinct.

### **Suitability of the Site (S.79C(1)(c))**

The site is considered to be suitable for the proposed development. It is located on the edge of an established residential neighbourhood and has the capacity to support the proposed additional density and built form. Having regard to the characteristics of the site and its location, the proposed extension to the hotel and residential development is considered appropriate in that:

- the site is zoned to accommodate this type and form of development;
- the nature and form of the proposed development is generally consistent with the development controls which apply to the site;
- the scale and nature of the development is compatible with anticipated future development in the locality;
- the size and dimensions of the land are suitable for the scale of the proposed development;
- the site will have access to all utility services to accommodate the demand generated by the proposed development;
- the proposed development will not result in any unreasonable adverse traffic impacts;
- parking has been provided in accordance with Council's DCP 62;
- the proposed development is not likely to result in any unacceptable environmental impacts in relation to the adjoining and surrounding properties, particularly in terms of overshadowing, views, privacy (aural and visual), solar access and natural ventilation.

The proposed development is not expected to result in any significant adverse environmental impacts and it is therefore considered that the site is suitable to accommodate the proposed development.

### **Public Submissions (S.79C(1)(d))**

The application was notified on 23 December 2009 in accordance with Council's Development Control Plan No 50 - Community Engagement in the Development Process. Three (3) submissions were received during the notification process from concerned residents.

The submissions raised the following issues as discussed below:

- *Development does not comply with the development planning of the area. Why plan if every application seeks a significant change?*

Comment: The proposal is considered to be consistent with the future desired character of the area as indicated in Council's Draft DCP 62 for the Wolli Creek precinct. The proposal generally complies with the requirements of Council's LEP and Draft DCP for the precinct apart from a minor variation to the height requirement. It includes a design that is considered to be suitable for the subject site being a prominent landmark site at the northernmost point in the city of Rockdale. There comes a time when plans are required to be amended to anticipate changes for the next ten year period. Now is such a time and Draft DCP 62 reflects this change.

- *Increased traffic; Traffic and Parking movements have not been addressed*

Comment: The Traffic and Parking Report submitted with the application prepared by Colston Budd Hunt & Kafes Pty Ltd dated November 2009 has been referred to Council's Development Engineer who has considered the potential impacts on the locality in respect to traffic and parking. In this regard, Council's Development Engineer found that the proposal complies with Council's on site car parking requirements and is acceptable in respect to vehicular access and traffic. While the proposal will increase the level of traffic within the precinct, it is capable of being accommodated in the surrounding street network and is not likely to reduce the free flow of traffic or the existing level of road safety.

Notwithstanding the above, further modelling will be carried out by the applicant during the subsequent stages of the development and the information submitted considered by both Council and the RTA. This can be addressed through the imposition of a condition of development consent.

- *Traffic implications following extension to Gertrude Street*

Comment: Consideration has been given to the possible traffic implications from the extension to Gertrude Street and sufficient width of the proposed extension has been included to prevent any adverse effect in this particular location. In respect to implications for other intersections in proximity to the site, this is to be the subject of another report to be submitted to the Traffic Development Advisory Committee at a later date.

- *Increased noise*

Comment: The proposed development will involve the extension to the hotel and new residential development in accordance with the zone and development controls applying to the site. In this regard, an increase in noise both throughout construction and subsequently is anticipated for the site. However, the anticipated level of noise to be generated is not considered to be unreasonable in that it represents only a small increase when compared with the current hotel operating on the site. Further, the noise is not unlike any that would be expected for a residential development within the surrounding locality. Furthermore, the proposal will include adequate noise mitigation measures and landscape planting to soften both the interior and exterior noise levels to and from the site.

The likely level of traffic noise to be generated from the site is not considered to be unreasonable given it will be primarily contained within the central courtyard and is softened by planting and landscaping elements around the site. Further, the amount of noise likely to be generated could be expected to represent a minor increase in noise in comparison with the



existing operation of the hotel. As such, the proposal is considered acceptable in respect to noise.

- *Increased height*

Comment: This has been addressed previously in this report.

### **Public Interest (S.79C(1)(e))**

The proposed development is generally in accordance with the relevant planning policies and controls for the area apart from the height of the corner tower building. In this regard, the proposed variation is consistent with the future desired character of the area and future planning controls for the site. The proposal will provide additional housing stock which is in close proximity to good public transport facilities and is not considered likely to adversely affect the amenity of the surrounding neighbourhood. The development has been designed in accordance with Council's current and future controls for the area and provides a high amenity of residential development.

The design of the proposal provides a responsive solution for the site in terms of its relationship to existing and future adjoining development and establishes an appropriate streetscape and human scale through sound urban design principles. Further, the proposal provides the community with a form of high quality housing that takes advantage of its proximity to local and regional facilities, public transport and open space areas. In addition, the proposal generally satisfies the objectives and intent of Council's DCP 62 – Wolli Creek.

Given the above, the proposed development is considered to be in the public interest.

### **CONCLUSION**

The proposal generally complies with the requirements in Council's policies and codes, and minimises impacts to adjacent properties, with the exception of the height and building footprint controls. The applicant has justified the variation to these controls and has demonstrated that the strict application of the controls would not be in the interests of the future occupants or achieve any significant better outcomes for the site. The applicant has demonstrated that it is unreasonable and unnecessary to comply with the height requirement in this case, and that the proposal meets the objects of the Environmental Planning and Assessment Act 1979. Additionally, the proposal will facilitate the retention and continued operation of a significant hotel on the site.

The design of the proposed development has been amended and represents a suitable scheme for the site that generally complies with Council's requirements and the future desired character of the area. The subject site is a prominent and highly visible landmark site. The Design Review Panel has indicated their support for the design given its improved amenity and use of space and refurbishment of the existing hotel. As such, the proposed development is recommended for approval subject to the proposed conditions of consent attached to this report.

## Appendix 1

Locality Plan and Aerial photograph of the subject site

Locality Plan



20 Levey Street Wool Creek

Aerial photograph  
of the subject site



20 Levey Street Wool Creek

## Appendix 2

Tables      - Rockdale LEP 2000  
                  - Rockdale DCP No. 62  
                  - Residential Flat Code

### Rockdale LEP 2000

Development Standard	RLEP 2000	Proposal	Complies
Height / Storeys Clause 55D(2)	6 and 7 storeys as per DCP	7 and 16 storeys	<b>No - SEPP 1 submitted to vary this control which can be considered</b>
Clause 55D (4) - (a) FSR (b) the ground floor of the building fronting Gertrude Street is to be used for non residential purposes only.	2.85:1 Non residential use only	2.5:1 The ground floor fronting Gertrude Street is hotel / commercial and complies with this requirement	Yes Yes

### Rockdale DCP No. 62

Development Standard	DCP 62	Proposal	Complies
Floor Space Ratio	2.85:1	2.5:1	Yes
Maximum Building Depth	15m residential excluding balconies 18m non residential	15m 18m	Yes Yes
Minimum Setbacks	3m to Gertrude Street 5m to Innesdale Road	3m to Gertrude St Not applicable	Yes
Minimum Building Separation	18m habitable rooms 13m habitable to non habitable rooms	10m 10m	<b>No – but acceptable given design of the building</b>
Maximum Building Height	4 and 6 storeys	7 and 16 storeys	<b>No - However acceptable given review of height controls (Refer to SEPP 1).</b>
Minimum and Maximum Floor to Ceiling Height	3.3m commercial;  2.7m habitable res floor space; 2.7m service areas and non habitable areas in res floors	3.3m slab to slab commercial 2.7m residential (3.0m slab to slab residential) 2.7m service areas & non habitable areas	Yes  Yes Yes Yes
Minimum Deep Soil	15% of total site area	9.3% deep soil	<b>No – acceptable given dedication to Gertrude St</b>
Building Footprint	Three rows of buildings	Alternate Two Rows arrangement	<b>No - Acceptable given review of controls and existing hotel</b>

## Residential Flat Code

Control	RFC Requirement	Proposal	Compliance
Test against FSR Number of storeys	2.85:1 Responds to future desired character of the area	2.5:1 The proposal does respond to the future desired character	Yes Yes
Building depth	Max 18m If > 18 demonstrate lighting and ventilation	18m	Yes
Setbacks	Relate to setbacks in the street	Relate to site and surrounds and complies with DCP	Yes
<b>Deep soil zone</b>	<b>Min 25% of site</b>	<b>9.3%</b>	<b>No</b>
Communal Open Space	Min 25% to 30% of site else must show increased private open space	Communal open space provided on level 3 of building c	Details to be provided in separate DAs
Private Open Space at ground level	Min 25m <sup>2</sup> & min dimension of 4m	N/A	N/A and Park adjacent to site
Crime / Security	Carry out risk assessment for more than 20 dwellings	Risk assessment acceptable Proposal is acceptable	Yes
Access requirement	AS 1428	Can comply	Yes
Driveway width	max 6m	Can comply	Yes
Safe access	Separated pedestrian and vehicular entries	Separated pedestrian and vehicular entry points	Yes
Building configuration	Single aspect units limited to depth of 8m from a window	Can comply	Details to be provided in separate DAs
	Width of cross over unit over 15m deep should be min 4m	N/A	N/A
Min dwelling sizes	1 bed unit - 50m <sup>2</sup> 2 bed unit – 70m <sup>2</sup> 3 bed unit – 95m <sup>2</sup>	Can comply	Details to be submitted in separated DAs
Pedestrian Access	When units off a double loaded corridor, max number of units from a single core/corridor is limited to 8	<8	Yes
Balcony	Min primary balcony width 2m	All min 3m deep	Yes
Floor to ceiling height	Mixed use – 3.3m Res - Min 2.7m Non habitable FS – 2.4m	Residential 2.7m	Yes
<b>Design</b>	Optimise ground floor apartments	Can comply	Yes
	<b>Provide ground floor apartments with private open space, terrace or garden.</b>	<b>Ground floor apartments have a small private front garden but no rear garden</b>	<b>No – acceptable given garden and proximity to park</b>
Storage areas	Min: 1 bed/studio - 6m <sup>3</sup> ; 2 bed - 8m <sup>3</sup> and 3+ bed - 10m <sup>3</sup>	Can comply	Subsequent stage DAs
Solar access	Living rooms/private open spaces to at least 70% of dwellings to receive min 3 hours direct sun light between 9 am - 3 pm mid winter	Minimum of 70% of dwellings achieve solar access	Details to be submitted in separated DAs
Southerly aspect	dwellings limited to 10% of total units proposed	No single aspect units face south only	Yes
cross ventilated	Sixty 60% of units to be naturally cross ventilated	Can comply – 70% of units achieve cross flow	Details to be submitted in separated DAs
access to natural ventilation	25% of kitchens within a development to have	Can comply	Details to be submitted in separated DAs

## **Appendix 3**

### Conditions of Development Consent

## **Appendix 4**

Plans of the proposed development

# DRAFT

## NOTICE OF APPROVAL FOR DEVELOPMENT

Section 81 (1)(A) of the Environmental Planning and Assessment Act, 1979

---

Approval Date	
Authority	Joint Regional Planning Panel
Reference	DA-2010/237
Contact	Michael Maloof 9562 1686

---

Rockdale Hotel Pty Ltd  
PO BOX 55  
CAMMERAY NSW 2062

**Property:** 20 Levey Street, WOLLI CREEK NSW 2205  
Lot 20 DP 4464, Lot 21 DP 663384, Lot 22 DP 4464, Lot 23 DP 4464,  
Lot 24 DP 4464, Lot 31 DP 4464, Lot 1 DP 128345, Lot 34 DP 4464, Lot  
A DP 364528, Lot B DP 364528, Lot 12 DP 4335, Lot A DP 407254, Lot  
B DP 407254, Lot 6 DP 6824, Lot 1 ...

**Proposal:** Staged Development (Masterplan) to upgrade and extend the existing  
hotel and erect a new part 7 and part 16 storey residential development  
with a private shareway, landscaping and associated car parking

The above development is approved subject to the following conditions:

### GENERAL CONDITIONS

The following conditions restrict the work to the detail provided in the Development Application and are to ensure that the development is complete.

1. The term of this consent is limited to a period of **five** (5) years from the date of approval. The consent will lapse if the development does not commence within this time.
2. The development must be implemented substantially in accordance with the plans listed below, the application form and on any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions.

Architectural Plans prepared by BatesSMART for the Winten Property Group titled Stage 1 – Masterplan Design Report dated November 2009 and received by Council on 14 December 2009; as amended by:

Plans prepared by BatesSMART for the Winten Property Group titled Site and Roof Plan, sheets numbered 00, 001, 01 to 04, 05-06, 07-08, 09 to 11 and elevations, dated March 2010 and received by Council on 8 March 2010.

3. Pursuant to Section 83B (3) of the Environmental Planning and Assessment Act, 1979 (as amended), this consent does not authorise the carrying out of any development on any part of the site unless accompanied by a separate consent subsequently granted to carry out development on that part of the site.  
  
This development consent relates to the Masterplan of the development only. A separate development application shall be submitted to Council for any future stages of the development.
4. The upgrading of the Mercure Hotel shall be the first stage of development.
5. A staging plan shall be developed for the site so as not to result in an unsightly area being left on any part of the site for any extended length of time. The staging plan is to be submitted to and approved by Council prior to release of any construction certificate for the site.
6. Monitored CCTV facilities shall be implemented throughout the hotel development. Areas of focus include the hotel car park (including entry and exits), main entry areas to the development and garbage/storage areas. Details to be provided prior to the issue of the Construction Certificate for Stage 1.
7. Lighting shall be designed to the Australian and New Zealand Lighting Standards. Australia and New Zealand Lighting Standard 1158.1 – Pedestrian, requires lighting engineers and designers to consider crime risk and fear when selecting lamps and lighting levels.
8. Signage shall be erected at entry/exit points and throughout the development to assist users and warn intruders they may be prosecuted.
9. Well designed screening devices are required to camouflage the above ground carpark structures when viewed from the public domain. In this regard, the “recessed gap to car (Material Palette 09) is not satisfactory.
10. To ensure the drop off area is safe and has good passive surveillance, active retail/commercial uses are to be provided at the hotel interface within the drop off area.
11. The proposed shareway along the park frontage must be designed so that it is accessible to the public and forms part of the public domain.
12. Noise mitigation measures are to be incorporated within the proposed residential dwellings which are in accordance with the noise control guidelines contained in Council’s LEP, Council’s DCP 62 and the policy titled “Development Near Rail Corridors and Busy Roads – Interim Guideline” published by the NSW Department of Planning.
13. The proposed development shall comply with the 7 wind treatments identified and recommended within the conclusion of the wind report dated 20 November 2009 prepared by Windtech Consultants Pty Ltd.
14.
  - a) These General Terms of Approval (GTA) only apply to the controlled activities described in the plans and associated documentation relating to DA-2010/237 and provided by Council.

Any amendments or modifications to the proposed controlled activities may



render these GTA invalid. If the proposed controlled activities are amended or modified the NSW Office of Water must be notified to determine if any variations to these GTA will be required.

- b) Prior to the commencement of any controlled activity (works) on waterfront land, the consent holder must obtain a Controlled Activity Approval (CAA) under the Water Management Act from the Department of Water & Energy. Waterfront land for the purposes of this DA is land and material in or within 40 metres of the top of the bank or shore of the river identified.
  - c) The consent holder must ensure that no materials or cleared vegetation that may obstruct flow, wash into the water body or cause damage to river banks are left on waterfront land other than in accordance with a plan approved by the Department of Water & Energy.
  - d) The consent holder is to ensure that all drainage works (i) capture and convey runoffs, discharges and flood flows to low flow water level in accordance with a plan approved by the Department of Water & Energy; and (ii) do not obstruct the flow of water other than in accordance with a plan approved by the Department of Water & Energy.
  - e) The consent holder must stabilise drain discharge points to prevent erosion in accordance with a plan approved by the Department of Water & Energy.
  - f) The consent holder must establish all erosion and sediment control works and water diversion structures in accordance with a plan approved by the Department of Water & Energy. These works and structures must be inspected and maintained throughout the working period and must not be removed until the site has been fully stabilised.
15. A Construction Site and Waste Management Plan shall be submitted with each subsequent stage/Development Application.
16. The proposed vehicle access way through the site separating the hotel from the residential building has the potential to be unpleasant and unsafe being adjoined on both sides by above ground car parking and blank walls. The final design will need to ensure this space is designed in such a way as to have enough activity and passive surveillance to be safe to users. It is recommended that the design incorporated active uses as a frontage to this space. The rear elevation of the residential building should be improved as it is an unrelieved straight line. A greater sense of containment could be an improvement.
17. Commercial restaurant or café uses on Levey Street create an active street frontage and are supported as they take advantage of the park frontage. However, the level change between the upper terrace and street level should be mediated to ensure there is good visual and physical connectivity between the two. As such, raised planters on the upper level are not desirable.
18. The applicant is required to pay particular regard to the external appearance and design of the residential tower building in order to achieve an appropriate and sympathetic context and fenestration with the adjacent park and surrounding locality. Given the prominent corner location such details are to be submitted to and approved by Council prior to the issue of that particular subsequent stage (development application) for the site.

19. The applicant will be required to carry out certain works pursuant to section 80A(1)(f) of the Act, including the “streetscaping” of the Levey Street and Marsh Street frontages of the site and the placement underground of existing electricity services adjacent to the site. Exact details of the required works will be set out in the specific development consent(s) issued for the erection of buildings on the land. Council will not give credits for carrying out any such work against the applicant's monetary development contributions (except for the “streetscaping” of the Levey Street and Marsh Street frontages of the site).
20. In accordance with the applicant's written offer (email dated 16 April 2010 from Alan Davidson) and pursuant to Rockdale Section 94 Contributions Plan 2004, land along the south-western boundary of the site is to be dedicated to Council at no cost for the purpose of a new public road, in accordance with the plans submitted with the application.  
  
A plan of subdivision for the dedication of the road shall be registered with the NSW Department of Lands prior to the issue of the first Occupation Certificate.
21. In accordance with the applicant's written offer (email dated 16 April 2010 from Alan Davidson) and the acceptance of that offer by the NSW Roads and Traffic Authority, land at the north-eastern corner of the site is to be dedicated to the Roads and Traffic Authority at no cost for the purpose of a public road [or whatever purpose the RTA specifies], the exact dimensions (10m) and extent of the land to be dedicated being in accordance with the plan prepared by the Roads and Traffic Authority showing the F6 corridor attached to the letter from the Sydney Regional Development Advisory Committee dated 19 February 2010.  
  
A plan of subdivision for the dedication of the road shall be registered with the NSW Department of Lands prior to the issue of the first Occupation Certificate.
22. The applicant is to pay monetary development contributions towards the improvement or provision of public amenities and services, pursuant to section 94 of the Act. The amount and purpose of the contributions will be set out in the specific development consent(s) issued for the erection of buildings on the land and will be calculated in accordance with Rockdale Section 94 Contributions Plan 2004 (or any subsequent contributions plan applicable at the time of granting the consent(s)). The contributions are to be paid prior to issue of the first construction certificate required under the consent(s).
23. That the proposed northern access laneway to Marsh Street (one way street) be closed off to vehicular traffic to enhance safety. The detailed DA for Building C shall make alternative arrangements for the vehicular access to the Building C basement car park.
24. The nominal width of the road reservation for the future Gertrude Street extension shall be 23m.  
  
A revised concept engineering plan for the construction of Gertrude Street shall be submitted with the first DA seeking approval for the construction of the first stage.
25. Prior to the issue of a construction certificate for any development associated with stage 1, the applicant will be required to provide detailed SCATES traffic modelling to the RTA (for review and comment) for the future operation of the Marsh

Street/Gertrude Street intersection in the weekday AM and PM peak hours. The SCATES modelling shall include all intersections along Marsh Street from West Botany Street to Link Road. Such modelling would be based upon the forecast traffic generated by this development. The layout to be modelled should be based upon the most recent conceptual layout for Marsh Street/Gertrude Street with the intent to ensure that there is adequate capacity (particularly for turn movements) and to ensure that through traffic along Marsh Street is not significantly affected.

26. Provision shall be made for the relocation of any services within the Gertrude Street reservation, as may be reasonably required by the relevant service provider. Details of the relocation and confirmation of the requirements of the relevant service providers shall be submitted with the first DA seeking approval for the construction of the first stage. Council will not give credits for carrying out any such work against the applicant's monetary development contributions.
27. Parking in the development shall be in accordance with the following rates in accordance with the requirements of Council's Development Control Plan No. 62:

Type	No of Spaces
Residential	
Studio to 2 bed dwellings	1 per dwelling
3 bed or more dwellings	2 per dwelling
Visitor parking	1 per 4 dwellings
Retail	1 per 35m <sup>2</sup> GFA
Office	1 per 100m <sup>2</sup> GFA
Hotel	1 per 4 rooms

Details of parking for each stage will be provided with subsequent development applications.

28. A revised Flood Management Plan shall be prepared and lodged with Council with the development applications for Building A and Building B. The revised plan(s) shall be prepared specifically for the flood evacuation and flood awareness for the public spaces of Building A and Building B.
29. The basements of the development shall be designed as fully tanked and waterproofed systems, to the requirements of the Groundwater Resource Handbook, published by the Sydney Coastal Council's Group.
30. Discussions are to be held with Council's Spatial Information Coordinator (Ph: 9562 1693) to satisfy Council in relation to the proposed street numbering for the residential development on the site. Details are to be submitted to and approved by Council prior to the lodgement of any subsequent development applications for the site.
31. All existing and proposed lights shall comply with the Australian Standard AS4282 - 1997 "Control of the Obtrusive Effects of Outdoor Lighting". In this regard, the lighting of the premises shall be directed so as not to cause nuisance to the owners or occupiers of adjacent/adjoining premises or to motorists on adjoining or nearby roads.
32. Cooling towers or water cooling systems shall be designed, installed and

commissioned in accordance with the provisions of the Public Health Act 1991, Public Health Microbial Control Regulation 2000, Australian Standard 3666.1 "Air Handling and Water Systems of Buildings - Microbial Control - Design, installation and commissioning", and the current code of practice published by the NSW Health department.

33. The contaminated site shall be remediated in accordance with 'State Environmental Planning Policy No 55 Remediation of Land' (SEPP55). A Site Remedial action Plan (SRAP) prepared by a suitably qualified and experienced Contaminated Land Consultant, shall be submitted to Council being the Regulatory Authority for the management of contaminated land concurrently with Stage 2 development application. It is preferable that the plan be prepared by the same consultant who assessed the site for contamination.
34. The recommendations contained in Section 12.5 of the Environmental Site Assessment Report prepared by Environmental Investigation Services dated December 2009 Ref: E17427Krpt3 shall be adopted and implemented.
35. An environmental enforcement fee of 0.25% of the cost of the works shall be paid to Council prior to the issue of a construction certificate in accordance with Rockdale Council's City Plan (adopted fees and charges).
36. The applicant is to pay monetary development contributions towards the improvement or provision of public amenities and services. The amount and purpose of the contributions will be set out in the specific development consent(s) issued for the erection of buildings on the land and will be calculated in accordance with Rockdale Section 94 Contributions Plan 2004 (or any subsequent contributions plan applicable at the time of granting the consent(s)). The contributions are to be paid prior to issue of the first construction certificate required under the consent(s).
37. A landscape plan, prepared by a qualified Landscape Architect shall be submitted to Council or the accredited certifier (AC) for approval with each subsequent development application stage. The plan shall be at a scale of 1:100 or 1:200 and comply with Council's DCP 71 – Landscape Design and all other relevant conditions of this Consent.

The street trees are to be changed in accordance with the Draft Wolli Creek and Bonar Street Precinct PDP as follows:

Gertrude Street:	Ulmus parvifolia
Levey and Marsh Streets:	Angophora costata

Particular regard is to be paid to Section 3 – Landscape Documentation and Section 8 – Podiums and Rooftop Gardens of Council's DCP 71 – Landscape Design.
38. The residential dwellings are to be designed and constructed to achieve interior noise levels which comply with Australian Standard 2021- 2000 Acoustic - Aircraft Noise Intrusion. An appropriately qualified Noise Consultant is to advise on appropriate measures to be incorporated in the design of the building so that it will meet this standard. The information shall be submitted to Council prior to issue of the Construction Certificate.

39. Compliance with Council's Development Control (DCP) 28 - Requirements for Access. Compliance with this condition will require the design and fitout of the commercial/retail areas to be in accordance with Australian Standard 1428.1-2001.

**Note:** Compliance with Council's Development Control Plan (DCP) 28 - Requirements for Access and the Building Code of Australia does not necessarily guarantee that the development meets the full requirements of the Disability Discrimination Act (DDA) 1992. It is the responsibility of the applicant to make the necessary enquiries to ensure that all aspects of the DDA legislation are met.

40. Within one (1) month of completion of the remedial works and prior to the issue of a Construction Certificate, a copy of the Validation Report shall be submitted to Council being the Regulatory Authority for the management of contaminated land. The Validation Report shall be prepared in accordance with the NSW Environment Protection Authority's (EPA) guidelines, *Consultants Reporting on Contaminated Sites*, and shall include, but not be limited to the following:

- describe and document all works performed;
- include results of validation testing and monitoring;
- include validation results of any fill imported on to the site;
- show how all agreed cleanup criteria and relevant regulations have been complied with; and
- include clear justification as to the suitability of the site for the proposed use and the potential for off-site migration of any residual contaminants.

41. Prior to the commencement of work, Tree Protection Zones shall be established with protective fences at least 1.8 metres high erected, at the greater of the drip lines or three (3) metres from the trunks, around each tree or group of trees to be retained. The protective fences shall consist of chain wire mesh panels mounted on concrete bases braced and secured to prevent movement, shall be in place **prior to the commencement of any work on site** and shall remain until the completion of all building and hard landscape construction. Excavations for services, waste bins, storage of materials and equipment, site residue, site sheds, vehicle access or cleaning of tools and equipment are **not** permitted within the Tree Protection Zones at any time.

42. Prior to the commencement of any work on site, a sign shall be placed in a prominent position on each protective fence identifying the area as a **Tree Protection Zone** and prohibiting vehicle access, waste bins, storage of materials and equipment, site residue and excavations within the fenced off area.

43. A Site Health & Safety Plan shall be prepared prior to the commencement of remediation works by a person competent to do so. All works shall be carried out in accordance with this plan. This plan shall include:

- hazard identification and control
- site security
- personal protective equipment

- work zones and decontamination procedures
  - contingency plans and incident reporting
  - environmental monitoring.
44. Any new information discovered during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination, shall be notified to Council being the Regulatory Authority for the management of contaminated land.
45. The four existing Eucalyptus trees located adjacent to the Marsh Street boundary at the rear of the hotel, all existing street trees and trees located within the reserve to the north of the site shall not be removed or pruned, including root pruning, without the written consent of Council in the form of a Permit issued under Council's Tree Preservation Order. All other existing site trees may be removed.
46. Any pruning of branches or roots of trees growing from within adjoining properties requires the prior written consent of the tree's owners and the prior written consent of Council in the form of a Permit issued under Council's Tree Preservation Order. The work must be carried out in accordance with AS4373:2007 by an experienced Arborist with minimum AQF Level 2 qualifications in Arboriculture.
47. Where drainage or paving works are proposed to be constructed in the area below the dripline of trees, the proposed works and construction methods must not damage the tree. Where either the trees or works were not shown in detail on the approved plans, then Council approval must be obtained by contacting Council's Tree Management Officer.
48. Underground Services such as pipelines or cables to be located close to trees, must be installed by boring or by such other method that will not damage the tree rather than open trench excavation. The construction method must be approved by Council's Tree Management Officer.
49. Existing soil levels within the drip line of trees to be retained shall not be altered without reference to Council's Tree Management Officer.
50. Building materials, site residue, machinery and building equipment shall not be placed or stored under the dripline of trees required to be retained.
51. An accredited auditor under the Contaminated Land Management Act 1997 shall review the Validation Report prepared by the contaminated land consultant and issue a Site Audit Statement. The accredited auditor shall provide Council being the Regulatory Authority for the management of contaminated land, with a copy of the Site Audit Report and Site Audit Statement, prior to issue of the Occupation Certificate.
52. A Site Audit Statement (SAS) shall be submitted to Council being the Regulatory Authority for the management of contaminated land, prior to the issue of Occupation Certificate, clearly demonstrating that the site is suitable for the intended use. Conditions imposed on the SAS shall form part of this consent. In circumstances where the SAS conditions (if applicable) are not consistent with the consent, the

consent shall prevail to the extent of inconsistency and a S96 application pursuant to the Environmental Planning & Assessment Act 1979 will be required.

53. Sydney Airport Corporation Limited (SACL) has approved the maximum height of the proposed buildings at the following heights in metres relative to Australian Height Datum (AHD).

Building B: 24.65 metres above Australian Height Datum (AHD)

Building C2: 23.85 metres above Australian Height Datum (AHD)

Building C3: 50.85 metres above Australian Height Datum (AHD)

These heights are inclusive of all vents, chimneys, aerials, TV antennae and construction cranes etc. No permanent or temporary structure is to exceed these heights without further approval from Sydney Airport Corporation Limited.

**Note:** Under Section 186 of the Airports Act 1996, it is an offence not to give information to the Airport Operator that is relevant to a proposed “controlled activity” and is punishable by a fine of up to 50 penalty units.

For further information on Height Restrictions please contact SACL on 9667 9217.

### **Bird and Obstacle Hazard Management**

To minimise the potential for bird habitation and roosting, the Proponent must ensure the following plans are prepared prior to construction commencing:

- Landscape Plan which only includes non-bird attracting plant species;
- Site Management Plan which minimises the attractiveness for foraging birds, i.e. site is kept clean regularly, refuse bins are covered, and detention ponds are netted.
- The proposed development incorporates ant-bird roosting measures to discourage bird habitation.

The Proponent must consult with Sydney Airport Corporation Limited on the preparation of each plan.

All trees to be planted shall not be capable of intruding into the Obstacle Limitation Surface when mature.

54. Prior to the issue of a construction certificate for any development associated with Stage 1, the applicant will be required to provide detailed SCATES traffic modelling to the RTA (for review and comment) for the future operation of the Marsh Street / Gertrude Street intersection in the weekday AM and PM peak hours. The SCATES modelling shall include all intersections along Marsh Street from West Botany Street to Link Road. Such modelling would be based upon the forecast traffic numbers / modelling associated with the Cooks Cove proposal coupled with the additional traffic generated by this development. The layout to be modelled should be based upon the most recent conceptual layout of Marsh Street/Gertrude Street with the intent to ensure that there is adequate capacity (particularly for turn movements) and to ensure that through traffic along Marsh Street is not significantly affected.

- a. You are advised to consult with your utility providers (i.e. Energy Aust, Telstra etc) in order to fully understand **their** requirements **before** commencement of any work.
- b. The proposed residential apartments within the residential component of the development should be limited to the following mix:
  - 3 bedroom – 20%,
  - 2 bedroom – 70% and
  - 1 bedroom – 30%

---

## ADDITIONAL INFORMATION

- To confirm the date upon which this consent becomes effective, refer to Section 83 of the Environmental Planning and Assessment Act, 1979. Generally the consent becomes effective from the determination date shown on the front of this notice. However if unsure applicants should rely on their own enquiries.
- To confirm the likelihood of consent lapsing, refer to Section 95 of the Act. Generally consent lapses if the development is not commenced within five years of the date of approval. However if a lesser period is stated in the conditions of consent, the lesser period applies. If unsure applicants should rely on their own enquiries.
- Section 82A allows Council to reconsider your proposal. Should you wish to have the matter reconsidered you should make an application under that section with the appropriate fee.
- Under Section 97 of the Act applicants who are dissatisfied with the outcome of a consent authority have a right of appeal to the Land and Environment Court. This right must be exercised within 12 months from the date of this notice. The Court's Office is situated at Level 1, 225 Macquarie Street, Sydney (Telephone 9228 8388), and the appropriate form of appeal is available from the Clerk of your Local Court.

---

Should you have any queries please contact Michael Maloof on 9562 1686.

Luis Melim  
**Manager - Development Assessment & Compliance**





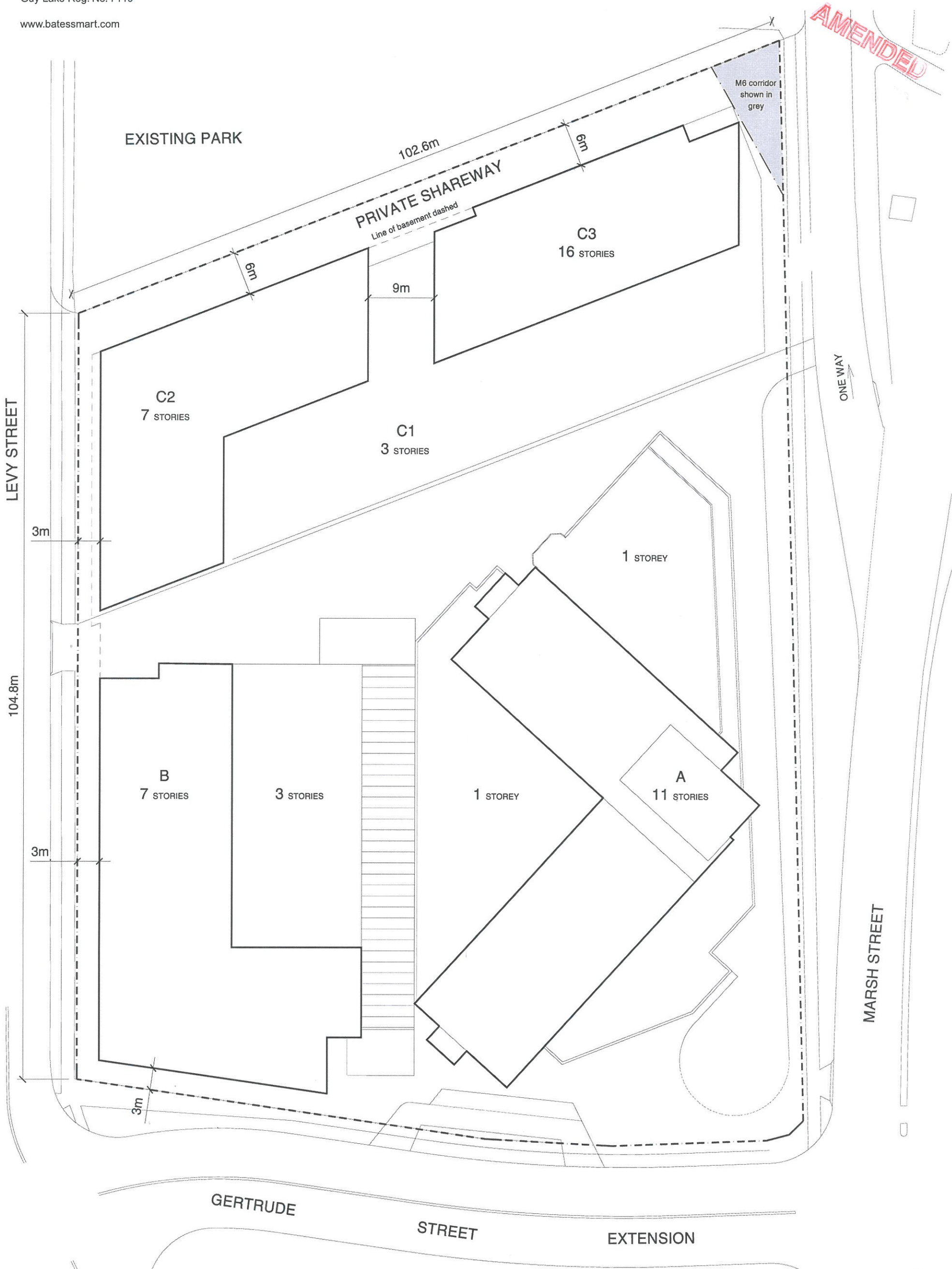
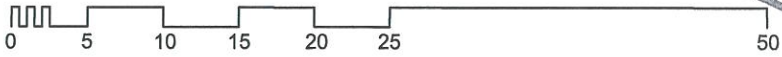
Architecture  
Interior Design  
Urban Design  
Strategy

Sydney 243 Liverpool Street  
East Sydney NSW 2010 Australia  
T+612 8354 5100 F+612 8354 5199  
syd@batesmart.com

Stage 1 DA  
Masterplan Design Report  
S11153 November 2009

Nominated NSW Registered Architects:  
Philip Vivian Reg. No. 6696  
Simon Swaney Reg. No. 7305  
Guy Lake Reg. No. 7119

www.batesmart.com





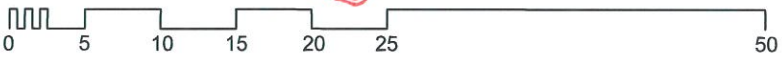


AMENDED

Landscape Key

- 01 Trees in tree pits (1.5m away from building)
- 02 Bicycle & pedestrian shared way
- 03 Landscape strip (trees, garden & benches)
- 04 Existing park trees to remain
- 05 Existing park open space

- Existing trees
- Proposed trees
- Feature trees
- Timber deck
- Benches
- Garden
- Lawn
- Banded paving
- Courtyard paving

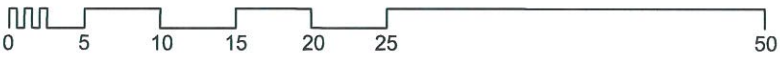




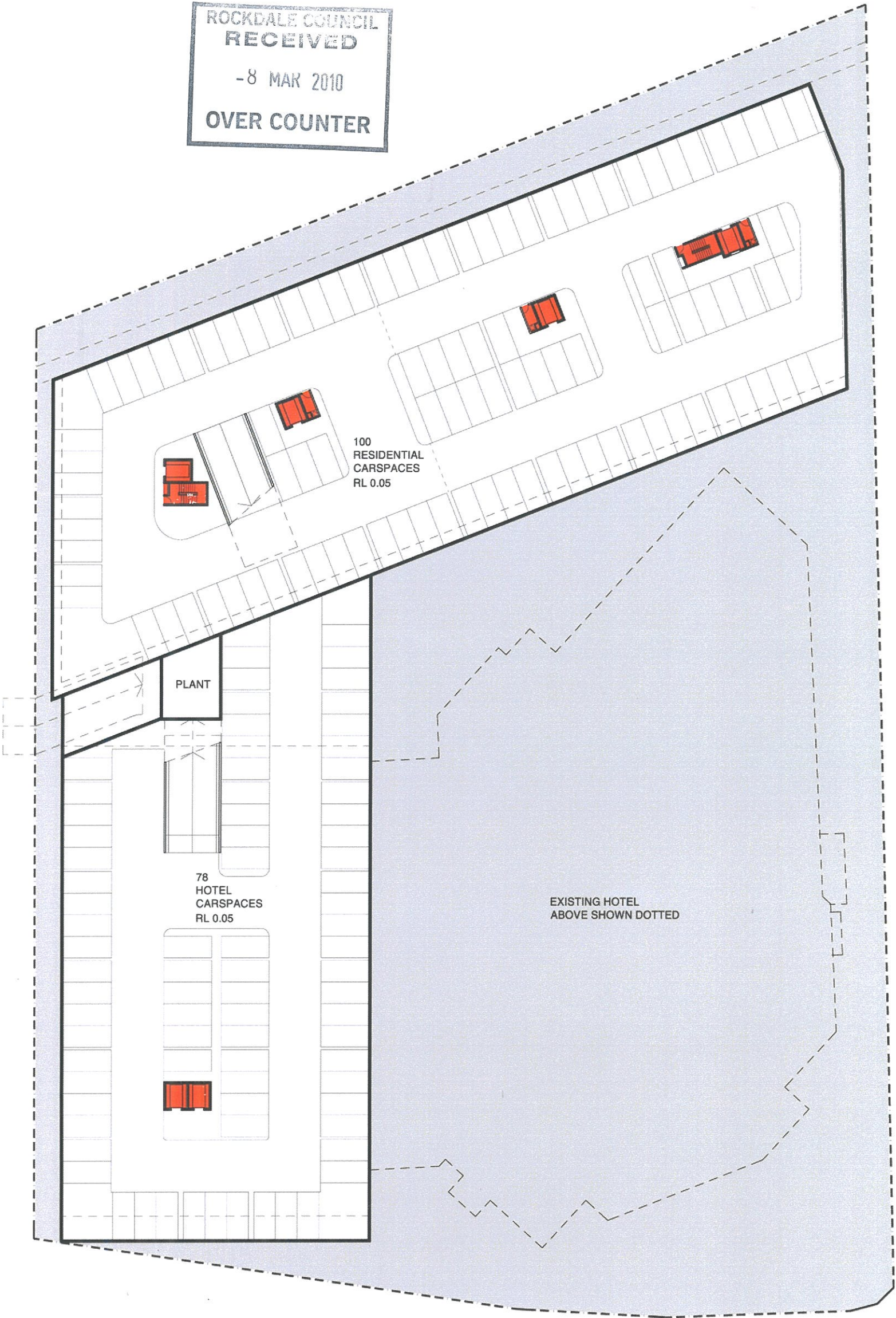
Stage 1 DA  
Masterplan Design Report  
S11153 November 2009



AMENDED

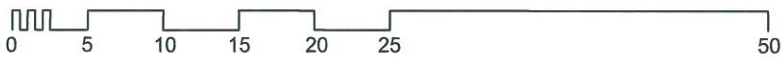


ROCKDALE COUNCIL  
RECEIVED  
- 8 MAR 2010  
OVER COUNTER





Stage 1 DA  
Masterplan Design Report  
S11153 November 2009



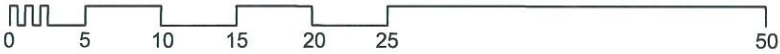
ROCKDALE COUNCIL  
RECEIVED  
-8 MAR 2010  
OVER COUNTER

AMENDED





Stage 1 DA  
Masterplan Design Report  
S11153 November 2009





Stage 1 DA  
Masterplan Design Report  
S11153 November 2009

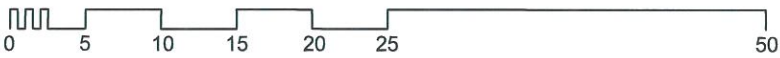
ROCKDALE COUNCIL  
RECEIVED  
-8 MAR 2010  
OVER COUNTER

AMENDED

Landscape Key

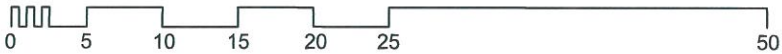
- 01 Pool side feature wall
- 02 Pool side decking
- 03 Decking and benches
- 04 Lawn area with garden & bench
- 05 Step up to main courtyard area

- Proposed trees
- Feature trees
- Timber deck
- Benches
- Garden
- Lawn
- Banded paving
- Courtyard paving





Stage 1 DA  
Masterplan Design Report  
S11153 November 2009



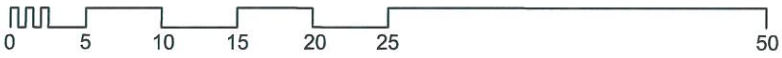
ROCKDALE COUNCIL  
RECEIVED  
- 8 MAR 2010  
OVER COUNTER

AMENDED





Stage 1 DA  
Masterplan Design Report  
S11153 November 2009



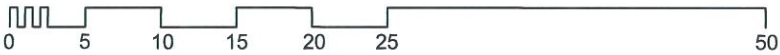
ROCKDALE COUNCIL  
RECEIVED  
- 8 MAR 2010  
OVER COUNTER

AMENDED

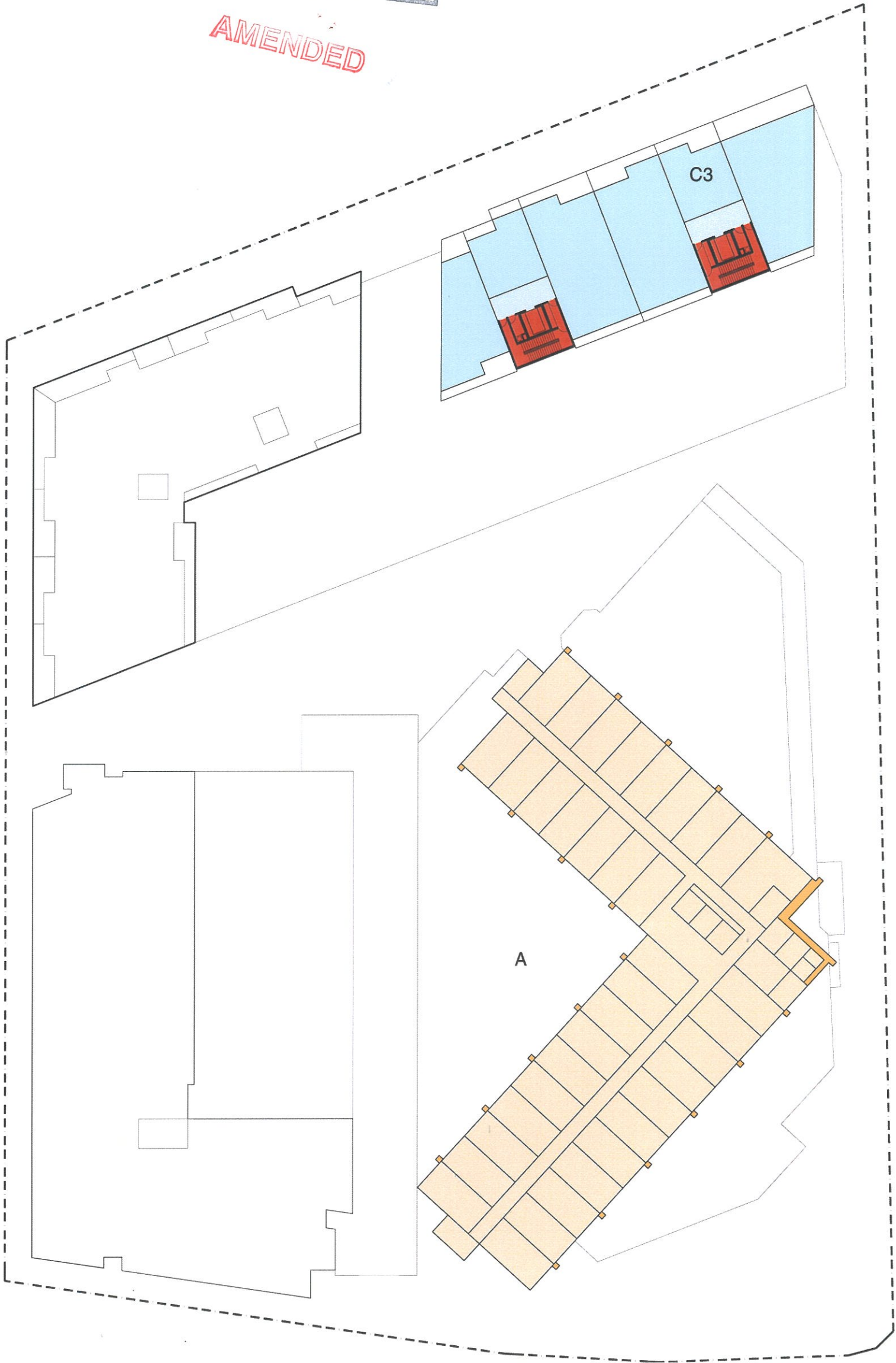




Stage 1 DA  
Masterplan Design Report  
S11153 November 2009  
**ROUNDALE COUNCIL  
RECEIVED**  
- 8 MAR 2010  
**OVER COUNTER**

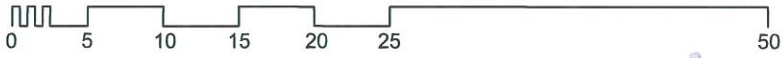


AMENDED

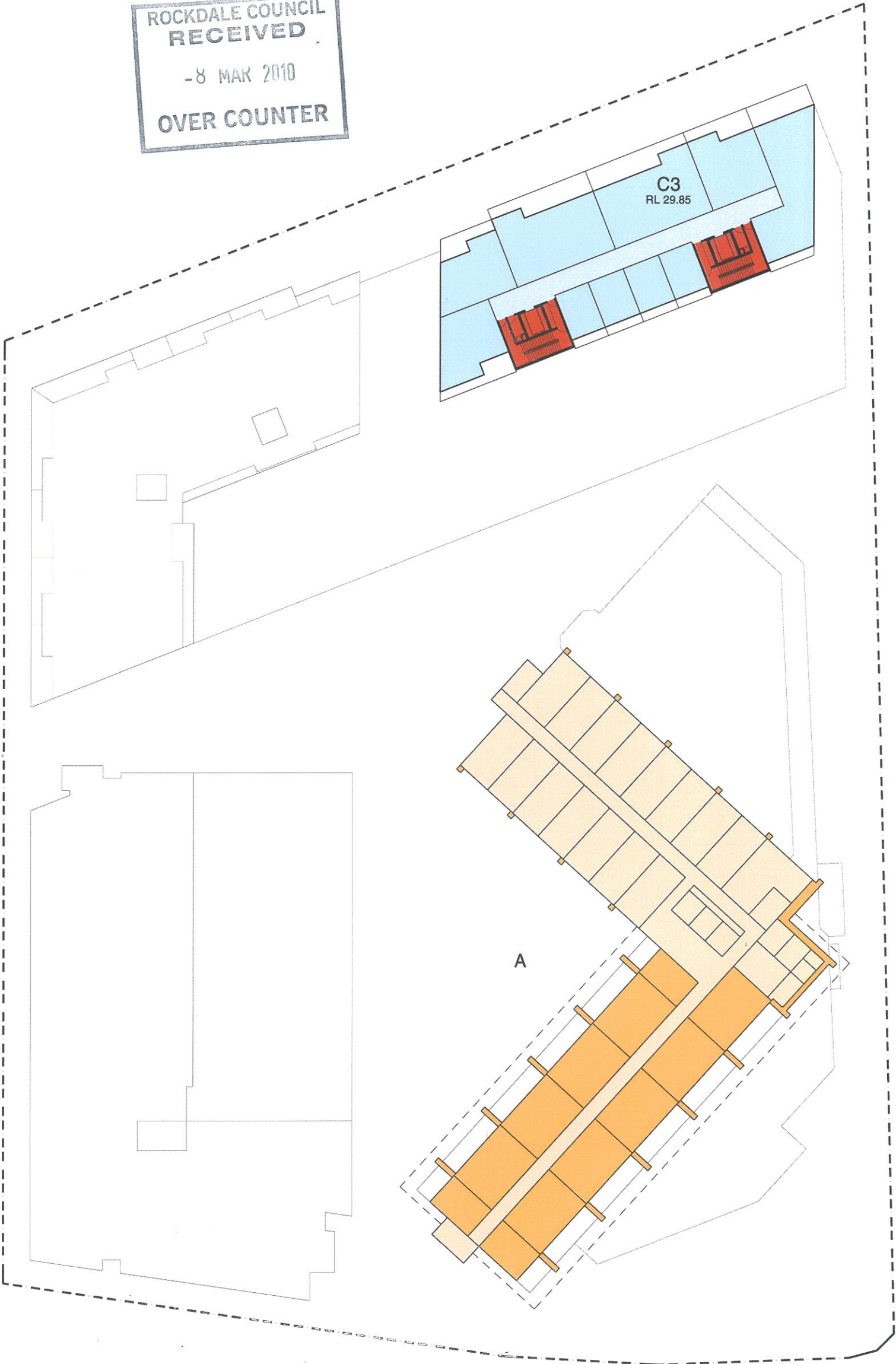


Stage 1 DA  
Masterplan Design Report  
S11153 November 2009

AMENDED



ROCKDALE COUNCIL  
RECEIVED  
-8 MAR 2010  
OVER COUNTER



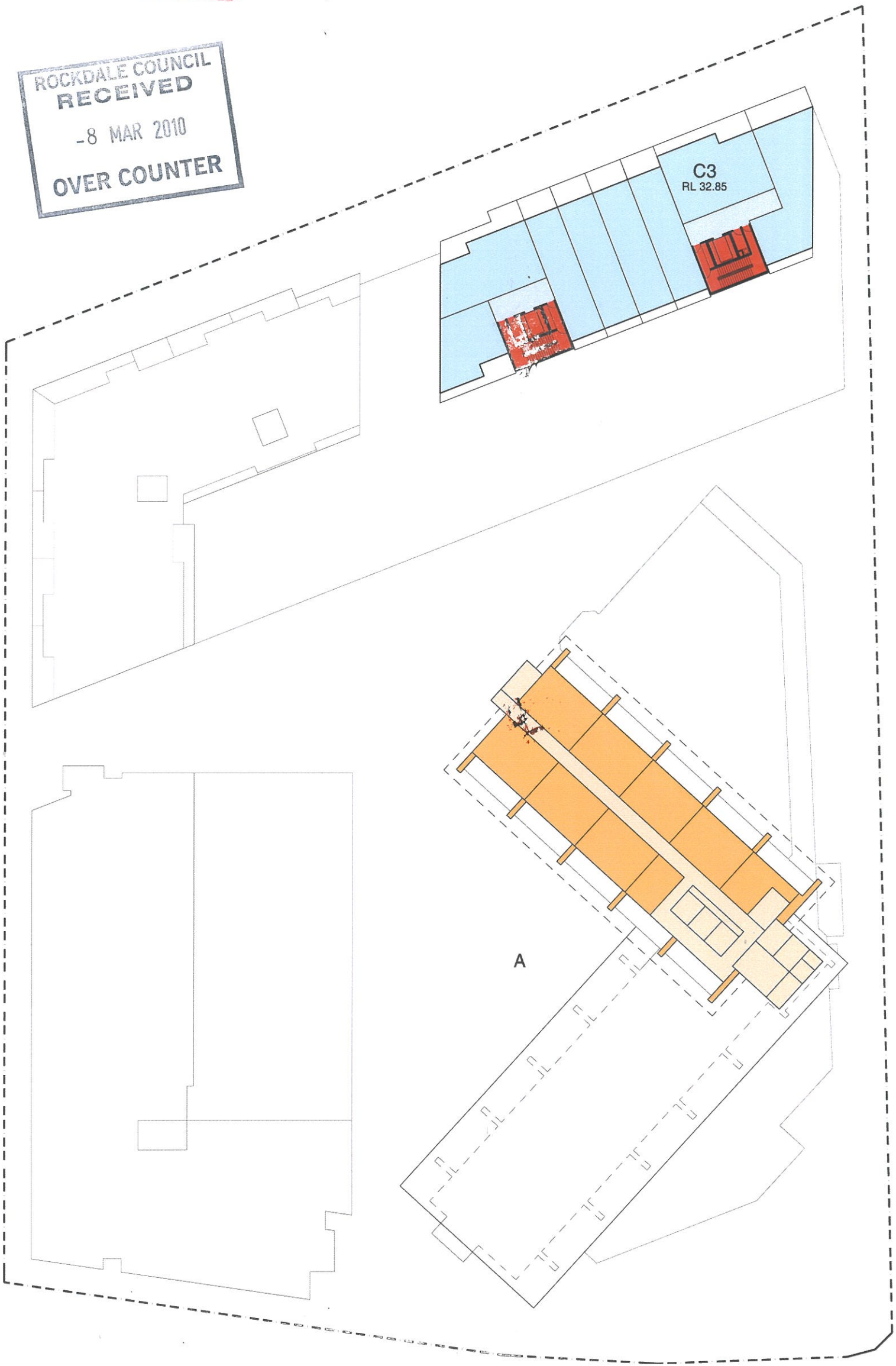


Stage 1 DA  
Masterplan Design Report  
S11153 November 2009

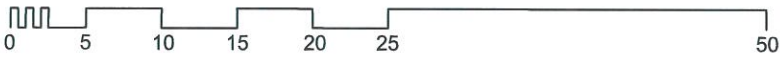


AMENDED

ROCKDALE COUNCIL  
RECEIVED  
-8 MAR 2010  
OVER COUNTER



Stage 1 DA  
Masterplan Design Report  
S11153 November 2009



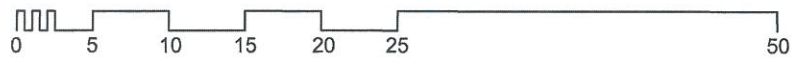
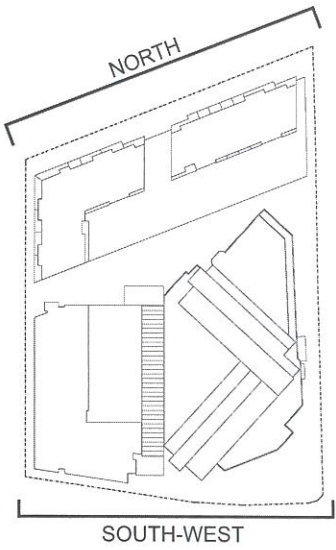
AMENDED

ROCKDALE COUNCIL  
RECEIVED  
-8 MAR 2010  
OVER COUNTER

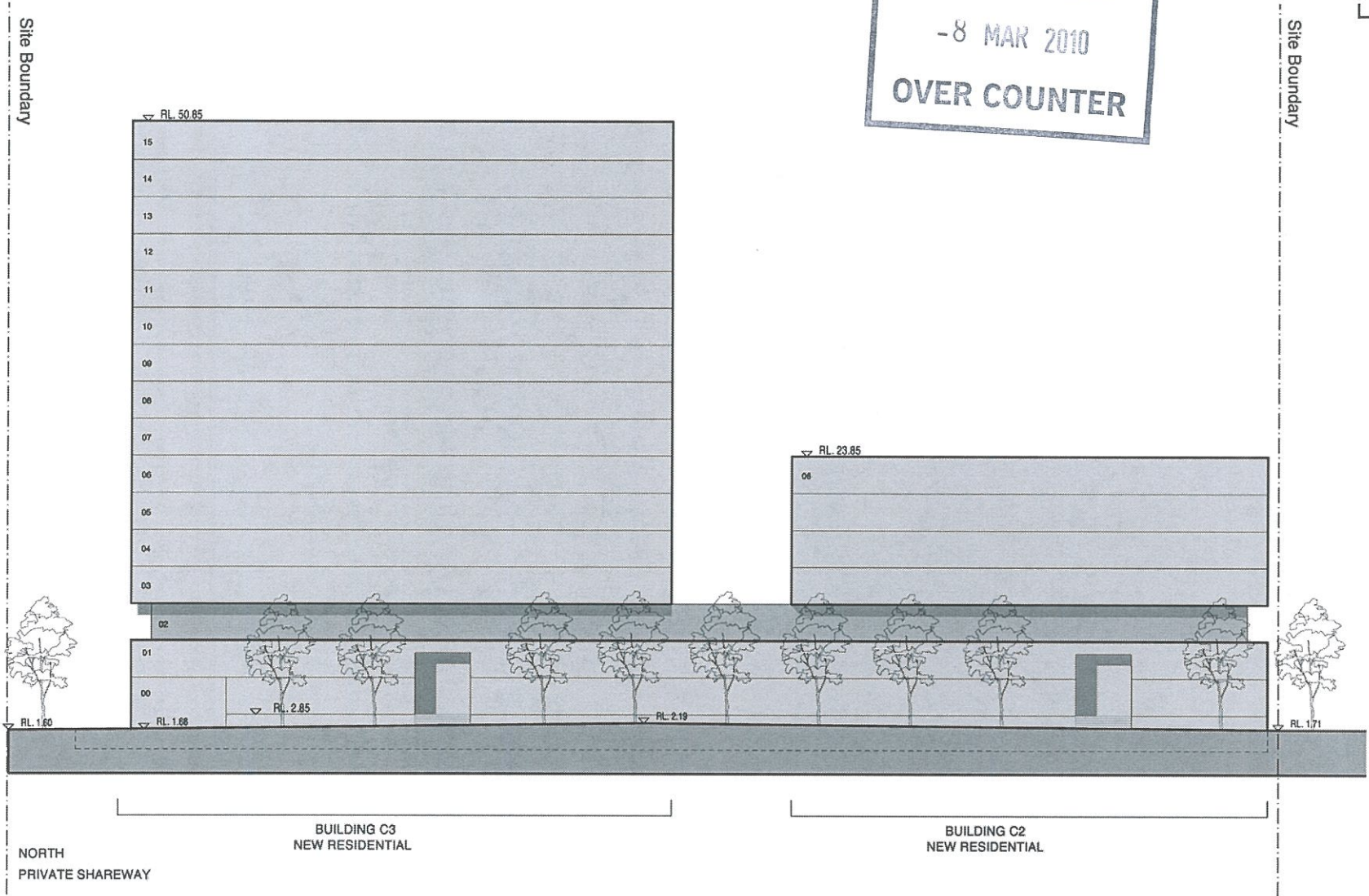
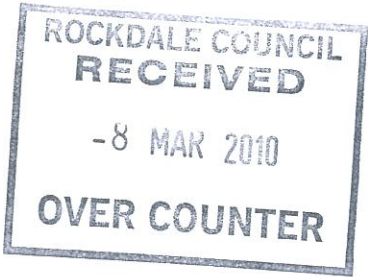




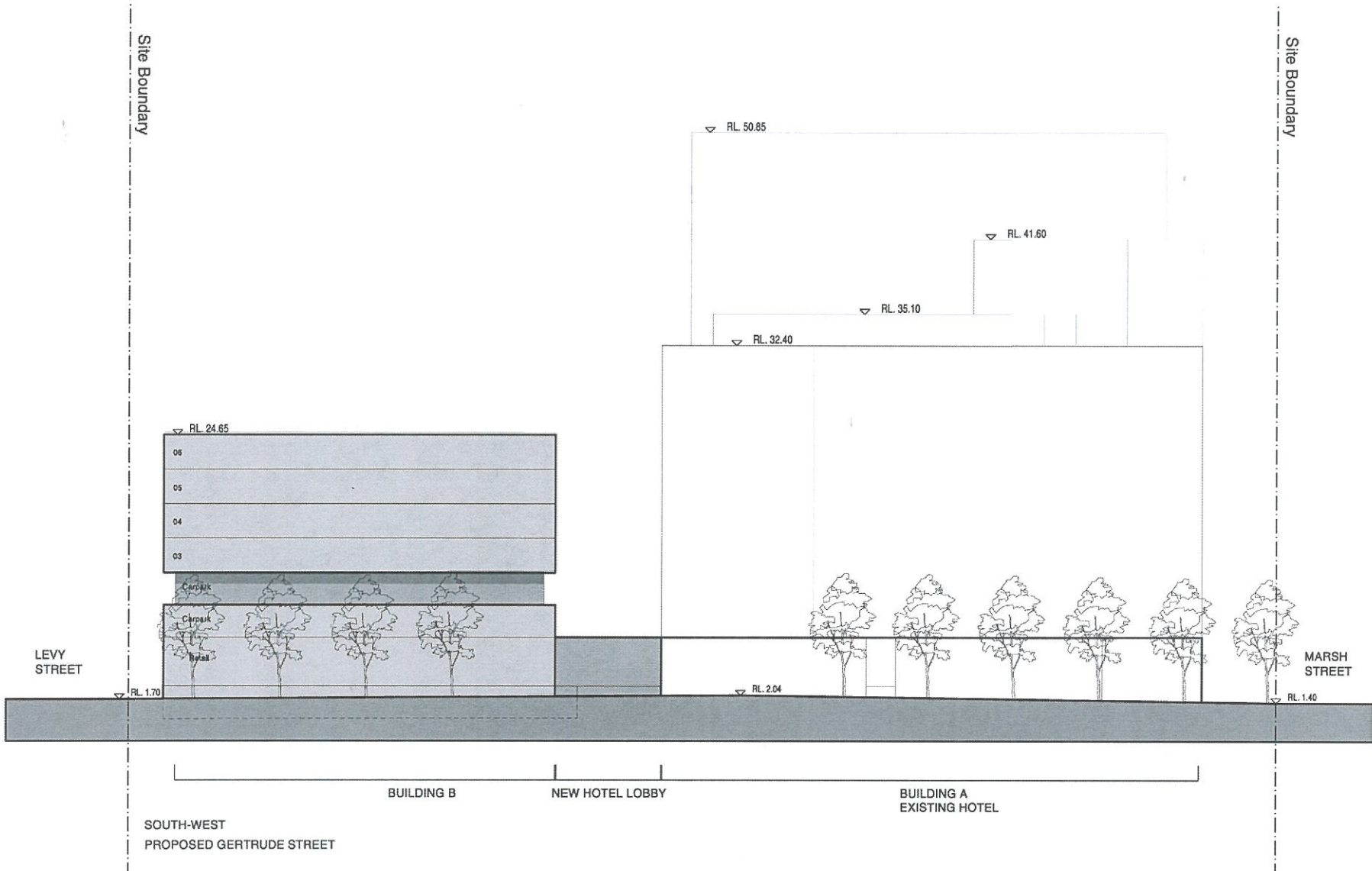
Stage 1 DA  
Masterplan Design Report  
S11153 November 2009



AMENDED



North Elevation



South West Elevation



Stage 1 DA  
Masterplan Design Report  
S11153 November 2009

