

JOINT REGIONAL PLANNING PANEL (Sydney East Region)

JRPP No	2015SYE124
DA Number	DA-2012/293/E
Local Government Area	ROCKDALE CITY COUNCIL
Proposed Development	Section 96(2) Modification to development consent DA-2012/293 including the addition of two (2) levels to Block A fronting Princes Highway and one (1) level to Block B fronting Chapel Lane providing a total of 20 additional residential units and alterations to the building
Street Address	564 Princes Highway, ROCKDALE NSW 2216
Applicant/Owner	Open Space Pty Ltd
Number of Submissions	Seven (7) submissions from seven (7) property addresses
Regional Development Criteria (Schedule 4A of the Act)	The proposal is a Section 96(2) Modification to a development application that has a capital investment value of more than \$20 million.
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"> • List all of the relevant environmental planning instruments: s79C(1)(a)(i) <ul style="list-style-type: none"> - <i>State Environmental Planning Policy Building Sustainability Index (BASIX)</i> - <i>State Environmental Planning Policy No.55 - Contaminated Land (SEPP 55)</i> - <i>State Environmental Planning Policy (Infrastructure) 2007</i> - <i>State Environmental Planning Policy No.65 - Design Quality of Residential Flat Development (SEPP 65)</i> - <i>Rockdale Local Environmental Plan 2011 (RLEP 2011)</i> • List any proposed instrument that is or has been the subject of public consultation under the Act and that has been notified to the consent authority: s79C(1)(a)(ii) <ul style="list-style-type: none"> - <i>Nil</i> • List any relevant development control plan: s79C(1)(a)(iii) <ul style="list-style-type: none"> - <i>Rockdale Development Control Plan 2011(DCP 2011)</i> • List any relevant planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F: s79C(1)(a)(iv)

	<ul style="list-style-type: none"> - Nil • List any coastal zone management plan: s79C(1)(a)(v) - N/A • List any relevant regulations: s79C(1)(a)(iv) e.g. Regs 92, 93, 94, 94A, 288 - <i>Environmental Planning and Assessment Regulations 2000</i>
List all documents submitted with this report for the panel's consideration	<ul style="list-style-type: none"> • Section 79C Planning Report • Notice of Determination DA-2012/293/D
Recommendation	Approval
Report by	Shaylin Moodliar – Senior Development Assessment Planner
Report date	25 February 2016

Précis

On 12 July 2012, the NSW Joint Regional Planning Panel (JRPP) issued a development approval (DA-2012/293) for the demolition of existing structures and erection of a mixed use development comprising two separate buildings being ten and eight storeys both with a roof terrace, including ground floor retail, 76 residential units (including 8 work/live units) and ground and basement car parking for 106 vehicles. Subsequent modifications have included modified internal layouts of residential units and reallocation of car parking spaces including an additional basement level.

The proposed modification seeks to add two storeys to the Princes Highway building and one storey to the building fronting the unnamed lane off Chapel Lane. The proposed modification increases the total number of units from 76 units to 96 units and seeks to modify conditions relating to the car parking spaces and accessible units. The proposed modification seeks changes to the approved streetscape schemes along Princes Highway and the unnamed lane off Chapel Lane.

The modification maintains the approved retail tenancies totalling 564sqm fronting the Princes Highway, three basement levels and ground floor parking for 121 vehicles, and associated landscaping and communal open space at podium level between the two buildings.

The site is located within the Rockdale Town Centre and is currently zoned B2 Local Centre. There is no floor space ratio control for land within the Rockdale Town Centre. The maximum permitted height limit on the site is 40m (which includes the 12m bonus height) under the Rockdale LEP 2011. The proposal, as amended, complies with this control.

The proposal generally complies with the requirements in Rockdale Development Control Plan 2011 (RDCP 2011) in respect to site planning and facilities and building design.

At the time of writing this report, approval from Sydney Airport Corporation Limited (SACL) has not been received. Consequently, it is recommended that the JRPP defer this matter until a response from SACL is received. In addition, original condition 129 has been amended to reflect this.

Seven (7) submissions have been received from seven (7) residential properties during the notification period. The issues raised have been addressed elsewhere in this report.

The development application is required to be referred to the Joint Regional Planning Panel pursuant to Clause 3 of Schedule 4A of the Environmental Planning and Assessment Act 1979 (EP&A Act) as the Capital Investment Value of the proposal exceeds \$20 million.

Officer Recommendation

- i. That subject to Sydney Airport Corporation Limited (SACL) and the Civil Aviation Safety Authority (CASA) confirming approval of proposed building height of RL 53.85 (39.85 metres AHD), the proposed modification to development application DA-2012/293/E for the addition of two (2) levels to Block A fronting Princes Highway and one (1) level to Block B fronting Chapel Lane providing a total of 20 additional residential units and alterations to the building be granted approval by the Joint Regional Planning Panel subject to the attached conditions.
- ii. That the objectors be advised of the Joint Regional Planning Panel's decision.

REPORT BACKGROUND

On 12 July 2012, the NSW Joint Regional Planning Panel (JRPP) issued a development approval (DA-2012/293) for the demolition of existing structures and erection of a mixed-use development comprising two separate buildings being, Building A (10 storeys) fronting Princes Highway and Building B (8 storeys) fronting an unnamed lane off Chapel Lane both with roof terraces, including ground floor retail, 76 residential units (including 8 work/live units) and ground and basement car parking for 106 vehicles on land at 564 Princes Highway, Rockdale.

The proposal included a total of 76 residential units (36 x 1 bedroom, 38 x 2 bedroom & 2 x 3 bedroom units), including 8 units on the first floor of each building, which can be work/live units and 2 adaptable units in Building B. Building A has a total of 44 units + 5 live/work units and Building B has 24 units + 3 live/work units).

On 12 February 2013, Council granted delegated approval to DA-2012/293/A – under S96(1A) to modify the internal layouts of residential units and reallocate car parking spaces.

On 23 October 2013, Council granted delegated approval to DA-2012/293/B – under S96(1A) to modify Conditions 56 and 61 of the consent, which relate to the under grounding of power along the Princes Highway frontage and the tanking and waterproofing of the basement structure.

On 11 November 2013, Council granted delegated approval to DA-2012/293/C – under S96(1A) to modify the approved mixed use development for an internal reconfiguration of the basement and ground floor levels, minor extension to a balcony, enlargement and roofing of roof top recreation areas and minor changes to the external appearance.

On 5 January 2015, Council granted delegated approval to DA-2012/293/D – under S96(1A) to modify the approved mixed used development to provide additional basement car park level 3. The proposal resulted in the following car parking allocation:

Level	Residential spaces	Retail	Visitor	Motorbike	Total car spaces
Basement 3	25	-	-	-	25
Basement 2	44	-	-	3 residential	44
Basement 1	13	23	-	2 residential	36
Ground	-	11	5	1 retail	16
Total car spaces	82	34	5	6	121

On 16 September 2015, Council received Section 96(2) Modification, which is the subject of this report.

PROPOSED MODIFICATION

The proposed modification seeks to incorporate the following changes:

- Addition of a eleventh and twelfth storey to Building A fronting Princes Highway;
- Addition of a ninth storey to Building B fronting the unnamed laneway off Chapel Lane;
- Relocation of the rooftop terrace from the western building A to the eastern building B;
- Increase the building height by 3.55 metres, from 36.3 metres (RL 50.3 metres AHD) to 39.85 metres (RL 53.85 metres AHD), across the western portion of the subject site
- Addition of 20 units on the site, from 76 units to 96 units, with an apartment unit mix modified as follows:

Bedroom	Approved under DA-2012/293 & subsequent modifications	Proposed under DA-2012/293/E	Unit Changes under DA-2012/293/E
1 bedroom	36	50	Additional 14 units
2 bedroom	38	43	Additional 5 units
3 bedroom	2	3	Additional 1 unit
Total	76	96	Additional 20 units

- Basement Level 3 (RL 5.60)
 - Changes to the configurations including a total of 24 car parking spaces, 2 lift cores, storage cages, 2 fire stairwells, pump room, fire sprinkler tank and fire hydrant rooms.
- Basement Level 2 (RL 8.35)
 - Changes to the configurations including a total of 44 car parking spaces, 3 motorcycle spaces, 7 bicycle spaces, storage cages, 2 lift cores and 2 fire stairwells
- Basement Level 1 (RL 11.10)
 - Changes to the configurations including a total of 38 car parking spaces, (including 5 accessible spaces, car wash bay, 6 visitor spaces), 2 motorcycle

spaces, 7 bicycle spaces, storage cages, 2 garbage rooms, 2 lift cores, 2 fire stairwells, mechanical fan room, cleaners storage room and grease arrestor room.

- Ground floor (RL 13.95 – RL 14.30)
 - Vehicular access to basement levels via unnamed lane off Chapel Lane
 - Changes to the configuration including the partitioning of the retail space to create 2 retail tenancies fronting Princes Highway, associated retail storage room, accessible bathroom and toilet, with no changes to the gross floor area.
 - Reconfiguration of building B pedestrian ramp and lift lobby foyer including new fire stairs fronting the unnamed lane off Chapel Lane.
 - Changes to the configuration of the ground floor car parking including a total of 15 retail/visitor car parking spaces (including 2 accessible spaces & 1 car wash bay), loading dock, garbage holding area room, hydrant/sprinkler pump room.
- Levels 1-7
 - No changes to the residential units with 4 adaptable units being 106, 108, 210 & 310.
- Level 8 (RL 40.75)
 - Minor changes to the configurations to 6 residential units from the Princes Highway Lobby A comprising of 3 x one-bedroom & 3 x two-bedroom apartments.
 - 4 residential units from the unnamed lane off Chapel Lane Lobby B comprising of 3 x one-bedroom & 1 x two-bedroom apartments.
- Level 9 (at RL 43.75)
 - 6 residential units from the Princes Highway Lobby A comprising of 4 x one-bedroom, 1 x two-bedroom & 1 x three-bedroom apartments.
 - New rooftop terrace at FFL 43.75 with BBQ structures.
- Level 10 (at RL 46.75)
 - 6 residential units from the Princes Highway Lobby A comprising of 4 x one-bedroom, 1 x two-bedroom & 1 x three-bedroom apartments.
- Level 11 (at RL 49.75)
 - 6 residential units from the Princes Highway Lobby A comprising of 4 x one-bedroom, 1 x two-bedroom & 1 x three-bedroom apartments including adaptable unit 1103.

The proposal modifies the original consent DA-2012/293 and subsequent modifications as follows:

- Modify proposal description to read:

Demolition of existing structures and erection of a mixed-use development comprising two separate buildings being twelve and nine storeys with rooftop terrace, including ground floor retail premises, 96 residential units (including 8 work/live units) and ground and basement car parking

- Modify condition 2 to read

2. The development must be implemented 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:

Dwg Number / Name	Date	Author	Received at Council
<i>101, Issue A - Basement 3</i>	<i>02/09/2015</i>	<i>Urban Link Architecture</i>	<i>16/09/2015</i>
<i>102, Issue A - Basement 2</i>	<i>02/09/2015</i>	<i>Urban Link Architecture</i>	<i>16/09/2015</i>
<i>103, Issue A - Basement 1</i>	<i>02/09/2015</i>	<i>Urban Link Architecture</i>	<i>16/09/2015</i>
<i>104, Issue A – Ground Floor</i>	<i>02/09/2015</i>	<i>Urban Link Architecture</i>	<i>16/09/2015</i>
Project No.1211, A-204, Issue 03 – Level 01	14/10/2013	SWA Group	17/10/2013
Project No.1211, A-205, Issue 02 – Level 02, 04 & 06	02/09/2013	SWA Group	05/09/2013
Project No.1211, A-106, Issue F – Level 03, 05 & 07	07/01/2013	Architects & Partners	31/01/2013
<i>108, Issue A - Level 8</i>	<i>02/09/2015</i>	<i>Urban Link Architecture</i>	<i>16/09/2015</i>
<i>109, Issue A - Level 9</i>	<i>02/09/2015</i>	<i>Urban Link Architecture</i>	<i>16/09/2015</i>
<i>110, Issue A - Level 10</i>	<i>02/09/2015</i>	<i>Urban Link Architecture</i>	<i>16/09/2015</i>
<i>111, Issue A – Level 11</i>	<i>02/09/2015</i>	<i>Urban Link Architecture</i>	<i>16/09/2015</i>
<i>112, Issue A - Roof</i>	<i>02/09/2015</i>	<i>Urban Link Architecture</i>	<i>16/09/2015</i>
<i>201, Issue A – East and West Elevation</i>	<i>02/09/2015</i>	<i>Urban Link Architecture</i>	<i>16/09/2015</i>
<i>202, Issue A – South Elevation</i>	<i>02/09/2015</i>	<i>Urban Link Architecture</i>	<i>16/09/2015</i>
<i>203, Issue A – North Elevation</i>	<i>02/09/2015</i>	<i>Urban Link Architecture</i>	<i>16/09/2015</i>
<i>204, Issue A – Inner East and West Elevations</i>	<i>02/09/2015</i>	<i>Urban Link Architecture</i>	<i>16/09/2015</i>
<i>401, Issue A – Section A-A</i>	<i>02/09/2015</i>	<i>Urban Link Architecture</i>	<i>16/09/2015</i>
<i>402, Issue A –</i>	<i>02/09/2015</i>	<i>Urban Link</i>	<i>16/09/2015</i>

Dwg Number / Name	Date	Author	Received at Council
<i>Section B-B</i>		<i>Architecture</i>	
A-405, Issue 01 – Driveway Ramp Profile	02/09/2013	SWA Group	05/09/2013
Project No.12030, SW01, Issue F – Basement 2	22/07/2013	Scott Collis Consulting	20/08/2013
Project No.12030, SW04, Issue E – Level 01	20/08/2013	Scott Collis Consulting	05/09/2013
Project No.12030, H10, Issue B – Level 08	31/07/2013	Scott Collis Consulting	05/09/2013
Project No.12030, H11, Issue B – Level 09	31/07/2013	Scott Collis Consulting	05/09/2013
Project No.12030, H12, Issue B – Level 10	31/07/2013	Scott Collis Consulting	05/09/2013
Project No.12030, H13, Issue B – Roof plan	31/07/2013	Scott Collis Consulting	28/03/2012
Project No.12030, SW-102, Issue B – Basement 1	13/03/2012	Steve NSYNC Services P/L	28/03/2012
Project No.12030, SW-105, Issue B – Level 02, 04 & 06	13/03/2012	Steve NSYNC Services P/L	28/03/2012
Project No.12030, SW-106, Issue B – Level 03, 05 & 07	13/03/2012	Steve NSYNC Services P/L	28/03/2012
Project No.12030, SW-300, Issue A – Detention Tank Detail	13/03/2012	Steve NSYNC Services P/L	28/03/2012
Project No.12030, SW-301, Issue B – Sediment & erosion control	13/03/2012	Steve NSYNC Services P/L	28/03/2012
Project No.10183, LP01, Issue I Landscape Plan – Level 1	26/09/2013	Site Design	17/10/2013
Project No.10183, LP02, Issue I	26/09/2013	Site Design	17/10/2013

Dwg Number / Name	Date	Author	Received at Council
Landscape Plan – Roof Gardens Planting schedule			
Project No.10183, LP03, Issue I Landscape Plan – Sectional Detail A-A	26/09/2013	Site Design	17/10/2013

- Insert condition 2a of DA-2012/293/D to read:

2a. The following design excellence requirements must be adhered to:

- a. The Princes Highway facades of levels 8 to 11 must be redesigned in a manner that is similar to or, at the very least, that complements, the 'zigzag' balcony structure which is a feature of levels 1 to 7 by either one of the two options below:*

i. Spandrels and end walls should stand at least half a metre forward of windows on levels 8 to 11, and the alignment of those projecting spandrels should complement the approved balconies on levels 1 to 7. Or, the projecting spandrels-and-walls could incorporate two intersecting planes that match the approved zig-zag balconies on levels 1 to 7, and which have minimum setbacks from the street frontage of approximately 1.5m; and

ii. The projecting spandrels-and-walls might involve a simple 'single' splayed plane which is 'hinged' from the north-western corner of the levels 8 to 11 (i.e. from a point 3m behind the street boundary), which extends parallel to balconies on levels 2, 4 and 6, and which terminates a point near the site's SW corner with a setback of approximately 1.5m to 2m from the street boundary;

b. The Chapel Lane facade of level 8 in Block B must be redesigned to achieve a complementary relationship to the 'banded' facade between levels 1 and 7 by either one of the two options below:

- ii. The laneway frontage at level 8 should be a continuous balcony which may vary in depth from a minimum of 1m to approximately 2m, and should incorporate adjustable sunscreens to create the appearance of a shaded verandah.*
iii. The east-facing balcony should return along the northern elevation in order to maintain proportions of the four-bay balcony between levels 1 and 7.

Details demonstrating compliance with these requirements must be submitted to the satisfaction of the Director of City Planning and Development of Rockdale City Council prior to the issue of the Construction Certificate for the above ground works. Details shall be reflected on the Construction Certificate plans and supporting documentation.

- Modify Condition 5 to read:

5. The development must be implemented and all BASIX commitments thereafter maintained in accordance with BASIX Certificate Number (317678M_06) other than superseded by any further amended consent and BASIX certificate.

Note: Clause 145(1)(a) of the Environmental Planning & Assessment Regulation 2000 provides: A certifying authority must not issue a construction certificate for building work unless it is satisfied of the following matters: ""

- (a) that the plans and specifications for the building include such matters as each relevant BASIX certificate requires.

Note: Clause 154B(2) of the Environmental Planning & Assessment Regulation 2000 provides: "A certifying authority must not issue a final occupation certificate for a BASIX affected building to which this clause applies unless it is satisfied that each of the commitments whose fulfilment it is required to monitor has been fulfilled."

Note: For further information please see <http://www.basix.nsw.gov.au>."

➤ Modify condition 11 to read:

11. Parking spaces shall be allocated to residential apartments in the development in the following manner and this shall be reflected in any subsequent strata subdivision of the development:

Allocated Spaces		Total
Studio apartments, 1 bedroom apartments and 2 bedroom apartments	1 space per apartment	93 spaces
3 bedroom apartments and 3+ bedroom apartments	2 spaces per apartment	6 spaces
Residential Visitor Spaces	1 space per 5 apartments less 20% reduction in parking for non-residential users (8 shared with retail)	16 spaces
Retail Units	1 space per 40m ² gross floor area minimum less 20% reduction in parking for non-residential users (8 shared with visitors)	12 spaces
Car wash bays	Dedicated car wash bay, 1 per 60 dwellings	2 spaces
Bicycle Parking		
Residential	1 space per 10 apartments	10 bicycle spaces
Retail	1 space per 200m ² GFA (min 15% public accessible)	3 bicycle spaces
Motorcycle Parking		
Residential	1 space per 15 apartments	7 motorcycle spaces

<i>Retail</i>	<i>1 space per 20 car spaces</i>	<i>1 motorcycle space</i>
Loading		
<i>Residential/retail</i>	<i>1 MRV loading dock</i>	<i>1 MRV loading dock</i>

Parking calculations that are not whole numbers must be rounded up to the nearest whole number.

All residential visitor spaces, car wash bays and loading bays shall be labelled as common property on the final strata plan for the site.

A positive covenant shall be created over the share parking register.

Note: *This parking allocation condition applies to any Strata Certificate issued with respect to a Consent issued in accordance with Section 81 (1)(A) of the Environmental Planning and Assessment Act 1979 or a Complying Development Certificate issued in accordance with Part 6 of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.*

- Modify condition 25 to read:

25. The proposal is to be designed in accordance with:

- i. the recommendations of the Wind report submitted with the application prepared by Windtech, dated 30 November 2010 as amended by the letter prepared by Windtech, dated 5 March 2012 and as amended by the Pedestrian Wind Statement Memo prepared by Windtech, dated 31 August 2015*
- ii. the relevant provisions of AS/NZS 1170.2:2011 (Wind Actions)*
- iii. the following recommendations of the Pedestrian Wind Statement Memo, WB003-04F01- WS Memo and dated 31 August 2015 are to be implemented on site.*
 - i. The inclusion of densely foliating vegetation such as trees and shrubs within and around the Communal Roof Garden as indicated in the architectural drawings. In particular along the southern and eastern boundary of the site.*
 - ii. The inclusion of an additional densely foliating tree on the Level 1 Podium between the two towers of the development.*
 - iii. The inclusion of a 2m high impermeable screen along the southern edge of the Level 1 Podium between the two towers of the development.*
 - iv. The inclusion of the 3m high impermeable screen along the southern edge of the Communal Roof Garden.*
 - v. The inclusion of the 1.5m high impermeable balustrade around the remaining perimeter of the Communal Roof Garden.*

- Insert condition 25a to read:

a) In order to ensure the design quality / excellence of the development is retained:

- i. A design architect is to have direct involvement in the design documentation, contract documentation and construction stages of the project;*
- ii. The design architect is to have full access to the site and is to be authorised by the applicant to respond directly to the consent authority where information or clarification is required in the resolution of design issues throughout the life of the project;*

- i. *iii. Evidence of the design architect's commission is to be provided to the Director City Planning and Development of Rockdale City Council prior to release of the Construction Certificate for the above ground works.*
b) The design architect of the project is not to be changed without prior notice and approval of the Director City Planning and Development of Rockdale City Council.

- Amend condition 34 of DA-2012/293/D to read:

34. The development shall be insulated to achieve an Acoustical star rating of 5 in accordance with the standards prescribed by the Association of Australian Acoustical Consultants (AAAC) in accordance with the report by Acoustic Logic Consultancy, dated 18 August 2015, and received by Council on 16 September 2015. The acoustic treatments are to be undertaken in accordance with section 3 of the report.

- Amend condition 35 of DA-2012/293/D to read:

35. The development shall have an impact isolation between floors which achieves an Acoustical star rating of 5 in accordance with the standards prescribed by the Association of Australian Acoustical Consultants (AAAC) in accordance with the report by Acoustic Logic Consultancy, dated 18 August 2015, and received by Council on 16 September 2015. The acoustic treatments are to be undertaken in accordance with section 3 of the report.

- Insert condition 48a of DA-2012/293/D to read:

48a. For the additional 20 residential units, a further Section 94 contribution of \$98,885.84 shall be paid to Council. Such contribution is only used towards the provision or improvement of the amenities and services identified below. The amount to be paid is adjusted at the time of payment, in accordance with the contribution rates contained in Council's current Adopted Fees and Charges. The contribution is to be paid prior to the issue of any construction certificate for works above the floor level of the ground floor. (Payment of the contribution is not required prior to any separate construction certificates issued only for demolition, site preparation works and the construction of basement levels). The contribution is calculated from Council's adopted Section 94 contributions plan in the following manner:

*Open Space \$74,447.54
Community Services and Facilities \$7,993.00
Town Centre and Streetscape Improvements \$4,108.55
Pollution Control \$11,853.89
Plan Administration and Management \$482.86*

Copies of Council's Section 94 Contribution Plans may be inspected at Council's Customer Service Centre, Administration Building, 2 Bryant Street, Rockdale.

- Amend condition 52 of DA-2012/293/D to read:

52. Compliance with Council's Development Control Plan (DCP) 2011. Access in accordance with Australian Standard 4299 must be provided to and within the five (5) residential units, and between these units and its allocated car parking spaces. The allocated parking space will be located in close proximity to the access points of the building. The adaptable units are to be unit numbers 106, 108, 210, 310 & 1103. Please note that compliance with this condition requires the relevant unit(s) to be constructed to comply with all the essential (Type C) requirements of AS4299.

Note: Compliance with Council's Development Control Plan (DCP) 2011 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.

- Amend condition 54 of DA-2012/293/D to read:

54. Compliance with Council's Development Control Plan (DCP) 2011. Compliance with this condition requires a minimum of seven (7) adaptable car parking spaces to be provided. The adaptable car spaces shall be identified and reserved at all times and be in the vicinity to lifts or as close as possible to public areas and facilities. The car spaces shall have shall be in accordance AS 2890.6 and all spaces shall have an uninterrupted minimum headroom clearance of 2.5 metres free of all obstructions, such as service pipes, fittings etc for use by vehicles fitted with roof mounted wheelchair racks.

- Delete condition 65 of DA-2012/293/D regarding the dual use for the visitor space and car wash bay.

- Amend condition 66 of DA-2012/293/D to read as follows:

66. A minimum of 2 dedicated car wash bay are required. A tap shall be provided. A sign shall be fixed saying 'Car Wash Bay'. The runoff shall be directed and treated as per Rockdale Technical Specification Stormwater Management. Details shall be provided with the plans accompanying the Construction Certificate.

- Amend condition 114 of DA-2012/293/D regarding the off-street car spaces:

114. A minimum of 121 off-street car spaces (including two dedicated car wash bays) shall be provided in accordance with the submitted plan and shall be sealed and linemarked to Council's satisfaction. The pavement of all car parking spaces, manoeuvring areas and internal driveways shall comply with Australian Standard AS3727 – Guide to Residential Pavements. A positive covenant pursuant to the Conveyancing Act 1919 shall be created over the shared parking register.

- Amend condition 118 of DA-2012/293/D regarding the noise reduction measures

118. The noise reduction measures specified in the noise report by Acoustic Logic Consultancy, dated 12 March 2012 (and amended 18 August 2015) shall be validated by a Certificate of Compliance prepared by the acoustic consultant and submitted to the Principal Certifying Authority (PCA) prior to the issue of an Occupation Certificate. If Council is not the PCA, a copy shall be submitted to Council concurrently.

- Insert condition 118a of DA-2012/293/D to read:

118a. A by-law shall be registered and maintained for the life of the development, which requires that:

- (a) balconies are not to be used as clothes drying areas, storage of household goods and air-conditioning units that would be visible from the public domain;*
- (b) an owner of a lot must ensure that all floor space within the lot complies with the acoustic conditions for floors specified in this consent;*
- (c) Notwithstanding subclause (b), in the event that a floor covering in the lot is removed, the newly installed floor covering shall have a weighted standardised*

impact sound pressure level not greater than $L_{inT,w} 45$ measured in accordance with AS ISO 140.7 and AS ISO 717.2, A test report from a qualified acoustic engineer employed by a firm eligible to membership of the Association of Australian Acoustical Consultants shall be submitted to the Owners Corporation within 14 days of the installation of the new floor covering demonstrating compliance with that standard. In the event that the standard is not complied with, the floor covering shall be removed and replaced with a floor covering that conforms to that standard in accordance with any directions given by the Owners Corporation.

Proof of registration of the by-law shall be submitted to Council prior to the issue of the Occupation Certificate.

- Amend condition 129 of DA-2012/293/D regarding the requirements of Sydney Airport Corporation Limited (SACL) and the Civil Aviation Safety Authority (CASA).

129. The proposal shall be constructed in accordance with the requirements of Sydney Airport Corporation Limited (SACL).

- Delete condition 144 of DA-2012/293/D and the restriction to comply with a maximum 4:1 FSR.

- Amend condition 149 of DA-2012/293/D to read:

149. The covered sections of the Block B (eastern building) rooftop areas is not to be enclosed at any future time.

- Amend condition 150 of DA-2012/293/D to read:

150. All balustrade structures on the Princes Highway frontage of Building A (west elevation) are to have a maximum height of 1.4 metres and the balcony openings are to have a minimum height of 1.7m.

- Amend condition 154 of DA-2012/293/D to reflect the NSW Department of Industries (Water) requirements to read:

154. The following requirements by the NSW Department of Industries (Water), Ref No.10ERM2015/1306, dated 17 February 2016, must be adhered to:

- *Monitoring (measurement and recording) of discharge volumes arising from ongoing dewatering groundwater take must be carried out on a monthly basis for the life of the building by the building management entity using a method compliant with the NSW Water Extraction Monitoring Policy (e.g. pumping diary, pump revolution meter, operating hour meter, electricity meter or flow meter).*

Note: The design of the drainage system to isolate groundwater inflows from other sources of water is the responsibility of the proponent of the development (i.e. the developer).

- *All monitoring records are to be maintained by the building management entity for the life of the development, and provided to DPI Water or Council on request, to demonstrate the actual take of groundwater is consistent with the volumes anticipated during the design of the project.*

Note: Where sump pumps have not been operated during the calendar month this must nevertheless be identified in the monitoring record (e.g. as a 'nil' entry).

- *A copy of the written permission from the relevant controlling authority for the selected method of disposal of any pumped groundwater shall be retained by the building management entity with the monitoring records.*

EXISTING AND SURROUNDING DEVELOPMENTS

The subject site is located within the Rockdale Town Centre. The subject site is 564 Princes Highway, Rockdale. The development site consists of Lot 11 in DP 1074481. The subject site has two street frontages to Princes Highway (west) and an unnamed lane off Chapel Lane (east). The subject site comprises of a 26.434 metre western (Princes Highway frontage) boundary, a 61.145 metre northern side boundary, a 29.935 metre eastern (unnamed lane off Chapel Lane secondary frontage) boundary and a southern boundary of 61.535 metres. The development site area is approximately 1807 m².

The site is situated on the eastern side of Princes Highway, Rockdale to the south of Bay Street and the north of Lister Avenue. The site is presently under construction.

The adjoining properties to the north include a mixed-use development at No.558-560 Princes Highway and other one and two storey commercial buildings further to the north. The adjoining property to the south includes a two-storey commercial building at No.570 Princes Highway and an eight-storey mixed-use development at No. 572-578 Princes Highway. To the west across the road (Arena development), at No.555 Princes Highway lies a 3 to 9 storey mixed-use development comprising of 186 units configured with a central communal courtyard and a swimming pool.

The subject site is generally surrounded by various mixed-use developments within the town centre (for example the Arena development opposite to the west) and a range of smaller commercial businesses with a public car parking area to the east on the opposite side of Chapel Lane. The land to the east has a current development application for multi-storey buildings and mixed-use development.

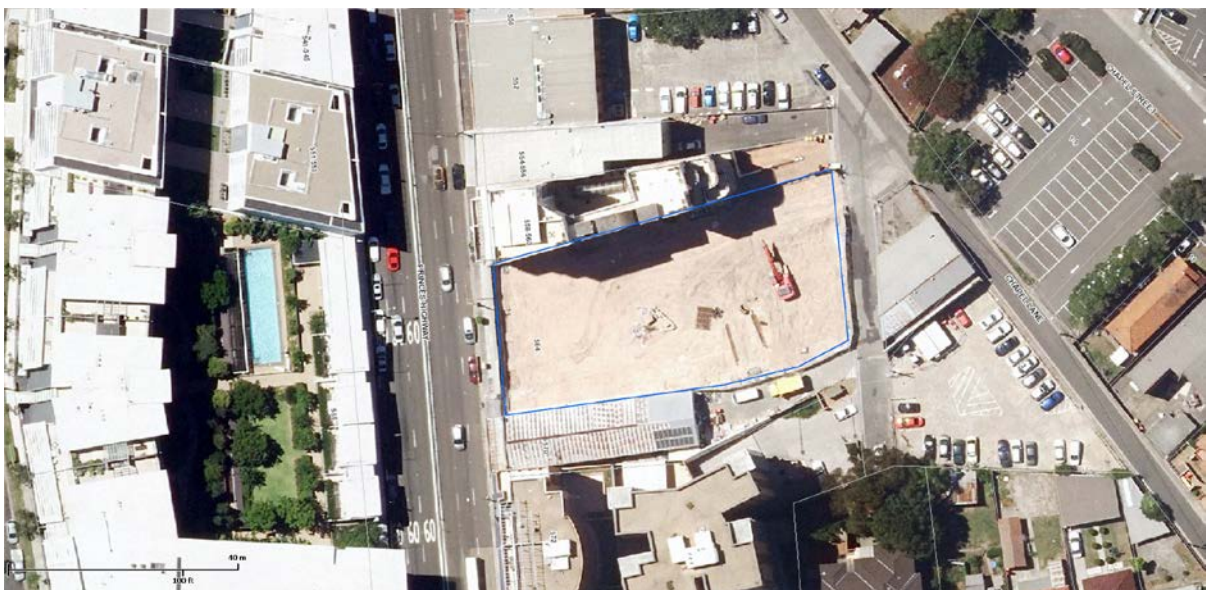


Figure 1. Aerial view of site (highlighted in blue & shown to be under construction)

PLANNING CONSIDERATION

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

Section 96 Modification of consents – generally

Section 96 (2) of the Environmental Planning and Assessment Act 1979 states:

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to an in accordance with the regulations, modify the consent if:

- a) *It is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and*

Comment: The proposal seeks modifications including the increase of 20 residential units across the both buildings, additional building height along Princes Highway and the unnamed lane off Chapel Lane and changes to the approved conditions.

The proposal, as modified, is substantially the same development for which consent was originally granted under DA-2012/293.

- b) *It has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*

Comment: The original proposal sought concurrence from the NSW Department of Primary Industries (Water). The proposed modification does not seek additional excavation or greater depths than what was approved under DA-2012/293/D. The NSW Department of Primary Industries (Water) was electronically notified of the revised plans and the NSW Department of Primary Industries (Water) commented that the amended proposal did not significantly alter the original general terms of approval, therefore, no further assessment was required. The proposed modifications were referred back to RMS, Ausgrid and NSW Department of Primary Industries (Water). All of these authorities stated that the proposal is substantially the same as the development for which consent approval was originally granted and as such no further issues were raised.

- c) *it has notified the application in accordance with:*
 - (i) *the regulations, if the regulations so require, or*
 - (ii) *a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*

Comment: The modification to the approved DA-2012/293 and subsequent modifications was required to be notified in accordance with the provisions of RDCP 2011. Seven (7) submissions were received.

- d) *it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.*

Comment: Seven (7) submissions were received and the issues raised are addressed in this report.

Section 96 (3) of the Environmental Planning and Assessment Act 1979 states:

“In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 79C (1) as are of relevance to the development the subject of the application.”

Comment: An assessment of the application against the Section 79C (1) has been completed and is provided below.

Section 79C (1) Matters for Consideration - General

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

State Environmental Planning Policy Building Sustainability Index (BASIX)

The applicant has submitted an amended BASIX Certificate. The Certificate number is 317678M_06, date of issue 27 August 2015, prepared by AGA consultants.

The commitments made in the amended scheme would result in the reduction in energy and water consumption as shown below:

- | | |
|-----------------------------------|--------------------|
| ➤ Reduction in Energy Consumption | 21 (target 20%) |
| ➤ Reduction in Water Consumption | 40 (target 40%) |
| ➤ Thermal Comfort | pass (target pass) |

The proposal therefore complies with the requirements under the SEPP.

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

Council's records indicate that the site has no history of contamination with previous commercial use approvals carried out on the site. The proposed modification is considered to be acceptable in respect to the requirements of SEPP 55. In this regard, should any new information be discovered during construction the applicant is to notify Council as the regulatory authority for the management of contaminated land. This has been addressed through the imposition of a condition of development consent.

State Environmental Planning Policy (Infrastructure) 2007 (ISEPP)

The subject site fronts onto the Princes Highway, which is a State road. As such, the original application was referred to the Roads and Maritime Services (RMS) who raised no objection to the vehicular access from the unnamed lane off Chapel Lane, subject to recommended conditions of consent, which were imposed on the original consent.

The RMS has reviewed the amended proposal and have provided concurrence under Section 138 of the Roads Act 1993 subject to their conditions, which have been incorporated within the amended conditions of consent. Accordingly, the amended proposal is consistent with the provisions of the ISEPP and is acceptable in this regard.

Clause 45 of ISEPP requires consultation with electricity supply authorities. Ausgrid were notified of the proposed modification and stated no change to their original conditions of consent, which ensures the applicant consults with utility providers to determine any additional requirements.

State Environmental Planning Policy No.65 - Design Quality of Residential Flat Development (SEPP 65)

In accordance with clause 30 of SEPP 65, the consent authority must take into consideration the following:

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

The original proposal was referred to the St George Design Review Panel on 7 June 2012 where the panel advised that the proposal was well designed and raised no issues in respect to its context, scale, built form, density and aesthetics. The panel did have some comments relating to landscaping, amenity and social dimensions, which were addressed in the original consent.

The similar proposal for 100 units was considered at a pre-DA stage by the DRP on 9 July 2015 where the DRP noted that the scale of the buildings seem appropriate for the context within the Rockdale Town Centre. In addition, as part of the design excellence clause in the RLEP 2011, the amended proposal was assessed by an independent urban designer, and therefore, a re-referral to the DRP once the section 96 modification was lodged was considered unnecessary.

Based on the advice of the DRP and the response of the urban designer, Council has imposed conditions of consent to ensure the building façade treatment and setbacks along Princes Highway satisfy the intent of the DRP. The building height and scale is considered to be contextually satisfactory.

b. The design quality of the residential flat building when evaluated in accordance with the design quality principles

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

Principle 1 – Context and Neighbourhood Character

The DRP noted that the following matters are required to be resolved:

“This is an additional development on top of an existing approved development. No additional context information was provided and no information as to likely or potential further impacts. This building is already approved for an eight storeys with no setbacks to the lane where the DCP suggests setbacks above 3 storeys.”

The site has been identified for high-density redevelopment in accordance with the provisions for the RLEP 2011 and the RDCP 2011. Princes Highway frontages in the RDCP 2011 are proposed as 6 storeys built-to-boundary with a 3 metre setback for levels above the sixth-storey. Adjoining and surrounding buildings in the immediate context are built-to-boundary to 7 or 8 storeys with the setback above this.

The approved DA-2012/293 has a 10-storey street wall without a setback to Princes Highway and now seeks the upper-most 4 storeys to be setback 3 metres from Princes Highway. This is an acceptable response to the western Princes Highway boundary.

The approved DA-2012/293 has a 8-storey street wall without a setback to unnamed laneway off Chapel Lane and now seeks the upper-most level 8 to be setback 3 metres from the unnamed laneway off Chapel Lane. This is an acceptable response to the eastern boundary.

Principle 2 – Built Form and Scale

The DRP noted that the following matters are required to be resolved:

“The Panel suggests that additional heights of both buildings should be carefully analysed to ensure no further impacts flow from this additional height. This includes the provision of sun and shadow diagrams demonstrating the impact on adjoining buildings, private open space and the public domain including streets and the rear lane. The Panel believes that additional floors and existing floors over 8 storeys should be setback 3 metres to reduce the impact to the street and to create a “top” to the building...”

The approved development comprises an architecturally-distinctive street wall which faces the Princes Highway (Block A) together with a smaller street wall building which adjoins Chapel Lane (Block B). The Princes Highway streetwall is articulated by a seven storey feature element which comprises an interlocking 'zig-zag' balcony structure which stands forward of the building's exterior walls.

The Princes Highway streetwall includes a further two storeys with exterior walls that are setback 3m from the lower balcony element and the site's side boundaries, and includes a single level balcony element which screens the top-most storey but has a setback of only 1.8m from the street boundary. Architectural composition of the Princes Highway elevation does not demonstrate an entirely-coherent integration of “top” and “middle” storeys. In this instance, it is unreasonable to suggest that lower levels, not specifically sought to be modified under this application, are to be responsive to the new controls that now pertain to the site (such as the revised Apartment Design Guide and the Part 7.5 Rockdale Town Centre of the RDCP 2011).

Principle 3 - Density

There is no density control within the Rockdale Town Centre. The proposed modification fits within the approved building envelope and height controls and is considered to be contextually satisfactory.

Principle 4 - Sustainability

The location, orientation and design of the development provides direct or diffused solar access and cross ventilation to all 96 residential units. The Apartment Design Guide (ADG) recommends that at least 60% of the proposed units shall achieve natural flow through ventilation. All additional 20 units and their habitable spaces are able to achieve adequate cross flow ventilation by maintaining the approved unit orientation on the lower levels.

The ADG recommends that in high density areas at least 70% of all proposed units living areas and balconies shall achieve 2 hours of direct sunlight during the period 9.00am and 3.00pm at mid-winter. All additional units will receive a minimum 2 hours direct sunlight during mid-winter to living areas and balconies.

It is noted that all units within the site are designed with open layouts and private balconies and/or courtyards. A BASIX Certificate has been submitted with the application demonstrating the modified development is capable of meeting thermal, energy, and water efficiency targets.

Principle 5 - Landscape

The DRP noted that the following matters are required to be resolved:

“No amended landscape plan has been submitted. Given the increased number of apartments (24) with an overall number of 100 apartments in the development, the communal open space has to cater for a high level of use and should therefore be substantially redesigned to provide improved facilities. Additional communal open space should be provided in accordance with the DCP and the ADG.”

The amended proposal has been modified since the pre-DA stage to include an additional 20 units to the 76 units approved and the rooftop terrace to the western building has been relocated to the eastern building.

The approved DA-2012/293 contained nil soft landscaping as the building is entirely built over the site, however, the amended scheme maintains generous landscaped area and ample common open space area on the podium level which is capable of accommodating large shrubs and sufficient landscaping to soften the internal-facing scale of the development.

Principle 6 - Amenity

All units within the building achieve a satisfactory standard of amenity with regards to privacy, ventilation, and direct/diffused solar access. The approved scheme provides satisfactory levels of internal amenity to future residents, with the units ranging in size and type. The room dimensions and layouts are appropriate for residential use and the maximum separation distance possible for the site has been achieved for visual outlook and privacy.

Private recreational areas are provided in the form of balconies/courtyards off the living areas and are further complemented by communal landscaped areas to ensure an overall quality of living for future occupants.

The proposed modification complies with disability access requirements and maintains sufficient service areas as required. It is considered that the development satisfies the provisions with respect to layout and amenity, and therefore the modified development is consistent with this principle.

Principle 7 - Safety

The development, as modified, maintains safe direct pedestrian access from Princes Highway and to unnamed laneway off Chapel Lane. Casual surveillance to the communal open space area within the central courtyard is achieved with apartments overlooking the courtyard. Pedestrian and vehicular entries are clearly separated. Safe internal access is available from the basement car parking levels directly into the building and the public/private domain is clearly distinguished from Charles and Kyle Streets. Security roller door access to the basement car park along with intercom entry to the lobby areas ensures the internal security of the residents.

Principle 8 – Housing Diversity and Social Interaction

The DRP noted that the *“...number of 3 bedroom apartments has been reduced, thereby decreasing the social mix. This is not supported.”*

The response from the DRP is at odds with the current proposal which increases the provision of 3-bedroom units by 1 unit, total of 3 x three-bedroom units is sought in this application, rather than decreasing the approved three-bedroom units under DA-2012/293.

The proposed modification seeks a total of 96 apartments, comprising of 50 x studio/one-bedroom units (52.1%), 43 x two-bedroom units (44.8%) and 3 x three-bedroom units (3.1%)

which contains less three bedroom, more one bedroom units and less two bedroom units than required under RDCP 2011. The original proposal contained less three bedroom and more one bedroom units than required under the RDCP 2011. Nonetheless, the proposed modification does represent a good unit mix which will encourage residents of different age groups and lifestyles. In this regard, the proposal is not considered unreasonable and the unit mix is considered acceptable in this instance.

Principle 9 - Aesthetics

Particular emphasis has been placed on the external appearance to enhance the streetscape, and to create a visual interest in the architecture of the building along all elevations, with a selection of appropriate finishes. The contemporary design of the building is compatible with the design and scale of the urban form for the locality. (Refer to assessment under Clause 6.14 in RLEP 2011.)

c. Apartment Design Guide (ADG)

The ADG is a publication by the State Government which further expands on the 9 design quality principles by providing some detailed practical guidance for the design of residential flat buildings. The original proposal has been assessed against the Residential Flat Building Code and the proposed additional 20 units have been assessed against the ADG. Refer to table below:

Clause	Design Criteria	Comments	Comply												
4A – Solar and daylight access	<p>Living rooms + POS of at least 70% of apartments receive min 2hrs direct sunlight between 9am & 3 pm mid-winter</p> <p>Max 15% apartments receive no direct sunlight b/w 9am & 3pm mid-winter</p>	See Principle 4 – Sustainability above	Yes												
4B – Natural ventilation	<p>Min 60% of apartments are naturally cross ventilated in the first nine storeys of the building.</p> <p>≥10 storeys are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.</p> <p>Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.</p>	See Principle 4 – Sustainability above	Yes												
4C – Ceiling heights	<table><tr><th colspan="2">Minimum ceiling heights</th></tr><tr><td>Habitable</td><td>2.7m</td></tr><tr><td>Non-habitable</td><td>2.4m</td></tr><tr><td>Two-storey apartments</td><td>2.7m main living area 2.4m first floor, area<50% of apartment area</td></tr><tr><td>Attic spaces</td><td>1.8m at edge 30 degrees minimum slope</td></tr><tr><td>Mixed use areas</td><td>3.3m for ground and first floor</td></tr></table>	Minimum ceiling heights		Habitable	2.7m	Non-habitable	2.4m	Two-storey apartments	2.7m main living area 2.4m first floor, area<50% of apartment area	Attic spaces	1.8m at edge 30 degrees minimum slope	Mixed use areas	3.3m for ground and first floor	<p>2.7m provided to habitable residential rooms</p> <p>4.75m is provided to commercial spaces, and the first floor is only 3.4m which is greater than 3.3m ceiling height for adaptable re-use.</p> <p>The proposed amendments does not change the approved floor-to-ceiling heights of the ground and level 1.</p>	Yes
Minimum ceiling heights															
Habitable	2.7m														
Non-habitable	2.4m														
Two-storey apartments	2.7m main living area 2.4m first floor, area<50% of apartment area														
Attic spaces	1.8m at edge 30 degrees minimum slope														
Mixed use areas	3.3m for ground and first floor														
4D – Apartment size and layout	<p>Minimum internal areas:</p> <table><tr><th>Apartment type</th><th>Minimum internal area</th></tr><tr><td>Studio</td><td>35m²</td></tr><tr><td>1 bedroom</td><td>50m²</td></tr><tr><td>2 bedroom</td><td>70m²</td></tr></table>	Apartment type	Minimum internal area	Studio	35m²	1 bedroom	50m²	2 bedroom	70m²	<p>Apartment sizes, rooms and bathrooms comply with the minimum requirements.</p> <p>All additional units demonstrate adequate cross-ventilation and provide windows to all habitable</p>	Yes				
Apartment type	Minimum internal area														
Studio	35m²														
1 bedroom	50m²														
2 bedroom	70m²														

	<table><tr><td>3 bedroom</td><td>90m²</td></tr></table> <p>Internal areas includes only one bathroom. Additional bathrooms increase area by 5m² each. Further bedrooms increase minimum internal area by 12m² each.</p>	3 bedroom	90m ²	rooms.														
3 bedroom	90m ²																	
4E – Private open space and balconies	<p>Primary balconies as follows:</p> <table><tr><th>Dwelling type</th><th>Minimum area</th><th>Minimum depth</th></tr><tr><td>Studio</td><td>4m²</td><td>-</td></tr><tr><td>1 bed</td><td>8m²</td><td>2m</td></tr><tr><td>2 bed</td><td>10m²</td><td>2m</td></tr><tr><td>3+ bed</td><td>12m²</td><td>2.4m</td></tr></table> <p>Min balcony depth contributing to the balcony area is 1m.</p> <p>Ground level, podium or similar -POS provided instead of a balcony: min area 15m² and min depth of 3m.</p>	Dwelling type	Minimum area	Minimum depth	Studio	4m ²	-	1 bed	8m ²	2m	2 bed	10m ²	2m	3+ bed	12m ²	2.4m	Generally satisfactory. The private open spaces of the additional units are appropriate.	Yes
Dwelling type	Minimum area	Minimum depth																
Studio	4m ²	-																
1 bed	8m ²	2m																
2 bed	10m ²	2m																
3+ bed	12m ²	2.4m																
4F – Common circulation and spaces	<p>Max apartments off a circulation core on a single level is eight.</p> <p>10 storeys and over, max apartments sharing a single lift is 40.</p>	There is no change to the approved single lift core to each building which serves no more than 4-6 units per level.	Yes															
4G – Storage	<p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <table><tr><th>Dwelling type</th><th>Storage size volume</th></tr><tr><td>Studio</td><td>4m²</td></tr><tr><td>1 bed</td><td>6m²</td></tr><tr><td>2 bed</td><td>8m²</td></tr><tr><td>3 bed</td><td>10m²</td></tr></table> <p>At least 50% of the required storage is located within apartment</p>	Dwelling type	Storage size volume	Studio	4m ²	1 bed	6m ²	2 bed	8m ²	3 bed	10m ²	All additional units have at least 50% of their storage within their unit, with the remainder within the basement storage provided.	Yes					
Dwelling type	Storage size volume																	
Studio	4m ²																	
1 bed	6m ²																	
2 bed	8m ²																	
3 bed	10m ²																	

Rockdale Local Environmental Plan 2011 (RLEP 2011)

The land is zoned B2 Local Centre under RLEP 2011. The development constitutes 'retail premises' (a type of 'commercial premises') and 'shop top housing', both of which are permissible with consent in this zone. The development is consistent with the objectives of the B2 zone. The relevant clauses that apply to the amended proposal are below.

Clause 4.3 - Height of buildings

The maximum building height for the land on the Height of Buildings Map is 28m. The land is also subject to a development incentive, which enables an additional 12 metres of height if the site area is in excess of 1500m². Given the subject site comprises a site area of 1807 m² the bonus provision applies and a 40m height limit applies to the subject site.

The height of the proposed building is 39.85m to the top of the lift overrun of building A fronting Princes Highway. As such, the amended proposal does not seek a variation with the development standard. The amended proposal maintains compliance with the objectives of the clause.

Clause 5.10 – Heritage Conservation

The site is within the vicinity of the local heritage item no.206 'Uniting Church and buildings' at Part lot 1 in DP 798278, known as 11 Bay Street, Rockdale. The proposal, as modified, is not considered to adversely impact upon this heritage item.

Clause 6.1 – Acid Sulfate Soils (ASS)

The site is affected by Class 5 ASS. The applicant provided an ASS management plan with the original application. No additional conditions of consent are recommended for this modification.

Clause 6.2 – Earthworks

The site is currently under construction. The amended proposal does not involve further extensive excavation within the site. The impacts of the proposed earthworks have been considered in the original assessment. Appropriate conditions of consent have been recommended to ensure minimal impacts on the amenity of surrounding properties, drainage patterns and soil stability.

Clause 6.3 – Development in areas affected by aircraft noise

The site is located within the 20-25 Aircraft Noise Exposure Forecast (ANEF) contour chart. An Acoustic Report has been submitted. The report recommends acoustic measures to comply with the relevant standards as required by this clause. The proposal is satisfactory in regard of Clause 6.3 RLEP 2011, subject to the imposition of the recommended conditions.

Clause 6.4 – Airspace operations

The subject site is affected by the Obstacle Limitation Surface (OLS) Map that limit the height of structures to 51 metres OLS above the existing ground height without prior approval of the Civil Aviation Safety Authority (CASA). The proposed modification seeks a penetration of 2.85m of the OLS. The residential flat building will have a height of up to AHD 53.85m. At the time of writing this report, Sydney Airports Corporation Limited (SACL) has informed Council that CASA has not responded to this application. As such, Council recommends a deferment of this matter until SACL has responded to the sought after building height.

Clause 6.7 – Stormwater

Council's Senior Development Engineer has reviewed the proposal and recommended no change to the stormwater management conditions, however, recommended conditions to satisfy the traffic and parking changes to the approved scheme, which have been incorporated in the recommended conditions of consent.

Clause 6.12 – Essential Services

Services are generally available on the site. Additional conditions of consent are proposed requiring consultation with relevant utility providers to ensure appropriate provision of services on the site.

Clause 6.14 – Design Excellence

The subject application was submitted to Council on 16 September 2015. Clause 6.14 Design Excellence of Rockdale LEP 2011 took effect on 5 June 2015, of which no savings provisions applied. At the time of lodgement Clause 6.14 was in force.

On 4 November 2015, following objection from the applicant that Clause 6.14 should not apply to section 96 applications, Council resolved not to exempt Section 96 (2) modifications from Clause 6.14(3) – Design Excellence of RLEP 2011. However, it was deemed unreasonable, given consent has already been issued, to impose a design competition upon the applicant. As such, the Section 96(2) was required to be reviewed by an independent urban designer in lieu of the design competition as required by Clause 6.14, in order to ensure the proposal meets the objectives of this clause.

On 1 December 2015, an independent urban design review report prepared by Brett Newbold of Brett Newbold Urban Planning was submitted to Council. The report considered the design of the proposed modification, particularly in relation to its context and provided recommendations to be implemented to ensure design excellence was achieved.

The urban designer reviewed the scheme and considered that in order to achieve the objectives of Clause 6.14, minor components of the Princes Highway façade and unnamed laneway off the Chapel Lane façade schemes should be conditioned. These conditions include:

- Aligning the Princes Highway building line of the additional levels to complement the approved balconies on levels 1 to 7; and
- Re-designing the Chapel Lane building line facade of level 8 in Block B to achieve a complementary relationship to the 'banded' facade between levels 1 and 7 by either providing a continuous balcony or moving the east-facing balcony along the northern elevation.

The above conditions have been included in the draft notice of determination (condition 2a). Subject to compliance with these conditions, and additional conditions relating to the design and ongoing maintenance of the building, it is considered that the proposed modification will be compliant with the objectives of this clause and demonstrate design excellence within the Rockdale Town Centre.

Provisions of any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (S.79C(1)(a)(ii))

There are no Draft Environmental Planning Instruments applying to this proposal.

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

Rockdale Development Control Plan 2011(DCP 2011)

The proposal has been assessed against the objectives and controls under RDCP 2011 and associated documents being the Technical Specifications for Parking, Technical Specifications for Stormwater, Waste Minimisation and Management and Landscaping. The following issues are relevant to determine compliance of the proposal with the objectives of RDCP 2011.

Part 4.1.1 Views and Vistas

The proposal will have a negligible to minor impact of the existing view corridors as viewed from the residential properties located in Rockdale. A view loss assessment has been undertaken in accordance with *Tenacity Consulting Pty Ltd v Warringah Council (2004) NSWLEC 140*. Refer to the 'Public Submissions' section of this report.

Part 4.1.9 Lot size and site consolidation

It is acknowledged that the adjoining property located to the south of the subject site at No.570 Princes Highway was isolated as a result of the original approved DA-2012/293. Council granted a previous consent (DA-2006/119) on 23 February 2007 which permits the redevelopment of No.570 Princes Highway for the purposes of a mixed use development containing commercial units on the ground floor and 14 residential units above and to the rear with vehicular access from the rear lane. Given the above, requesting the applicant to amalgamate and consolidate with No.570 Princes Highway was considered during this assessment, but was deemed to be unreasonable. The amended proposal does not alter the viewpoint established under the approved DA-2012/293 that No.570 Princes Highway is reasonably capable of being economically developed.

Part 4.4.7 Wind Impact

A Wind Assessment report prepared by Windtech dated 30 November 2010 and an addendum letter date 5 March 2012 (for the revised scheme) was submitted to Council with the original scheme. The report concludes that *“wind conditions for all areas within and around the development will be suitable for their intended uses and within the respective recommended criterion”* when the principle recommendations detailed in the conclusion of the report are undertaken.

A Pedestrian Wind Statement Memo, WB003-04F01- WS Memo, prepared by Windtech and dated 31 August 2015 was submitted for the amended proposal which maintains the original report and wind tunnel testing recommendations as still relevant, however, impose further recommendations which include:

- The inclusion of densely foliating vegetation such as trees and shrubs within and around the Communal Roof Garden as indicated in the architectural drawings. In particular along the southern and eastern boundary of the site;
- The inclusion of an additional densely foliating tree on the Level 1 Podium between the two towers of the development;
- The inclusion of a 2m high impermeable screen along the southern edge of the Level 1 Podium between the two towers of the development;
- The inclusion of densely foliating vegetation such as trees and shrubs within and around the Communal Roof Garden as indicated in the architectural drawings;
- The inclusion of the 3m high impermeable screen along the southern edge of the Communal Roof Garden; and
- The inclusion of the 1.5m high impermeable balustrade around the remaining perimeter of the Communal Roof Garden.

These recommendations have been included within the draft consent.

Part 4.5.1 Housing Diversity and Choice

The RDCP 2011 requires the provision of 10% of units to be adaptable when more than 30 units are proposed to be erected with associated car parking. The original application for 76 units was approved with 2 adaptable units (Level 1 building B units 106 and 108) with 100% of the units providing barrier free access. The proposed modification complies with the adaptable housing rate for the 20 additional units. The amended proposal provides an additional 3 adaptable units (210, 310 and 1103) which is considered acceptable in this instance.

Part 4.6 Car Parking, Access and Movement

The approved DA-2012/293 and subsequent modifications require the provision of 122 on-site car parking spaces. The proposed modification seeks 121 on-site car parking spaces. The applicant relies on a sharing arrangement with the commercial and visitor spaces, which can be considered under the RDCP 2011. In addition, the amended proposal complies with the RMS Guide for Traffic Generating Development rates as a minimum of 107 parking spaces is required under the Apartment Design Guide.

Council's Senior Development Engineer reviewed the proposal and noted that the site benefits from contributions previously paid under Section 94 for 37 car parking spaces, and given the proposed deficiency of 1 space (and the submitted revised traffic and parking statement to show that the scheme will not result in any significant adverse impacts in respect to traffic and parking) the proposed modification is considered acceptable and consistent with the objectives outlined in RDCP 2011 in relation to traffic and parking.

Part 4.7 Site Facilities

The proposal, as amended, complies with Council's requirements and the intent of the original conditions addressing the management of waste and is therefore satisfactory in regards to waste management and the design of waste storage/chute areas. No additional management of waste conditions have been imposed on the amended consent.

Part 5.3 Mixed Use

The approved DA-2012/293 and subsequent modifications have provided a ground floor retail area of 565sqm and eight work/live level 1 units with a floor to ceiling level of 3.3m for future adaptation for commercial use of 674sqm. The proposed modification does not change the total floor area of possibly 1,239sqm of flexible floor space, which represents 17% of the GFA, and remains compliant with this control.

Part 7.5 Rockdale Town Centre

Part 7.5 of the RDCP 2011 was not in force or applicable during the originally approved DA-2012/293 and subsequent modifications. Nonetheless, an assessment of Rockdale Town Centre controls is below:

7.5.1 Building Use and Function

The proposed modification continues to activate the Princes Highway frontage of the site at ground level via the provision of 2 retail premises, which engage the public domain. A residential entry to the Princes Highway further addresses the public domain along the southern boundary of the site.

The unnamed laneway off Chapel Lane serves as the vehicular and service access to the site. No ground floor residential units exist, however, residential building B lobby is accessed from the service laneway.

7.5.2 Building form and character

The proposed modification does not seek to change the approved DA-2012/293 and subsequent modifications setbacks and built-to-line along Princes Highway and to the unnamed laneway off Chapel Lane.

As per the arterial core street character diagram, the site is required to provide a 6-storey street edge to Princes Highway, with upper levels above 6-storeys setback 3m from the front

boundary with an articulation zone. The approved DA-2012/293 has an angular and slightly setback built form to Princes Highway to all levels. The proposed modification seeks to improve the front façade with a 3m setback for the uppermost 4 storeys along Princes Highway. The proposal, as amended, generally improves the built form to the Princes Highway and is conditioned to comply with the intent of the DRP and the urban designer's comments.

As per the laneway street character diagram, the site is required to be built to the boundary or setback for a 3-storey base, with taller building forms setback a further 3m for the full building height. The approved DA-2012/293 has a nil setback built form to unnamed laneway off Chapel lane to all levels. The proposed modification seeks to improve the laneway façade with a 3m setback to Level 8 of building B. The proposal, as amended, generally improves the built form to the laneway and is conditioned to comply with the intent of the DRP and the urban designer's comments.

Any Planning Agreement that has been entered into under section 93F, or any draft planning agreement that the developer has offered to enter into under section 93F (S.79C(1)(a)(iia))

The proposal does not include any Voluntary Planning Agreements (VPAs) and section 93F does not apply to the application.

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

Clauses 92-94 of the Regulations outline the matters to be considered in the assessment of a development application. Clause 92 requires the consent authority to consider the provisions of AS 2601:1991 - Demolition of Structures when demolition of a building is involved. In this regard a condition of consent is proposed to ensure compliance with the standard.

The Regulations requires notification to relevant authorities that may have an interest in the application. The proposal has been notified to Sydney Water, Energy Australia, Sydney Airports, NSW Police and the Roads and Maritime Services (RMS). The recommendations provided are included in the draft Notice of Determination.

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

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

Character / Streetscape / Density / Bulk / Scale

The proposed development, as amended, has a built form, height scale and context consistent with the nature of the existing development and the future desired character of the area anticipated within the Rockdale Town Centre. The proposed development has been designed to continue the larger building form permissible on the site along Princes Highway in accordance with the zoning of the land. The proposed twelve-storey building component along Princes Highway and a nine-storey building component along the unnamed laneway off Chapel Lane portray a satisfactory relationship with the existing and future residential flat buildings within the Rockdale Town Centre.

The proposal, as amended, maintains sufficient modulation and articulation so that it provides a suitable series of elevations that have a positive relationship with the streets. The proposal, as amended, achieves a satisfactory relationship with existing adjoining mixed-use

development in that it continues the scale and bulk of buildings along the eastern side of the Princes Highway.

Accordingly, the proposal is considered acceptable in respect to its bulk and scale and will make a positive contribution to the existing streetscape along Princes Highway and the unnamed lane off Chapel Lane. Overall the modification is considered to set a good quality standard for the future mixed-use developments in the Rockdale Town Centre precinct.

Visual Privacy

The site is surrounded by buildings of similar height, scale and mixed-use within the Rockdale Town Centre. The only exception to this is the building on the adjoining property to the south. Despite this, the proposed modification does maintain sufficient separation between units that face each other between the two buildings. In this regard, the adequate separation is provided while the proposed building contains the lobby areas, stairwells and podium landscaping between the buildings.

The proposal maintains the approved internal separation between units which face each other between the building footprints. The proposal uses privacy measures such as appropriate location of balcony openings, appropriate building forms, perforated screens along the perimeters of the balconies, varying setbacks and landscaping elements to retain adequate levels of privacy within the development. As such, the proposal is considered to have adequate privacy measures and be of a design, which is not considered unreasonable in respect to the resulting internal amenity and external privacy conditions for the site. The proposal is consistent with the nature of the future design character of the Rockdale Town Centre corridor. As such the proposal is considered satisfactory in relation to amenity and privacy.

Safety and Security

Council and the DRP have considered the safety and security of the proposal. In this regard, conditions of consent have been retained in the draft Notice of Determination which addresses the safer by design principles. These conditions relate to a range of security matters and subject to compliance with these conditions, the proposal is considered satisfactory having regard to safety and security.

Views and Vistas

As a whole, the proposal, as amended, will have a negligible to minor impact of the existing view corridors as viewed from the residential properties located in Rockdale.

A view loss assessment has been undertaken in accordance with *Tenacity Consulting Pty Ltd v Warringah Council (2004) NSWLEC 140* in relation to public submission regarding view loss. Refer to the 'Public Submissions' section of this report.

Overshadowing / Solar access

Although the original approved DA-2012/293 contains a significant number of single aspect apartments the proposed new units maintain the approved east/west orientation for the western building and a northern orientation for the eastern building. The proposal, as amended, complies with the minimum solar access requirements for each unit. The layout of the buildings is in response to the established building forms within the street block and the nature of the previous approval on the adjoining property to the south. In this regard, the proposal, as amended, is consistent with the remaining building forms and complies with the height controls.

An inspection of the revised shadow diagrams submitted with the modification indicates that the proposal is likely to result in a minor increase in overshadowing when compared with the existing shadows cast by the buildings on the southern properties. The shadows to be cast by the development are not considered to be excessive and will be over the Princes Highway in the morning and properties to the south later in the day during mid-winter. The additional shadows cast by the modification is not excessive as it will only affect the southern buildings whilst maintaining the approved building separation between the eastern and western buildings.

The property at 555 Princes Highway, Rockdale was inspected and the proposal, as amended, will not adversely affect the existing solar access to the swimming pool of the 'Arena development'. The proposed additional shadows cast from the building fronting Princes Highway will cast its shadows across the road and the existing 555 Princes Highway building.

The minor impact on the buildings on the southern properties are considered to be acceptable being limited only to mid-winter. Notwithstanding, reasonable and varying levels of direct and diffused solar access are provided throughout the day to the proposed site and to adjoining sites.

The proposal meets the overshadowing controls under RDCP 2011 and the minor impact on the buildings to the south is considered to be acceptable being limited only to mid-winter. As such it is considered that the proposal is satisfactory having regard to solar access and overshadowing.

Traffic/Parking

Parking has been addressed previously in this report and is considered to be acceptable in respect to the requirements of the RDCP 2011. A revised Traffic Report was prepared by a Varga Traffic Planning Pty Ltd and submitted with the proposed modification. The report was considered by Council's Senior Development Engineer and concluded that the proposed modification will result in an increase in traffic but the traffic and parking aspects of the proposal would be satisfactory and will not unsatisfactorily affect traffic efficiency in the surrounding road network. In this regard, the proposal is considered to be acceptable and not likely to result in any significant adverse impacts in respect to traffic or any significant reduction in road safety within the surrounding road network. Accordingly, the proposal is considered acceptable in respect to traffic and parking matters.

Noise

A detailed noise report, prepared by Acoustic Logic Consultancy dated 12 March 2012 was submitted with the original application. An amended report prepared by Acoustic Logic, dated 18 August 2015 has been submitted. Both reports recommend measures to minimise noise impacts from aircraft/road noise and between floors and walls of the units. The recommendations of the noise report will form the amended conditions of consent. Subject to compliance with the recommendations of the reports, the proposal is considered to have minimal affectation from the noise sources surrounding the site. The proposal will increase the density of development on the site and will result in an increase in noise emissions. However, the anticipated increase in noise from the development is not considered to be unreasonable and would include noise normally associated with the redevelopment of the site for such a purpose, which is permissible in the zone. Noise from the construction of the building is temporary and would end at completion of the development. Accordingly, the proposal is considered to be satisfactory in regard to noise emissions.

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

The relevant matters pertaining to the suitability of the site for the proposal have been considered in the assessment of the proposal. Additional conditions of consent are proposed to further minimise any impacts on neighbouring properties. There are no known major physical constraints, environmental impacts, natural hazards or exceptional circumstances that would hinder the suitability of the site for the proposed modification.

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

The proposed modification has been notified in accordance with Council's Development Control Plan 2011 and applicable legislation for a period of fourteen (14) days (excluding public holidays) from 16 November 2015 until 3 December 2015 and seven (7) letters of objections were received.

The issues raised in the submissions are discussed below:

Issue: Height of Building

Concern has been raised that the amendments will breach the maximum building height within the subject site and that the *"...height will be used to the other building in the future."*

Comment: The original DA-2012/293 and subsequent modifications have not approved any variations to the Height of Building development standard. The proposed modification is below the maximum 40 metre building height that may be applied to the site.

Issue: Noise

Concern has been raised regarding general road noise.

Comment: The objection raises issues which are existing with regard to Princes Highway being a thoroughfare. Conditions of consent addressing acoustic measures have been incorporated within the original consent. The proposed modification does not result in any change to the traffic conditions approved under DA-2012/293 and subsequent modifications.

Issue: Access to Sunlight

Concern that the building bulk will create overshadowing and loss of solar amenity to neighbours. Concerns have been raised that the amendments will *"...result in a significant reduction in natural sunlight...block the sunlight...take away my lighting and completely overshadow my unit..."*

Comment: The solar access and overshadowing impacts are detailed on the architectural plans drawn by Urban Link Architects. The plans are in accordance with the solar access requirements under the RDCP 2011 and SEPP 65 for 21 June between 9am and 3pm. The proposal will not adversely affect the existing overshadowing to the western neighbouring building at 555 Princes Highway or the southern property at 572 Princes Highway. Refer to comments regarding overshadowing/solar access under 'Rockdale Development Control Plan 2011' section in this report.

Issue: Visual appearance

Concern has been raised that the amendments will *contribute "...to the uninspiring design of recent residential development designs around Princes Highway..."*

Comment: The concern regarding the visual appearance of the building has been addressed in the original DA-2012/293, subsequent modifications and this application. In this

instance, the proposed modification was referred to an independent urban designer, as per Clause 6.14 of the RLEP 2011, to provide comments with regard to the objective of the clause and the SEPP 65 requirements. Conditions have been imposed to ensure the objective of Clause 6.14 of the RLEP 2011 is satisfactorily achieved.

Overpopulation within the locale

Concerns have been raised that the proposal “...will impact upon the population in the area...”

Comment: The site is located within the Rockdale Town Centre and has access to a major transport node (rail and bus interchange) with additional access to numerous forms of public and private transport. As such, the Rockdale town centre is capable of accommodating increased densities with a greater reliance on public transport infrastructure. While higher densities will increase traffic loads during peak periods, the current proposal represents a small and acceptable increase in the residential density for the site.

View loss

Concerns have been raised that the proposal will “...block the view from the (555 Princes Highway) building...”

Comment: The LEC has established planning principles to assist in achieving desirable planning decisions and outcomes. Consideration of whether a proposal provides view sharing between neighbouring properties is addressed in the four-part view loss assessment established under *Tenacity Consulting Pty Ltd v Warringah Council (2004) NSWLEC 140*.

Roseth SC, states that “the notion of view sharing is involved when a property enjoys existing views and a proposed development would share that view by taking some of it away for its own enjoyment”.

The existing eastern district views, from the objecting single-aspect top-floor east-facing unit 174 at 555 Princes Highway, is obtained from a standing and sitting position on the eighth-storey east-facing balcony across Princes Highway, towards the subject site and towards Brighton-le-Sands. The proposal will not adversely affect the view corridor as the objecting properties will retain its eastern views across Princes Highway and towards the subject site.

To decide whether or not view sharing is reasonable, a four-step assessment was conducted from the objecting unit at ‘Arena development’ at 174/555 Princes Highway, Rockdale:

- ***The first step is the assessment of views to be affected.*** Water views are valued more highly than land views. Iconic views (eg of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.

The existing elevated eastern views afforded by the objecting properties are across Princes Highway and towards the subject site. It is noted the multi-storey building ‘Arena development’ at 555 Princes Highway has a lower building than the subject site.

The east-facing balcony adjoins the living/dining room area of the two-bedroom unit. The main bedroom has an east-facing window. The second bedroom has access to the balcony via a sliding door.

There are no water views of Botany Bay from the objecting property and the existing view corridor is shared with unobstructed district views to the east.

- ***The second step is to consider from what part of the property the views are obtained.*** For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.

The elevated standing and sitting district views to the east are obtained from the balcony and the main living room and kitchen will be unaffected by the proposal. The elevated sitting district views from the main living room to the east will no longer be retained as a consequence of the proposal. There are standing district views from the living room area and the balcony over the subject site.

- ***The third step is to assess the extent of the impact.*** This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.

There are approximately 135-degree elevated standing district views over the subject site from the balcony to the east and north-east. There are sitting views from living room area. There are standing district views from the living room area over the subject site which will be unaffected by the proposal. The elevated standing and sitting district views from the lower ground bedroom window over the subject site will be partially lost by the proposal. The outlook from the upper floor kitchen area will be retained.

The proposal will occupy less than one-sixth of the existing 135-degree elevated standing and sitting district views from the balcony, main living room and the lower ground bedroom window. The proposal is considered to have a negligible to minor impact on the existing view corridor from the objecting property.

- ***The fourth step is to assess the reasonableness of the proposal that is causing the impact.*** A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.

The objecting property at 'Arena development' at 555 Princes Highway is in the same B2 Local Centre zone, and was approved with similar building height control that the subject site benefits from now.

The proposal allows for view sharing as the elevated nature of the view corridor from the objector's property will retain the district views towards Brighton-le-Sands and other properties in Rockdale.

Loss of privacy

Concern has been raised regarding the loss of visual privacy.

Comment: Refer to comments regarding visual privacy under 'Impact of the Development' section in this report.

Loss of ventilation

Concerns have been raised that the proposal will “...*block ventilation into my property...*” and “...*the approved DA has considerable impact on ventilation for 555 Princes Highway...*”

Comment: The proposed modification will not interfere with the existing wind tunnel effect that exists along Princes Highway. The approved DA The submitted wind impact assessment concludes that the additional 2 storeys along the Princes Highway building will not disrupt with the local wind conditions.

Increase of traffic

Concern that the proposal will “...*increase the traffic along Princes Highway...*”

Comment: The proposed modification maintains the approved vehicular access from the unnamed laneway off Chapel Lane. There is no proposed new vehicular access from Princes Highway.

Issue: Absence of car parking

Concern has been raised that the amendments and original application “...*had no provision for car parking...and to introduce, at a conservative estimate...additional motor vehicles requiring street parking...would be reprehensible...*”

Comment: The proposal provides for 3 car parking levels and at-grade parking for a total of 121 vehicles. The proposed modification does not seek an increase to the approved 121 car parking spaces but will result in an amendment to the shared car parking arrangements under condition 11. The proposal satisfies the minimum car parking requirements under the RDCP 2011.

Devaluation of property

Concern was raised that the proposal will “...*decrease the value of my property (and neighbouring properties)...*”

Comment: This claim has not been substantiated. There are many socio-economic factors that determine the value of property and the proposed modification cannot be held solely responsible for changes to the value of adjacent and surrounding properties. Further, property devaluation is not identified as a 'head of consideration' and therefore is not a consideration under Section 79C 'Evaluation' of *Environmental Planning and Assessment Act 1979* and does not warrant refusal or further amendment of the application.

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

The proposal has been assessed against the relevant planning policies applying to the site having regard to the objectives of the controls. As demonstrated in the assessment of the proposed modification, the proposal will allow the development of the site in accordance with its environmental capacity and future vision for the area.

The amended building form is supported by SEPP 65 and an independent urban design review has concluded that, subject to conditions, the proposed modification will add a visual interest to the existing streetscapes.

The proposed modification results in a development that does not exceed legislative controls and as such, the proposal is therefore in the public interest.

CONCLUSION

The proposal has been assessed in accordance with Section 79C(1) & 96 of the Environmental Planning and Assessment Act 1979. The proposed modification to add 20 units totalling 96 units and changes to building height is consistent with the requirements of State Environmental Planning Policy No.65 – Design Quality of Residential Flat Development (SEPP 65), the Apartment Design Guide and the Rockdale Local Environmental Plan 2011.

The proposal is permissible in the B2 Local Centre zone, and is considered to result in a development, which is suitable in the context of the emerging character within the Rockdale Town Centre. Non-compliances are acknowledged within the current proposal; these have been discussed within this report. A merit assessment of the application has determined that the proposed modification will be satisfactory and does not result in unreasonable impacts to surrounding properties, subject to the satisfaction of recommended conditions of consent.

As such, it is recommended that the JRPP approve the application for the reasons stated in this report.