

BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number:	DA-2016/343
Date of Receipt:	1 April 2016
Property:	398 - 412 Princes Highway, ROCKDALE (Lot 1 DP 508675)
Owner:	Hws Property Developments Pty Ltd
Applicant:	HWS Property Development Pty Ltd
Proposal:	Integrated Development - Construction of a nine (9) storey mixed use development containing 60 residential units, four(4) retail units, basement carparking, roof top communal open space and demolition of existing structures
Recommendation:	Approved
No. of submissions:	One (1)
Author:	Pascal van de Walle
Date of Report:	17 October 2017

Key Issues

The proposal includes construction of a nine (9) storey mixed use development comprising four (4) commercial tenancies, sixty (60) residential units, basement parking over three (3) levels, and demolition of the existing buildings. The application does not include subdivision.

The site is located toward the northern end of the 'Rockdale Town Centre', within the 'Arterial Edge' area established within the Rockdale Development Control Plan 2011 (RDCP 2011). A '3m Green Gateway' setback to Princes Highway is required for all development in this area. The aim of this setback is to establish a more spacious and open character which transitions into the strong urban character established in the 'Centre Core'.

The site is not restricted by FSR controls, similar to all properties within the Rockdale Town Centre. Bulk and scale is limited by the height provisions in RLEP and the setback provisions contained in RDCP 2011. The proposal generally complies with the 28m height provisions contained within RLEP 2011, with minor variations for part of the top residential level, lift overrun, pergola and carpark vent. The applicant has provided a justification to the variation under Clause 4.6 which is supported in this case.

The proposal requests some minor variations to some of the setback requirements in RDCP 2011 and these are supported. The development has, however, been amended on a number of occasions to ensure that the setbacks meet the intent of the controls by providing a strong podium upon which sits a lighter building that will result in a more spacious and open character.

Careful consideration has been given to the interface with the R2 Low Density Residential zone located

on the northern (opposite) side of King Lane due to challenges with regards to privacy, bulk and scale impacts. Significant modifications have been made to the proposal and the resulting impacts are considered acceptable for this site with its 28m height limit, B4 Mixed Use zoning and with the setbacks envisaged by RDCP 2011. It is worth noting that the Bayside Planning Panel have recently recommended that Council consider rezoning the R2 zoned land located between King Lane and York Street to resolve the poor interface in terms of building bulk, scale and amenity impacts.

Vehicular access to the site requires access across Council owned land (i.e the existing carpark). Council's Property Team raises no objection to this access, which is existing, and vehicular access to the site would otherwise be required from Princes Highway.

The proposed development generally complies with the requirements of the Apartment Design Guide (ADG), and has been reviewed by Council's Design Review Panel on two occasions. The amended proposal is considered to address the key issues raised by the Design Review Panel.

The site is impacted by high traffic noise from Princes Highway and is also impacted by aircraft Noise between 25-30 ANEF. The applicant has submitted an Acoustic Report which, accompanied by recommended conditions, will ensure that noise impacts to future occupants will satisfy relevant policy requirements.

The application was notified in accordance with Council's requirement and one (1) submission was received. The key issues raised included excessive height, overshadowing and impacts to sunlight, noise impacts during demolition and construction, traffic congestion and conflict with Sydney Airport flight paths. The issues have been considered in the assessment, and the impacts have been adequately minimised and/or addressed as detailed in the body of the report.

Overall, the proposal is considered to satisfy the requirements and/or objectives of the ADG and Council's controls, satisfactorily minimise impacts to neighbouring properties and provide an appropriate design response to the streetscape. The proposal includes the 3m green gateway setback and will contribute to the desired future character of the area. The proposal is therefore recommended for approval subject to recommended conditions of consent.

Recommendation

1. That the Sydney Central Planning Panel support the variation to the Height development standard, as contained in Clause 4.3 - Height of Buildings within Rockdale LEP 2011, in accordance with the request under Clause 4.6 of RLEP 2011 submitted by the applicant.
2. That development application DA-2016/343 for the construction of a nine (9) storey mixed use development comprising four (4) commercial tenancies, sixty (60) residential units and three (3) levels of basement car parking, and demolition of existing structures at 398-412 Princes Highway, Rockdale be APPROVED pursuant to Section 80(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report.
3. That the objector be notified of the Sydney Central Planning Panel's decision.

Background

History

Prior to 2004 a range of use applications have been submitted for the site, including change of use to a pizza restaurant, retail of computer hardware and software, proposed restaurant, sale of manchester and sale of electrical appliances.

On 18 August 2004 Council refused DA-2004/458 for construction of a mixed use development comprising 28 residential units, 2 commercial units and basement parking.

On 21 January 2016 a pre-DA meeting (PDA-2016/25) was held with the applicant for a preliminary scheme comprising demolition of the existing buildings on the site and the erection of a 9 storey mixed use building containing 4 commercial units, 67 dwellings, 4 SOHO style dwellings and 3 levels of basement parking accessed off King Lane. Council's written response advised that the proposed variations to the setback controls in RDCP 2011, including to the side boundaries, were not supported.

On 2 March 2016 a pre-DA meeting was held with Council's Design Review Panel (DRP) for construction of a nine (9) storey mixed use development comprising 72 residential units and 4 commercial tenancies. The DRP raised a broad range of issues, including the provision of deep soil and the separation distance to the dwellings on the opposite side of King Lane. The DRP also recommended that the setbacks should be fully compliant with those required by RDCP 2011.

On 9 June 2016 a briefing meeting was held with the Joint Regional Planning Panel (JRPP).

On 23 March 2017 a briefing meeting was held with the Sydney Central Planning Panel (SCPP).

Proposal

The proposal seeks consent for construction of a nine (9) storey mixed use development comprising four (4) commercial tenancies, sixty (60) residential units and basement parking over three levels, and demolition of the existing buildings. The application does not include subdivision.

The proposal, as amended, consists of:

Demolition & Site Clearing

Demolition of all existing structures on site.

Excavation

Excavation for three (3) levels of basement car parking.

Construction

Construction of a mixed use development comprising four (4) commercial tenancies, 60 residential units and three (3) basement levels of parking as follows:

- **Commercial Tenancies**
Four (4) commercial tenancies are proposed at the ground floor level fronting Princes Highway. The tenancies have floor areas of 22m², 36m², 19m² and 22m², resulting in a total commercial floor space of 99m².

- Residential Units
60 residential units, comprising the following mix of unit sizes:
 - 13 x studio units (21.7%)
 - 20 x 1 bedroom units (33.3%),
 - 22 x 2 bedroom unit + 2 bathroom (36.7%),
 - 5 x 3 bedroom units (8.3%).
- Access & Public Domain Interface

The site includes two frontages, which have been designed as follows:

(i) Princes Highway frontage - A 3m 'green gateway' setback has been provided to the Princes Highway frontage. Two separate residential lobbies are provided to this main frontage, and independent access is provided to all four retail tenancies. Space has also been made available for hydrants, basement air intake and fire egress stairs within this frontage.

(ii) King Lane frontage - The rear King Lane is addressed by four (4) residential units located behind a 1m footpath and 1m landscape strip. Separate residential access is provided to the residential lobbies, and vehicular access is provided from this side. A service bay is also provided within this rear frontage with a minimum ceiling height of 4.5m to accommodate Council's waste collection vehicle.

- Car Parking
A total of 59 on-site car spaces and one (1) car-wash bay are proposed over three (3) basement levels. Parking is proposed to be allocated as follows:
 - 47 residential car spaces (including 6 x accessible spaces);
 - 10 x visitor spaces (including 1 x accessible space);
 - 2 x commercial spaces (including 1 x accessible commercial space).
 - 1 x Car Wash Bay

Servicing

A service bay for a Large Rigid Vehicle (LRV) to accommodate Council's Waste Vehicle is provided at the rear ground level of the site.

Communal Open Space

The proposal includes a 170m² area of communal open space at the roof top level.

Photomontage - A 3D Image of the proposal is provided below (see Figures 1 & 2):



Figure 1 - Proposal when viewed from Princes Highway



Figure 2 - Proposal when viewed from King Lane

Site location and context

The site is located within the Rockdale Town Centre, with its primary frontage to Princes Highway (41.55m) and secondary (rear) frontage to King Lane (40.875m). The land comprises a single allotment, with a lot width of between 23.385m and 226.555m and a total site area of 1,004.3m².

The land does not contain any significant trees or vegetation, and has a slight fall from front down to rear of approximately 1m. The site currently contains a single storey brick building with shops fronting Princes Highway and a hardstand carpark at the rear.

The site is affected by the Sydney Airport East-West runway and development higher than 15.24m requires Sydney Airports approval. The site is also impacted by Aircraft Noise between 25-30 ANEF, by road traffic noise from Princes Highway and is on land identified as Class 5 on the Acid Sulfate Soils map.

The subject site is located approximately 500 metres walking distance from the Rockdale bus and train interchange.

The Rockdale Town Centre was more recently rezoned and is therefore undergoing significant transition from a more traditional highway commercial strip into larger scale shoptop housing and mixed use developments. There are a number of recent approvals on nearby sites, as well as applications currently under consideration on other nearby sites.

Currently to the north of the site are similar properties containing older style commercial buildings and shoptop housing with frontage to Princes Highway located within B4 Mixed Use Zone. The Bayside Planning Panel recently approved a nine (9) storey mixed use development of similar scale at No. 376-384 Princes Highway on the corner of Bestic Street. Further to the north on the opposite side of Bestic Street are properties located within the B6 Enterprise Corridor zone.

To the east of the site, on the opposite side of King Lane, are the rear yards of single storey detached dwellings located within the R2 Low Density Residential zone and which have their frontage to York Street, specifically No.'s 7, 9, 11 and 13. Development further to the east is largely comprised of detached dwellings within the R2 zone.

To the west of the site, on the opposite side of Princes Highway, is No. 409, 413 and 415 Princes Highway. These properties are located within the B4 Mixed Use zone and currently contain older style one and two storey retail / commercial developments. No. 413-425 Princes Highway is subject to a current development application for a seven (7) storey hotel. A mixed use development of ten (10) stories height was recently approved by the Sydney Central Planning Panel at No. 397 Princes Highway to the north-west. Further to the north-west is the Spotlight building located within the B6 zone.

To the south are properties located within the B4 Mixed Use zone, and Council's new library building and original town hall.



Figure 3 - Site Location Plan



Figure 4 - Zoning Map

Statutory Considerations

Environmental Planning and Assessment Act, 1979

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

S.91A - Development that is Integrated Development

The original proposal included excavation works for five levels of basement car parking. The amended scheme includes excavation works for three (3) levels of basement parking. The proposed works will transect the water-table and require temporary dewatering during the construction phase. The proposal is therefore Integrated Development pursuant to Section 91 of the Environmental Planning and Assessment Act 1979, and requires approval from NSW Water. NSW Water have deemed that the construction dewatering proposed for the project would be an 'aquifer interference activity' in accordance with the definition in the Water Management Act 2000, and issued General Terms of Approval (GTA's) appropriate to this activity on 9 May 2016 which have been included in the Draft Notice of Determination.

S.79C(1) - Matters for Consideration - General

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

The following Environmental Planning Instruments are relevant to this application:

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

The applicant has submitted a BASIX Certificate for the proposed development. The Certificate number is 712455M_04.

The commitments made result in the following reductions in energy and water consumption:

Reduction in Energy Consumption	20%
Reduction in Water Consumption	40%
Thermal Comfort	Pass

A condition has been imposed on the consent to ensure that these requirements are adhered to.

State Environmental Planning Policy (Infrastructure) 2007

Clause 101 - Development with frontage to classified road

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

Accordingly, the proposal has been sent to the Roads & Maritime Service (RMS). The authority responded by letter dated 28 April 2016 confirming that they would grant concurrence under Section 138 of the Roads Act 1993 subject to the inclusion of several conditions of consent, which have been imposed on the draft Notice of Determination.

The proposal includes vehicular access, waste collection and servicing from the rear King Lane, and will therefore not have any adverse impacts on the traffic flow and/or safety of the Princes Highway and satisfies Clause 101(2)(a) & (b). The proposal also includes an acoustic report which includes recommendations to ensure that the acoustic environment within future units will be acceptable as required by Clause 102(c).

The application has also been referred to Council's Development Engineer and Council's Traffic Development Advisory Committee who have provided recommended conditions which have been included in the draft consent, including the provision of a median strip in Bestic Street to prevent vehicles turning right onto Bestic Street to address safety and traffic flow issues associated with the additional traffic from the development. These conditions are consistent with those imposed on DA-2016/108 at 376-384 Princes Highway.

Subject to imposition of recommended conditions, the application is consistent with the provisions of the SEPP and is acceptable in this regard.

Clause 102 - Impact of road noise or vibration on non-road development

The proposed development is for construction of a mixed use development on a road corridor with an annual average daily traffic volume of more than 40,000 vehicles (based on the traffic volume data published on the website of the RMS). Accordingly, Clause 102 - Impact of road noise or vibration on non-road development, of SEPP Infrastructure is required to be considered as part of this assessment. For residential use, the consent authority must not grant consent to the development for residential use unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded:

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

The proposal was accompanied by an Acoustic Report prepared by Acoustic Logic (Revision 2, dated 16/02/2017) which considered the potential impact of road noise on the proposed development. The report also considers the potential impacts from aircraft noise, as discussed later in this report, and concludes that the development will satisfy the noise level requirements as outlined in the SEPP and as

required by *AS2021 - Acoustics - Aircraft Noise Intrusion*, should the recommendations in the report be incorporated into construction. Accordingly, the recommendations have been incorporated as conditions in the draft Notice of Determination.

Clause 45 - works within the vicinity of electricity infrastructure

The application is subject to clause 45 of the SEPP as the development proposes works within the vicinity of electricity infrastructure, including overhead power lines along the Princes Highway frontage, and therefore in accordance with clause 45(2) the consent authority must give written notice to the electricity supply authority for the area in which the development is to be carried out, inviting comments about potential safety risks, and take into consideration any response to the notice that is received within 21 days after the notice is given.

Accordingly, the proposal has been sent to Ausgrid. The authority did not raise any objections to the proposal and recommended inclusion of standard conditions in their letter of 8 April 2016 should the application be recommended for approval. The recommended conditions of consent have been included in the draft Notice of Determination. The application is therefore consistent with the provisions of the SEPP and is acceptable in this regard.

State Environmental Planning Policy (Major Development) 2005

The proposed development when submitted had a Capital Investment Value (CIV) in excess of \$20M and is therefore a class or description of development that is included in Schedule 4A to the Act. In accordance with Part 4 Regional Development of the State and Regional Development SEPP, the proposal is therefore deemed to be 'Regional Development' and Council consent functions are therefore to be exercised by the Sydney Central Planning Panel in this case.

State Environmental Planning Policy No 55—Remediation of Land

The site is not identified as contaminated in Council's system, and the applicant has undertaken a review of the history of the site and notes that it has been used for commercial and retail uses. A review of Council's records do not indicate that it has been used for a purpose identified in Table 1 of the SEPP 55 Managing Land Contamination Planning Guidelines that may have resulted in the site becoming contaminated, and there is no evidence to suggest that the site is contaminated. A standard condition is proposed requiring that all works cease should any contamination be found during works. The site is therefore considered to satisfy the requirements of SEPP 55 and be suitable for its intended mixed retail and residential land use.

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

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

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

The proposal has been referred to the Design Review Panel on two occasions, including 2 March 2016 at pre-DA stage and on 5 May 2016 after the application was lodged. The Panel found that the site is heavily constrained and they provided a range of recommendations which have generally been addressed in an amended design. The amended design is a significant change from the original development which included a green wall to the Princes Highway frontage but did not comply with any DCP setback requirements above podium level. The amended design includes 4.5m side setbacks

and an additional front setback above podium level, however the full green wall frontage to Princes Highway has been deleted. Some planting is still proposed within parts of the front facade and for the full perimeter of the podium level. The building setbacks are now considered to satisfy the objectives of RDCP 2011 as discussed in more detail below.

The key issues raised by the DRP are discussed below:

- Issue: The Panel strongly believed that the setbacks in RDCP 2011 should be complied with, particularly the eastern interface with the R2 Low Density Residential zone. They noted that no justification had been provided by the applicant for the departures from the setback requirements and considered that, while a case could be made for reducing the front setback above podium level, the rear setback above podium level (to King Lane) was essential for creating an *'amenable interface between existing and future buildings to the east'*.
Comment: The application has been significantly amended and complies with the setback requirements for the podium levels of the development. The side setbacks above podium level are compliant with RDCP 2011, and the applicant has now provided justification for minor variations to the front and rear setbacks above podium level which are supported as the proposal is considered to satisfy the objectives of the controls (refer also to discussion of RDCP 2011). In addition, the proposed setbacks are found to be acceptable with regards to the objectives of the ADG as discussed in the assessment of the ADG below.
- Issue: It is critical that the front 'green gateway' setback to Princes Highway be proper 'deep soil' and that none of the building protrudes into this zone.
Comment: The proposal has been amended to remove all built form from the 'green gateway' setback, with the exception of proposed awnings. The amended proposal satisfies this requirement.
- Issue: Cross ventilation is a serious non-compliance and needs to be addressed in amended plans, and a 3D solar analysis should be provided to demonstrate compliance with the ADG.
Comment: The proposal has been significantly amended to include the provision of 4.5m side setbacks where none were originally proposed. This has allowed the development to comply with the cross-ventilation requirements of the ADG. The amended proposal also complies with the requirements of the ADG based on the orientation of the sites, the internal layouts and information provided by the applicant.
- Issue: The Panel recommended that the roof top communal open space be amended so that it is a high quality space that meets the recreational needs of a diverse demographic, including a variety of gathering spaces and appropriate use of materials (including plant materials) that are suited to this type of space. In addition the DRP recommended that the area be provided with a sc, bbq, sink and storage area, and that car park exhaust, skylights and other services be carefully integrated into the design of the communal open space.
Comment: The roof top communal open space has been relocated from Level 10 rooftop level to part of Level 9 roof top level in order to comply with the height requirements of RLEP 2011. The amended communal area includes tables, chairs, bbq area, grass areas and planting. The space is conceptual and a condition is proposed requiring submission of design details prior to issue of the Construction Certificate to satisfy the ADG and DRP comments. The proposed space is well located and easily accessible as discussed in more detail below in the assessment of the ADG.

- Issue: Ground floor level residential units addressing Princes Highway are highly problematic while ground level residential units facing King Lane (rear) are supported.
Comment: The ground level frontage to Princes Highway now commercial includes commercial / retail tenancies and the ground level units to King Lane have been retained. The floor to ceiling heights for the ground floor level have been amended to comply with the recommended 3.3m ceiling height under the ADG.
- Issue: The stairs appear to be non-compliant as fire stairs and needs to be clarified, including provision of a BCA report.
Comment: The configuration of the stairs has changed, however open form stairs that also provide natural ventilation to residential corridors are still proposed. The applicant has provided confirmation that the open stairs are acceptable subject to an alternate solution under the BCA. A condition is imposed requiring that additional details be provided to demonstrate that how they will provide an good level of amenity for future occupants.
- Issue: The proposal does not comply with the unit mix requirements / objectives.
Comment: The proposal now includes a range of units, including five x 3 bedroom units. The original scheme did not include any 3 bedroom units. The amended mix is acceptable.

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

The application was accompanied by a Design Verification Statement prepared by the architect, Collins and Turner Architects, which addresses the nine (9) design quality principles under the SEPP. In addition, Urbis have prepared a response to the DRP issues raised and has submitted an updated Design Verification with the amended proposal. The applicant's position is generally agreed with, and the 9 design quality principles have been considered in the assessment of the proposal and are found to be satisfactory as indicated below.

Principle 1 – Context and neighbourhood character

The site is constrained by frontage to Princes Highway and the R2 zoning of adjoining sites to the rear. The area is currently characterised by lower scale commercial and retail developments, however the area is undergoing transition and recent approvals on other nearby sites are of similar scale as the proposal. The amended proposal has addressed the issues raised by the Panel and is found to address the existing and future context in this area which is undergoing a transition to higher density residential flat buildings and mixed use developments within the 'green gateway' area as defined in RDCP 2011. The floor to ceiling heights for the ground and first floor levels have been amended to 3.3m in accordance with the ADG to provide flexibility for future uses and an appropriate response to Princes Highway. Careful consideration has been given to the proposal and it is found to satisfactorily address the existing and future context of the area.

Principle 2 – Built form and scale

The building height is generally consistent with Council's LEP requirements, and the setbacks have been increased to satisfy the objectives of RDCP 2011 to provide a more open form of development at the entrance to Rockdale Town Centre. The minor variations to the maximum building height are located at the Princes Highway frontage and are supported for the reasons discussed in response to Clause 4.6 of RLEP 2011 later in the report. The scale of development when viewed from the street frontages is generally consistent with the LEP requirements as well as proposed and recently approved developments on adjoining and nearby sites within the Rockdale Town Centre. The applicant has

included glazing, screening and other design elements to break up the built form and appearance of scale, and the proposed building has been amended to address the built form issues raised by the DRP and Council. The amended proposal is satisfactory, with appropriate use of articulation of the facades and use of materials and planting at podium and lower levels which adds visual interest to the facades.

Principle 3 - Density

The Rockdale Town Centre is not subject to FSR control, and the density is generally guided by the maximum height provisions in RLEP 2011 and the required setbacks in the ADG and RDCP 2011. The proposed height and setbacks are found to be acceptable and the density is considered suitable for this site. The proposal is therefore acceptable in this regard.

Principle 4 – Sustainability

The application complies with BASIX and the applicant has included planting at various levels, including podium level that will provide wind breaks and shading for units and amenity impacts for the public domain. The proposal has been amended to comply with the deep soil requirements of the ADG, and proposes replacement tree planting in the street frontage and additional tree planting within the site. In addition, a communal open space area has been provided at roof top level to ensure that residents have access to communal open space which receives high levels of sunlight at mid-winter. The units also achieve the minimum requirements for solar and cross ventilation under the ADG.

Principle 5 - Landscape

The proposal includes a 3 metre 'green gateway' setback to Princes Highway and planting around the perimeter of the podium level. Some additional landscape pockets are provided at podium levels, as well as generous planting at roof-top level. The proposed landscape areas will be complemented by planting within the public domain, and will complement the building, and contribute to the streetscape and locality.

Principle 6 - Amenity

The amended proposal satisfies the cross ventilation and solar access requirements of the ADG, and generally complies with the amenity issues identified by the DRP. The proposal includes a high quality communal open space area at roof top level that will have quality views and amenity for the benefit of residents. The units and rooms are of adequate size and dimensions. Overall, the amended proposal has significantly improved the level of amenity that will be afforded to future residents. The proposal is therefore considered to provide an acceptable standard of amenity.

Principle 7 - Safety

The proposal has provides minimal concealment opportunities and includes ground level units that provide passive surveillance of the rear King Lane. The commercial tenancies at the Princes Highway frontage will also maximise passive surveillance of the surrounding public domain. Access to the car park and loading bay are secure, and security access points are provided to gain access to the lift lobbies and loading bay. Suitable lighting and CCTV will be required by conditions of consent, and the proposed design is satisfactory in this regard.

Principle 8 - Housing diversity and social interaction

The site is well located near Rockdale railway station, and the proposal includes a variety of apartment sizes and layouts. The proposal is therefore satisfactory in this regard.

Principle 9 - Aesthetics

The amended proposal proposes a range of materials and finishes that, combined with the proposed design, will provide a satisfactory contemporary development in the context of the site and the changing nature of Rockdale Town Centre. The exact details and colours of materials were not conclusive, and a condition is recommended to ensure that final materials and finishes are approved prior to commencement of construction. The proposal is therefore considered comply with this principle subject to compliance with conditions.

c. the Apartment Design Guide

The proposal has been assessed against the Apartment Design Guide (ADG)

The proposed development is considered to have performed adequately in respect to the objectives and design criteria contained within the ADG. The relevant issues are discussed below:

CLAUSE	DESIGN CRITERIA	COMMENTS	COMPLIES
3J - Bicycle and car parking	<p>As per Guide to Traffic Generating Developments, required parking is:</p> <p><i>33 x 1 bed / studio = 0.6 x 33 = 19.8</i> <i>22 x 2 bed = 0.9 x 22 = 19.8</i> <i>5 x 3 bed = 1.4 x 5 = 7</i> <i>TOTAL Residential = 46.6 = 47 spaces required</i></p> <p><i>Visitors (1 / 5) - 20% = 10 spaces.</i></p> <p><i>Commercial Parking = 1 / 40 spaces - 20% (for Rockdale Town Centre) = 2.5 - 0.5 = 2 spaces</i></p> <p><i>TOTAL PARKING REQUIRED</i> <i>= 47 + 10 + 2</i> <i>= 59 spaces + 1 car wash bay</i></p>	<p>59 parking spaces provided.</p> <p>(+ 1 car wash bay as per RDGP 2011)</p>	Yes
3D - Communal and Public Open Space	<p>25% of site area = 251m² required</p> <p>50% direct sunlight to principal usable part of communal open space for min. 2 hours between 9am and 3pm on 21 June.</p>	<p>The amended proposal includes 170m² of communal open space at Level 9 (roof top).</p>	NO - However acceptable in this case (<i>see Note 1</i>)

3E - Deep Soil	<p>Deep soil zones provide areas on the site that allow for and support healthy plant and tree growth. They improve residential amenity and promote management of water and air quality.</p> <p>A minimum Deep Soil area of 7% of the site area and with minimum dimensions of 3m is required for this site with an area between 1,000m² & 1,500m².</p>	The proposal includes approximately 120m ² of deep soil with a minimum width of 3m at the front of the site (12%).	Yes												
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><tr><td>3 bedroom</td><td>90m²</td></tr></table> <p>Internal areas includes only one bathroom. Additional bathrooms increase area by 5m² each.</p> <p>Further bedrooms increase minimum internal area by 12m² each.</p>	Apartment type	Minimum internal area	Studio	35m ²	1 bedroom	50M ²	2 bedroom	70m ²	3 bedroom	90m ²	<p>The units generally comply with the minimum requirements. with the exception of some two bedroom units which are 70m2 and have been provided with a full bathroom plus a separate toilet, as follows:</p> <p>Studio - 35-38m² 1 Bed = 50-53m² 2 Bed + 1 bath = 70m² 2 Bed + 2 bath = 70-75m2 3 bed = 95 - 103m²</p>	NO - However acceptable in this case (see Note 2)		
Apartment type	Minimum internal area														
Studio	35m ²														
1 bedroom	50M ²														
2 bedroom	70m ²														
3 bedroom	90m ²														
– 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 2.4m first floor, area < 50% of apartment area</td></tr><tr><td>Attic spaces</td><td>1.8m at edge 30deg min slope</td></tr><tr><td>Mixed use area</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 2.4m first floor, area < 50% of apartment area	Attic spaces	1.8m at edge 30deg min slope	Mixed use area	3.3m for ground and first floor	The proposal provides 3.3m floor to ceiling height of the ground and first floor levels, and 3m floor to floor height for the residential levels above will be able to comply with the recommended 2.7m floor to ceiling height.	Yes
Minimum ceiling heights:															
Habitable	2.7m														
Non-habitable	2.4m														
Two storey apartments	2.7m main living 2.4m first floor, area < 50% of apartment area														
Attic spaces	1.8m at edge 30deg min slope														
Mixed use area	3.3m for ground and first floor														

3F Visual Privacy	Min separation - side & rear boundaries:			The proposal generally complies with the ADG setback requirements with the exception of the side setbacks. Also the proposal also does not comply with the ADG setbacks to dwellings located on the opposite side of King Lane.	NO - However acceptable in this case (See Note 3)
	Building height	Habitable rooms and balconies	Non habitable rooms		
	Up to 12m (4 storeys)	6m	3m		
	Up to 25m (5-8 Storeys)	9m	4.5m		
	Over 25m (9+storeys)	12m	6m		
4A – Solar and daylight access	Living rooms + POS of at least 70% of apartments receive min 2hrs direct sunlight b/w 9am & 3 pm mid-winter Max 15% apartments receive no direct sunlight b/w 9am & 3pm mid-winter			71.7% (43 of 60 units)	Yes
4F – Common circulation and spaces	Max apartments off a circulation core on a single level is eight. 10 storeys and over, max apartments sharing a single lift is 40.			Maximum of 5 units off a single core, and maximum of 30 units sharing a single lift. Minor issues can be resolved by way of condition (see Note 4).	Yes - Conditional (See Note 4)
4E – Private open space and balconies	Primary balconies as follows:			All units provided with balconies with a minimum area and depth that complies with the ADG.	Yes
	Dwelling type	Minimum area	Minimum depth		
	Studio	4m²	-		
	1 bed	8m²	2m		
	2 bed	10m²	2m		
	3+ bed	12m²	2.4m		
Min balcony depth contributing to the balcony area is 1m.					

4B – Natural ventilation	<p>Min 60% of apartments are naturally cross ventilated in the first nine storeys of the building.</p> <p>Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.</p>	61.7% (37 of 60 units)	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	Proposal includes storage areas that appear acceptable. A condition will be imposed requiring compliance with the SEPP.	Yes - conditional.
Dwelling type	Storage size volume												
Studio	4m ²												
1 bed	6M ²												
2 bed	8m ²												
3 bed	10m ²												

Note 1 - Communal Open Space

The proposal includes a single area of 175m² communal open space at Level 9, the roof top level. This does not comply with the minimum 25% of the site area (250m²) required under the ADG. In this case the communal open space is provided in a single location that is well landscaped, will receive sunlight for most of the day and will provide high quality views to the east toward Botany Bay and Sydney Airport. The area is also easily accessible by lift and includes BBQ and table facilities that are roofed for amenity. It is also expected that the units located to the north of this space will provide some wind protection of the communal area further increasing the usability of the space. The proposal originally included a full roof top terrace at Level 10 (430m²), however due to required redesign to meet floor to ceiling heights and LEP height limits, the rooftop roof top terrace and rear units at Level 9 were deleted to accommodate this amended communal space. While the proposal does not achieve the minimum 250m² of communal open space, the 175m² area is a high quality location that is expected will be well utilised subject to some refinement of the design to provide for a range of uses as per the objectives of the ADG. Therefore, subject to a condition requiring some design refinement, the proposed variation is acceptable in this case.

Note 2 - Communal Open Space

No all two bedroom + two bathroom units provide the additional 5m² required under the ADG to achieve a minimum 75m². The additional 'bathrooms' include a toilet and do not contain any shower facilities. These units also provide room sizes and dimensions that are functional and usable, and the units are also well laid out with access to bedrooms, bathrooms and laundries separated from living areas. The proposed units are therefore considered to satisfy the objectives of the ADG, and the variations to the additional size requirements under the ADG is therefore acceptable in this case.

Note 3 - Visual Privacy

The proposal complies with the ADG setback requirements with the exception of the side setbacks which contain balconies and habitable windows within 4.5m of the side boundary and the rear (eastern) setbacks to the rear yards and residential dwellings located within the R2 Low Density Residential zone on the opposite side of King Lane.

The 4.5m side setbacks have been provided to satisfy the objectives and requirements of the 'green gateway' entrance to Rockdale Town Centre in accordance with RDCP 2011. In this case the side elevations include windows to habitable rooms and the sides of balconies, and the proposal does not satisfy the minimum 6m-9m boundary setback required for habitable rooms / balconies under the ADG. The applicant proposes vertical screening of all windows and the sides of all balconies, with the exception of the podium level balconies. The proposed screens and landscape planting at podium level will adequately minimise privacy impacts to potential future developments on adjoining sites to the north and south within the B4 Mixed Use zone. These screens are also required to minimise wind impacts in accordance with the submitted report. Subject to compliance with the plans and conditions requiring fixed vertical louvre screening in accordance with submitted plans along the side setback areas, privacy impacts to future developments to the north and south will be minimised.

With regards to the separation distance to the rear yards and dwelling houses located on the opposite (eastern) side of King Lane, the proposed building setbacks are generally in accordance with the requirements in RDCP 2011 being 1m for the first 3 levels and 3m setback to levels 4 and above. These setbacks do not comply with the Visual Privacy setbacks required by the ADG as detailed in the table below:

Building Height	Required setback to site boundary	Proposed Setback to Eastern (Rear) boundary of Site	Compliance
Up to 12m (4 storey)	3m non-habitable rooms 6m habitable rooms & balconies + 3m for lower density zone	Setback to habitable windows / balconies: <u>First 3 floors</u> * 1m - 2m to site boundary * 4m - 5m to centre of King Lane * 7m - 8m to boundary R2 zone <u>4th floor</u> * 3m to site boundary * 6m to centre line King Lane * 9m to boundary R2 zone	No - should be 6m + 3m additional as it adjoins lower density residential land (i.e. 9m), however variation supported.

Up to 25m (5-8 storey)	4.5m non-habitable rooms 9m habitable rooms & balconies + 3m for lower density zone	Setback to habitable windows / balconies: <u>5th - 8th floor</u> * 3m to site boundary * 6m to centre line King Lane * 9m to boundary R2 zone	No – should be 9m + 3m additional as it adjoins lower density residential land (i.e. 12m), however variation supported.
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In this case, the proposal is located on the opposite side of a service lane which has a total surveyed width of 6m (including kerb and gutter), resulting in increased separation distances to the boundary of adjoining R2 residential zoned properties as shown in the table above.

The applicant has also made substantial amendments to the proposal to minimise visual privacy impacts to these low density residential properties to the east, however an absence of privacy impacts is not possible due to the zone interface accompanied by the 28m building height and limited setback requirements permitted under RLEP 2011 and RDCP 2011.

The key amendments made to the proposal to minimise visual privacy impacts include:

- ground floor units have been setback an additional 1m, allowing for 1m of landscape planting in front of units. Vertical plant climbing screens have also been provided to parts of ground level balconies.
- substantial reconfiguration of floor plates, particularly 1st and 2nd floor levels, has reduced the number of living rooms and balconies facing toward King Lane and the east;
- inclusion of 3 bedroom units at the 1st and 2nd level minimises the number of dwellings and primary living areas / balconies required at the lower levels;
- provision of mostly bedroom windows located at the rear facade;
- provision of cross through units with living areas and balconies fronting Princes Highway;
- orientation of living spaces toward balconies and away from the rear;
- reduction in number and size of windows in eastern King Street elevation;
- inclusion of louvre vertical privacy screening to windows and parts of balconies, combined with planters to minimise overlooking; and
- location of balconies at 1st and 2nd floor level opposite outbuildings within rear yards of the R2 zoned properties, where possible. These outbuildings will assist to screen privacy impacts.

The interface with the R2 Low Density Residential zone provides a significant challenge and it is noted that the Bayside Planning Panel, when approving the nearby development at No. 376-384 Princes Highway, made a strong written recommendation to Council that it consider rezoning the land located on the opposite (eastern) side of King Lane to resolve the poor interface in terms of building bulk, scale and amenity impacts. This recommendation has been conveyed to Council's Strategic Planning Team and General Manager. If the land is rezoned, the building separation distances to future development on the opposite side of the lane would not strictly comply with the ADG, however development would be located on the opposite side of a roadway and it is considered that the separation distances combined with privacy measures included in this development would adequately minimise impacts.

Therefore, based on the above, and subject to recommended conditions requiring the inclusion of privacy screens, planter boxes and other measures as detailed in the plans and written statements, the privacy impacts to existing and future developments of adjoining sites is satisfactorily minimised in

accordance with the objectives of the ADG.

Note 4 - Common Circulation & Spaces

Part 4F includes objectives relating to common circulation spaces withing RFB's. The Design Guidance recommends that corridors be provided with natural light and ventilation, and that common circulation spaces promote social interaction between residents. The applicant has provided evidence that the upper level residential corridors can be provided with natural light and ventilation, and relevant conditions are proposed to ensure that this is achieved. The entrance lobbies are inadequate in size and do not provide opportunities for casual social interaction among residents in accordance with the objectives of the ADG. It is considered that this can also be resolved by way of condition requiring that the lobby areas be increased in size and provided with facilities to enhance residential amenity in accordance with the ADG objectives. Therefore, subject to recommended conditions, the proposal is considered to satisfy Objective 4F of the ADG.

Rockdale Local Environmental Plan 2011

Relevant clauses	Compliance with objectives	Compliance with standard/provision
2.3 Zone B4 Mixed Use	Yes	Yes - see discussion
4.3 Height of buildings	Yes	No - see discussion
4.6 Exceptions to development standards	Yes - see discussion	No - see discussion
6.1 Acid Sulfate Soil - Class 5	Yes	Yes - see discussion
6.2 Earthworks	Yes	Yes - see discussion
6.3 Between 25 and 30 ANEF (2033) contours	Yes	Yes - see discussion
6.4 Airspace operations	Yes	Yes - see discussion
6.7 Stormwater	Yes	Yes - see discussion
6.12 Essential services	Yes	Yes - see discussion

2.3 Zone B4 Mixed Use

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

- To provide a mixture of compatible land uses.
- To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.

The proposed development is consistent with the objectives of the zone. It includes four small retail tenancies at ground floor level, with residential for the remainder of the building. The site is located within easy walking distance to Rockdale Railway Station & Bus Interchange and with easy access to shops in the Rockdale town centre. Therefore, the proposal is consistent with the objectives of the zone.

4.3 Height of buildings

The maximum building height permitted at the site is 28m in accordance Clause 4.3 (Height of buildings) of RLEP 2011. The rear part of the building adjacent to King Lane is below the 28m height

limit (with minor protrusions for pergola's above proposed tables), however the front portion of the building toward Prince Highway exceeds the maximum 28m building height by between 0.7m and 2.2m.

The proposed variation to the maximum height is primarily the result of the lift overrun and carpark exhaust, however a minor portion of the top residential level exceeds the maximum 28m height. The applicant's clause 4.6 request to vary the development standard Clause 4.3 (height of buildings) is considered to be reasonable as the variation is consistent with the objectives in Clause 4.6 (Exceptions to development standards). Approval of the proposal would not create an undesirable precedent and is in the public interest. As such, the proposed variation is supported in this instance as discussed in detail in response to clause 4.6.

4.6 Exceptions to development standards

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

- (3)(a) that compliance with the standard is unreasonable or unnecessary in the circumstances of the case, and
- (3)(b) that there are sufficient environmental planning grounds to justify the variation.

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

- (i) the applicant's written request is satisfactory in regards to addressing subclause (3) above, and
- (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives of the relevant zone.

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

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

It is noted that the proposal has further been assessed against the principles established by the Land and Environment court judgement *Four2Five v Ashfield Council* [2015] NSWLEC 90. The judgement established that justification was required in order to determine whether the development standard was unreasonable or unnecessary on grounds other than whether the development achieved the objectives of the development standard. Consideration is to be given to the particular circumstances of the site and development.

Extent of Variation Proposed - Height

As noted within Clause 4.3 - Height of Buildings, the proposal seeks to vary the maximum 28m building height standard applicable to the subject site by between 0.70m (2.5%) and 2.2m (7.9%). The variations to height relate primarily to the lift overrun and carpark exhaust vent, however a part of the residential building fronting Princes Highway and the pergolas for the rear communal terrace also exceed the maximum 28m building height as shown in **Figures 5 & 6** and as detailed below:

- (i) Height of building to Princes Highway = between 28.7m and 29.35m (a variation of between 0.7m - 1.35m);
- (ii) Top of pergola structures = 28.3m (a variation of 0.3m); and,
- (iii) Top of lift overrun & Carpark Exhaust Vent = 30.2m (a variation of 2.2m).



Figure 5 - Building Height exceeding maximum 28m height limit (Princes Highway frontage)

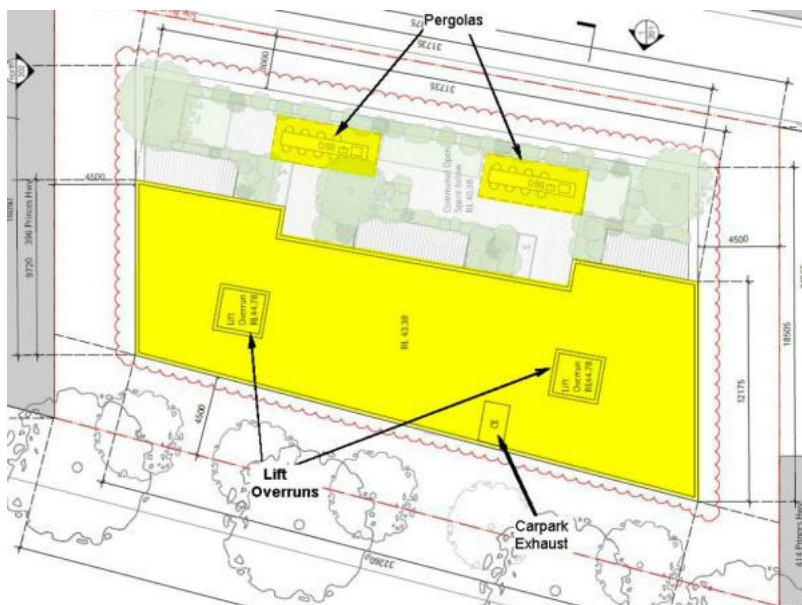


Figure 6 - Areas of the building that exceed the maximum 28m building height (coloured yellow).

The applicant has submitted a detailed justification to the proposed variation of the height development standard in accordance with Clause 4.6 of RLEP 2011. A summary of the key rationale provided by the applicant includes:

- The elements exceeding the maximum height are generally elements of communal garden and ancillary plant / lift overrun. Only a small portion of the residential level exceeds the maximum height;
- The objectives of the height standard in Clause 4.3 of RLEP 2011 can be met notwithstanding the variation to the maximum height. The proposal will provide a high quality built form which will ensure that adequate sky exposure and daylight are provided to buildings, key areas and the

public domain, and the development will provide an appropriate transition in built form and land use intensity to adjoining sites. Furthermore, the additional height will not be perceivable from the public domain. The objectives of Clause 4.3 are as follows:

- (a) to establish the maximum limit within which buildings can be designed and floor space can be achieved,*
- (b) to permit building heights that encourage high quality urban form,*
- (c) to provide building heights that maintain satisfactory sky exposure and daylight to buildings, key areas and the public domain,*
- (d) to nominate heights that will provide an appropriate transition in built form and land use intensity.*

- Council by its own actions, being willing to vary its building height development standards, has not demonstrated a strict compliance approach and has approved other developments which exceed the maximum height limit though also incorporate additional gross floor area.
- There are adequate environmental planning grounds for contravening the height development standard, specifically:
 - the scale of development will be comparable to other development along Princes Highway, thus creating a unified new scale in this part of the town centre.
 - Removal of the upper level to achieve strict compliance would not provide an improved planning outcome. The upper level does not cause any material impacts in terms of privacy or view loss to neighbouring properties.
 - The site's topography and other constraints presented above have informed the design response and only a minor portion of the gross floor area is within the maximum height limit.
 - Only a minor portion of the building exceeds the maximum building height limit and the architectural response to these elements will ensure a high quality development and that no material impacts will result from the scheme.
 - The proposal optimises the sites development potential in a manner that is consistent with the building height objectives to encourage a high quality built form, and to respond to the dual street frontages of the site.
- The proposal will not be contrary to the public interest in that the proposal is consistent with the objectives of the height control and of the B4 Mixed Use zone. The proposal provides a mix of land uses in a highly accessible area.
- The proposal will not raise any matter of State or Regional Planning Significance.
- Strict compliance would not itself result in a public benefit, nor an improved planning outcome.
- The proposed height results in an optimum outcome for the site.
- That strict compliance with the 28m height standard is unreasonable and unnecessary in the circumstances of the case for the reasons detailed above.

The applicant's justification is generally agreed with and has adequately addressed Clause 4.6(3) of RLEP 2011. The area of non-compliance to the height is minor in area and nature, and primarily relates to structures that will permit the roof-top area to be used for recreational purposes by future occupants. The proposed variation to the height standard is therefore supported in this case in context of clause 4.6 for the following reasons:

- The bulk of the building falls within the 28m height limit, and a majority of the variation relates to the lift overrun, plant and pergola structures associated with the communal open space. The height variation for a minor part of the top residential level at the Princes Highway side of the development is setback 4.5m from the front Princes Highway boundary and 4.5m from both side boundaries. The variation to height is minor and not readily perceivable from the public domain.

- The additional height proposed is minor and will not result in a detrimental environmental planning outcome as it does not give rise to adverse solar access, view loss or visual or acoustic privacy impacts on site or to neighbouring properties.
- The proposal is consistent with the objectives of Clause 4.3 – Height of Buildings of Rockdale LEP 2011, in that the development is a high quality urban form & retains appropriate sky exposure and solar access on site and to neighbouring properties.
- The proposal is consistent with the objectives of the B4 – Mixed Use zone, providing for a suitable residential use within a highly accessible location within the Rockdale Town Centre.
- The maximum building height to the Princes Highway frontage is consistent with the approved development nearby at 376-386 Princes Highway.
- The proposal as amended satisfies the objectives of Part 7.4 of RDCP 2011 for the 'Rockdale Town Centre', including provision of the 3m Green Gateway Setback, the provision of a three (3) storey podium and the provision of 4.5m side setbacks above podium level.
- The proposal is consistent with the aims of the Building Height control as specified within Part 2C of the Apartment Design Guide, ensuring that the development responds to the desired future scale and character of the Rockdale Town Centre, and that the units within the development will exceed the minimum solar access and cross ventilation requirements of the ADG.
- The proposal uses quality materials and the design appropriately addresses the sites location.
- The proposal has been amended to include 3.3m floor to ceiling heights for both ground and first floor levels, and provides a public benefit by ensuring flexibility of floor space within Rockdale Town Centre into the future.
- The proposal provides substantial planting at podium and Level 9 roof level that will benefit the locality.
- The proposed area of communal open space significantly exceeds the minimum amount required for the development. This is a better planning outcome for the development, specifically given the lack of public open space areas in the nearby area.
- Council has supported similar variations to the building height standard for other developments for lift overruns and structures associated with roof top communal open space areas at roof level due to the benefits for future occupants and the minimal impacts that would result.
- The variation would not adversely impact on the environmental amenity nor the aesthetic character of the area.

The property has two street frontages which, combined with reasons above, provide site specific circumstances that warrant a variation to the height control. The proposal satisfies the objectives of the height standard and the B4 zone, and it is considered that in this instance that the applicant's clause 4.6 variation is well founded and that there are sufficient environmental planning grounds particular to the circumstances of the case in accordance with the principles established by the Land and Environment court judgement *Four2Five v Ashfield Council* [2015] NSWLEC 90 which to justify the contravention of the standard for the site. Compliance with the height development standard is therefore unreasonable and unnecessary in this instance for the reasons noted above.

6.1 Acid Sulfate Soil - Class 5

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

6.2 Earthworks

Earthworks including excavation are required on site for three levels of basement car parking. The objectives and requirements of Clause 6.2 of RLEP 2011 have been considered in the assessment of this application. Proposed excavation works will transect the watertable and the application was

referred to NSW Water who have provided their concurrence. Excavation works will also be within close proximity to Princes Highway and King Lane (including service provision within these areas), and adjoining properties, and the applicant has submitted a Geotechnical Report which includes recommendations such as the preparation of a dilapidation report for adjoining land. It is considered that the proposed earthworks and excavation will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land subject to imposition of relevant conditions as proposed in the draft Notice of Determination which aim to ensure that the environmental amenity of surrounding land is maintained, and soil erosion, sedimentation, and drainage impacts are minimised. The proposal meets the objectives of this clause.

6.3 Between 25 and 30 ANEF (2033) contours

The site is affected by aircraft noise between 25 and 30 ANEF (2033) contours. Further, the development will result in an increase in the number of dwellings or people affected by aircraft and, in accordance with this clause, the proposed development requires noise mitigation measures to be included to minimise noise impacts within the units.

The proposal was accompanied by an Acoustic Report prepared by Acoustic Logic (Revision 1, dated 16 February 2017), which addresses the matter of aircraft noise (as well as road traffic noise) and details noise amelioration measures that would be required to adequately minimise aircraft noise impacts to future occupants, in compliance with the Australian Standards AS2021 - Acoustics - Aircraft Noise Intrusion. The measures include provision of air-conditioning for all apartments, as well as use of specific glazing treatment and other measures.

Subject to compliance with recommended conditions, including a condition requiring that the development comply with the Australian Standards, the proposed development complies with the requirements and objectives of this clause.

6.4 Airspace operations

The proposed development is affected by the Obstacle Limitation Surface (OLS) which is set at between 48 and 50 metres to Australian Height Datum (AHD). The proposed building height is at 46.88 metres to AHD. Furthermore, Sydney Airports Corporation has approved the proposal to a maximum height of 47.0m. Therefore, in this regard, it is considered that the proposed development will have minimal adverse impact on the OLS and hence is acceptable with regards to this Clause.

6.7 Stormwater

The proposal involves the construction of an on site detention system including rainwater tank to manage stormwater. The proposed system has been assessed by Council's development engineer, however some amendments are required and amended plans that comply with Rockdale Technical Specification for Stormwater Management must be submitted to, and approved by the Principal Certifying Authority prior to issue of any Construction Certificate. Other standard conditions are also applicable to ensure that the system is constructed in accordance with Council requirements prior to issue of an Occupation Certificate.

6.12 Essential services

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

S.79C(1)(a)(ii) - Provisions of any Draft EPI's

Draft State Environmental Planning Policy (Infrastructure) 2007 is applicable to the site. The draft EPI does not contain any provisions that are relevant to this application.

S79C(1)(a)(iii) - Provisions of any Development Control Plan

The following Development Control Plan is relevant to this application:

Rockdale Development Control Plan 2011

The application is subject to Rockdale DCP 2011. A compliance table for the proposed development is provided below:

Relevant clauses	Compliance with objectives	Compliance with standard/provision
Rockdale Development Control Plan 2011	Yes	Yes - see discussion
4.1.1 Views and Vista	Yes	Yes - see discussion
4.1.3 Water Management	Yes	Yes
4.1.4 Soil Management	Yes	Yes
4.1.9 Lot size and Site Consolidation - Mixed use	Yes	Yes
4.2 Streetscape and Site Context - General	Yes	Yes - see discussion
4.3.1 Open Space and Landscape Design - Mixed Use	Yes	Yes - see discussion
4.4.2 Solar Access - Residential Flat Buildings and Shop Top Housing	Yes	Yes - see discussion
4.4.4 Glazing - General Controls	Yes	Yes
4.4.5 Visual privacy	Yes - see discussion	Yes - see discussion
4.4.5 Acoustic privacy	Yes	Yes - see discussion
4.4.6 Noise Impact	Yes	Yes - see discussion
4.4.7 Wind Impact	Yes	Yes - see discussion
4.5.1 Social Equity - Housing Diversity and Choice	Yes	Yes - see discussion
4.5.2 Social Equity - Equitable Access	Yes	Yes
4.6 Parking Rates - Shop-top Housing	Yes	Yes - see discussion
4.6 Car Park Location and Design	Yes	Yes
4.6 Vehicles Enter and Exit in a Forward Direction	Yes	Yes
4.6 Basement Parking - General	Yes	Yes - see discussion
4.6 Driveway Widths	Yes	Yes
4.6 Traffic - Classified Roads	Yes	Yes
4.6 Access to Parking	Yes	Yes
4.6 Design of Loading Facilities	Yes	Yes
4.6 Car Wash Facilities	Yes	Yes - see discussion
4.6 Pedestrian Access and Sustainable Transport	Yes	Yes
4.7 Air Conditioning and Communication Structures	Yes	Yes
4.7 Waste Storage and Recycling Facilities	Yes	Yes - see discussion
4.7 Service Lines/Cables	Yes	Yes
4.7 Laundry Facilities and Drying Areas	Yes	Yes
4.7 Letterboxes	Yes	Yes - see discussion
4.7 Hot Water Systems	Yes	Yes

Relevant clauses	Compliance with objectives	Compliance with standard/provision
5.2 RFB - Building Entry	No - see discussion	No - see discussion
5.2 RFB - Lift Size and Access	Yes	No - see discussion
5.3 Mixed Use - Retail	Yes	No - see discussion
5.3 Mixed Use - Commercial	Yes	Yes
5.3 Mixed Use - Flexible Space for First Floor Level	Yes	Yes - see discussion
5.3 Mixed Use - Building Design	Yes	Yes
5.3 Mixed Use - Ground Floor Articulation	Yes	Yes
5.3 Mixed Use - Visual Connections	Yes	Yes
5.3 Mixed Use - Awnings	Yes - see discussion	No - see discussion
5.3 Mixed Use - Secured Access to Parking	Yes	Yes
7.5.1 Street Role - Service Laneway	Yes - see discussion	No - see discussion
7.5.1 Street Role - Centre Edge Residential	Yes	Yes
7.5.1 Residential Apartment Design	Yes	Yes
7.5.1 Parking and Loading	Yes	Yes
7.5.1 Commercial Space	Yes	Yes
7.5.1 Communal Open Space	Yes - see discussion	No - see discussion
7.5.2 Setbacks	Yes - see discussion	No - see discussion
7.5.2 Street Character	Yes	No - see discussion
7.5.2 Arterial Edge	Yes	No - see discussion
7.5.2 Laneway	Yes	No - see discussion

Rockdale Development Control Plan 2011

The application is subject to Rockdale Development Control Plan (RDCP) 2011. A compliance table for the proposed development is provided above. It is noted that clause 6A of SEPP 65 indicates that the several provisions of the Apartment Design Guide (ADG) override this DCP and as such the related provisions under the DCP will not be addressed, including:

- Visual privacy
- Solar access and daylight access
- Common circulation and spaces
- Apartment size and layout
- Ceiling heights
- Private open space and balconies
- Natural ventilation
- Storage

4.1.1 Views and Vista

The occupants of the proposed development will enjoys views toward Botany Bay, most notably from the upper floor levels and the roof top terrace, in accordance with this clause. Consideration has also been given to potential impacts to views of Botany Bay currently enjoyed by residents living to the west of the site on the opposite side of the railway line. In this regard, the proposal is generally compliant with the height requirements contained in RLEP 2011 and therefore will not result in an unexpected loss of views from these properties. Furthermore, properties that currently enjoy views of Botany Bay are located a substantial distance from the site and these residents will continue to enjoy broader district views. The proposal is therefore acceptable in this regard.

4.2 Streetscape and Site Context - General

The proposal has been amended to better reflect the objectives and requirements for the Rockdale Town Centre, specifically the front and side setbacks for those levels above podium level. The amended design is found to address the sites position. Servicing and vehicular access have been provided from the rear King Lane, and commercial premises have been provided to ensure that the facade provides an active street front to Princes Highway. The proposal also includes landscape planting and units at ground floor level fronting King Lane to provide passive surveillance of, and an improved environment for King Lane. Furthermore, the use of materials, screens and building articulation has been refined and overall the proposal is considered to provide an appropriate response to the site in accordance with RDCP 2011. These matters have also been addressed in detail in the assessment of SEPP 65.

4.3.1 Open Space and Landscape Design - Mixed Use

The proposal includes 120m² of deep soil at the front of the site which is 12% of the site area. Therefore the proposal exceeds the minimum 10% landscape area required by Part 4.3.1 of RDCP 2011.

4.4.2 Solar Access - Residential Flat Buildings and Shop Top Housing

In accordance with RDCP 2011, the proposal should ensure that living rooms and private open space areas of adjoining properties should receive 3 hours solar access between 9am and 3pm in mid-winter.

The application was accompanied by overshadowing diagrams for mid-winter (21 June) which demonstrate that the proposal will overshadow parts of the Princes Highway at 9am and that it will not create any overshadowing impacts to the rear yard of No's 9, 11, 13 and 15 York Street before midday.

After midday, the proposal will start to overshadow the rear yard of No. 15 York Street. It will then continue to create overshadowing impacts to the rear yards of No. 9 - 15 York Street until by 3pm the whole rear yard of No's 11, 13 & 15 will be overshadowed, while half of the rear yard of No. 9 will be overshadowed. Therefore, the proposal will not prevent these properties from receiving 3 hours direct sunlight between 9am and 3pm at mid-winter. The applicant has also been accompanied by overshadowing plans at equinox (March / September) which demonstrate that the proposal would not have any impacts to the properties along York Street until later in the afternoon. The proposal will also create overshadowing impacts to part of the Council's car park in the afternoon at mid-winter, however there is no requirement to retain solar access to this area. The overshadowing impacts from the proposal are therefore found to be acceptable with regards to the requirements of this clause.

4.4.5 Visual privacy

Part 4.4.5 of RDCP 2011 requires that *"balconies, terraces, rooftop recreation areas and the like should be located to minimise overlooking of an adjoining property's open space or windows.*

Techniques such as recessing, screens or landscaping may be used to prevent direct views into habitable rooms or private open space of adjacent dwellings".

The applicant has made substantial amendments to the proposal to minimise visual privacy impacts to adjoining properties. A detailed assessment of privacy impacts has been undertaken previously in response to Part 3F 'Visual Privacy' of the ADG. In summary, it was found that, while an absence of privacy impacts is not possible due to the zone interface accompanied by the building height and setbacks permitted under RLEP 2011 and RDCP 2011, the proposal has been amended and will satisfactorily minimise privacy impacts to adjoining properties in this context

It is worth noting again that the Bayside Planning Panel recently recommended that Council consider rezoning the land located on the opposite side of King Lane due to this poor interface in terms of

building bulk, scale and amenity impacts.

Therefore, visual privacy impacts are considered to have been minimised in accordance with the requirements and objectives of RDCP 2011.

4.4.5 Acoustic privacy

The site is affected by aircraft noise and road traffic noise, and the application was therefore accompanied by an Acoustic Report which included recommended measures to ensure that the internal noise environment of the proposed units will comply with the relevant standards as discussed previously in the report. The application has also been amended by replacing proposed ground floor level residential units fronting Princes Highway with commercial tenancies due to potential noise impacts from road traffic noise. This is considered to be a significant improvement.

The proposal has been designed so that bedrooms generally do not share a party wall with living areas, however the submitted acoustic report does not demonstrate how the proposal will achieve the impact insulation between floors as required by RDCP 2011 and a condition is proposed to ensure that this requirement is met. The application was accompanied by an acoustic report which demonstrates that the impacts from aircraft and road traffic noise can be ameliorated in accordance with the relevant standards. The proposal is acceptable in this regard.

Therefore, noise impacts have been adequately considered and addressed in the proposed development.

4.4.6 Noise Impact

Consideration has also been given to potential noise impacts to adjoining properties that may result from air-conditioning plant and basement exhaust systems required for the proposed development. In this regard, a condition is proposed in the draft consent requiring that an acoustic assessment be undertaken of any proposed plant and mechanical systems prior to issue of the Construction Certificate to ensure that the noise impacts will comply with the site specific noise criteria contained in the submitted Acoustic Report as recommended in that report.

Therefore, external noise impacts associated with the proposal have been adequately considered and addressed in the proposed development.

4.4.7 Wind Impact

The application was accompanied by an amended Pedestrian Wind Environment Statement prepared by Windtech (dated 26 May 2017) which has found that the subject development will benefit from shielding provided by the existing surrounding buildings, especially for the lower levels, however that treatment is required for some areas within and around the development which may be exposed to strong winds.

The report considers that the development is not expected to have any additional adverse impact on the wind conditions for the local surrounding area, and that acceptable wind conditions are expected to be achieved for all outdoor trafficable areas within and around the site if the measures detailed below are included within the final design of the development.

The following treatments are recommended in the report:

- Retention of the proposed densely foliating street trees along the Princes Highway frontage of

the site. The densely foliating trees should be of an evergreen species and capable of growing to a height of 4m and a canopy width of 4m.

- Retention of the proposed densely foliating vegetation along King Lane.
- Retention of the proposed impermeable balustrades and densely foliating shrubs/hedge planting on Level 4, capable of growing to a minimum of 1.5m.
- The inclusion of full-height impermeable screens along the northern perimeter edge of the north-eastern and north-western corner balconies on Levels 5 to 9.
- The inclusion of full-height impermeable screens along the southern perimeter edge of the south-eastern and south-western corner balconies on Levels 5 to 9.
- The inclusion of an impermeable balustrade along the perimeter of the Level 10 roof terrace.
- Retention of the proposed tree and shrub/hedge planting on the Level 10 roof terrace. The densely foliating trees should be of an evergreen species and capable of growing to a height of 3m and a canopy width of 3m. The densely foliating shrubs should be capable of growing to a height of 1.5m.
- The wind conditions along the Princes Highway frontage of the site can be further enhanced with the inclusion of an impermeable awning above the ground level street frontage.

The application has been further amended to delete the Level 10 roof terrace and relocate it to part of Level 9. The screening provided by units at Level 9, combined with dense vegetation at the perimeter of the communal area are considered to satisfy the recommendations of the Wind Report. Further, the application has been amended to include vertical screening to side balconies to minimise wind impacts as recommended in the report, and an awning is proposed for the ground floor level Princes Highway frontage. The landscape plan generally complies with the above recommendations, however planting to King Lane will be limited due to its location underneath the proposed building above. A recommended condition includes the relevant measures noted above. In addition, the condition requires that porous screens must be provided around the tree plantings to provide some wind protection while the trees establish and develop.

4.5.1 Social Equity - Housing Diversity and Choice

Part 4.5 of RDCP 2011 contains objectives and controls that aim to ensure that apartments in mixed use developments are flexible, maximise housing choice and provide equality of access. The proposal is considered to satisfy the relevant objectives and requirements. Compliance with the key controls are discussed below:

- Provision of 10%-30% 1 bedroom units, 50-75% 2 bedroom units, and 10-20% 3 bedroom units. The amended proposal includes 21.7% studio units, 33.3% x 1 bed units, 36.7% x 2 bed units and 8.3% x 3 bed units. The proposal includes excess studio / 1 bed units, however has been amended to include 5 x 3 bedroom units (8.3%). The development includes a broad unit mix that is considered to provide a range of housing choice that meets the objectives of the requirement. The mix is therefore considered satisfactory in this case.
- Minimum 10% of units being adaptable in accordance with AS 4299, and barrier free access to be provided to a minimum of 20% of apartments.
Part 4.5.1 requires that a minimum of six (6) dwellings be provided as adaptable units in accordance with AS 4299. The proposed development was accompanied by an Access Report and includes six (6) units with associated accessible car spaces as required.

The proposal is therefore considered to satisfy the objectives of Part 4.5 of RDCP 2011 subject to inclusion of recommended conditions.

4.6 Parking Rates - Shop-top Housing

RDGP 2011 requires the provision of 1 space per 40m² of retail floor space, however Control 3 of Part 4.6 allows a 20% reduction in off-street parking provision for the 'non-residential' component of developments within the Rockdale Town Centre. Therefore a total of 2 parking spaces are required for the proposed retail / commercial premises [i.e. $80\% \times 99 / 40 = 2$ spaces], and the proposal complies.

4.6 Basement Parking - General

The basement has been amended so that it is located clear of the green gateway, thereby provided deep soil for this part of the site. In addition, a full level of car parking has been deleted due to a reduction in unit numbers combined with compliance with the ADG parking rates (not RDGP parking rates). The proposed basement is accessed from King Lane and will provide secure access for future occupants, visitors and tenants of the commercial premises.

4.6 Car Wash Facilities

A condition is proposed requiring the provision of a dedicated car wash bay in accordance with Council's Technical Specifications. The proposal contains adequate space at basement level to comply with this requirement.

4.7 Waste Storage and Recycling Facilities

The proposal includes a separate waste storage area for residential dwellings and commercial / retail premises at ground floor level of the building. The building will be supplied with two eDiverter system's for residential waste which comprises of a single waste chute fitted with a recycling diversion. Garbage discharges into 1100L MGBs which is not compacted, and recycling (comingle) into 1100L MGBs which is not compacted.

The proposal has been amended since submission of the most recent Waste Management Report (WMP) and, while the waste storage room appears to satisfy the size and bin storage requirements in the submitted report, a condition requires submission of an amended WMP which confirms compliance and reflects the building as built for use by future occupants.

The report also recommends that the walls of the shaft area surrounding the chutes and the chute hopper system construction be built to an Rw 50 construction to ensure acoustic compliance with typically recommended noise levels. This has been included in the draft recommended conditions.

4.7 Letterboxes

Residential letter boxes are proposed in the residential lobbies. This is now permitted in certain cases by Australia Post. A condition is proposed requiring Australia Post approval prior to issue of the Occupation Certificate.

5.2 RFB - Building Entry

The residential building entries and lobbies are not designed so that they are clearly identifiable elements of the building in the street as required by RDGP 2011 and the ADG. This is accompanied by inadequate main residential lobbies that do not provide opportunities for casual social interaction among residents as per the ADG. There is ample scope for improvements and a condition is included requiring that this be achieved prior to issue of the Construction Certificate.

5.2 RFB - Lift Size and Access

The proposal includes two lifts which provide access to all levels of the building, and a condition is

proposed requiring compliance with Council's minimum lift size requirement. With regards to proposed internal corridors, the proposal does not meet the minimum 2m width required, however provides a minimum 1.7m which is acceptable in the circumstances of this case.

5.3 Mixed Use - Retail

The proposal includes four commercial tenancies with a total combined GFA of 99m². While Part 5.3 of RDCP requires a minimum 10% of GFA to be provided as commercial premises within a mixed use development, Part 7.5 of RDCP 2011 permits residential at ground level. The proposed commercial premises have access to the loading dock from within the site, and are provided with toilet facilities. Therefore, the proposal is acceptable in this regard.

5.3 Mixed Use - Flexible Space for First Floor Level

The proposal has been amended to provide minimum floor to ceiling heights of 3.3m for both the ground and first floor levels to ensure that the first floor is designed as flexible space to allow future adaptation to commercial if required.

5.3 Mixed Use - Awnings

The application proposes an awning with a depth of 3m, however with cutouts and a maximum depth of 1.2m where trees are proposed. The awnings will therefore be provided wholly within the site. The details provided by the applicant are limited, however the awnings will be acceptable subject to compliance with recommended conditions.

7.5.1 Street Role - Service Laneway

The proposal includes residential units with frontage to King Lane. The DCP encourages commercial / retail uses but does not permit residential uses. Council's Design Review Panel supported the proposed residential units which are setback behind landscape planting and will provide passive surveillance of the lane. The proposed variation is therefore supported in this case.

7.5.1 Communal Open Space

The proposal includes an area of communal open space at roof top level. The area does not meet the minimum 25%, however the space is well landscaped and supported for the reasons discussed in the assessment of the Apartment Design Guide. Recommended conditions require further design refinement, and will also require that the landscape areas have access to Greywater or Rainwater to meet their watering needs as per the DCP requirements.

7.5.2 Setbacks

The site is not subject to FSR Controls, and the density of development in Rockdale Town Centre is controlled using the height provisions contained in RLEP 2011 combined with the setback provisions for contained within Part 7.5.2 of RDCP 2011. The controls in Part 7.5 of RDCP 2011 are based on the vision and strategies in the Masterplan, and they have been established thorough urban design analysis, modelling as well as economic testing.

In this case, the subject site is located within the 'Centre Edge' and 'Arterial Edge' street frontage / character areas of Princes Highway, which includes a 3m 'Green Gateway' requirement. The 'Arterial Edge' area provides a transition into the 'Centre Core' area of the Rockdale Town Centre.

In addition, the rear King Lane frontage is subject to the 'Laneway' street character and setback controls.

The 3 metre Green Gateway setback is critical to ensure that the objectives of the Rockdale Town Centre Masterplan are achieved. The Masterplan acknowledges that existing centres are often “harsh and unattractive” due to historic trends in development on main roads, and determined that the proposed “Green Gateways” at the four entrances to the Town Centre are “critical” to distinguished Rockdale from the rest of the Princes Highway and other nearby centres.

Specific objectives for the Arterial Edge area of the Town Centre are also further defined in the DCP as follows:

"Street edge defined by modulated built form transitioning from the strong urban character in the Centre core to the more specious and open character of the surrounding residential area. Buildings will have regard to the speeds of observers and be clearly read as a strong podium upon which sits a lighter, modulated building allowing vistas between buildings to the skyline beyond".

In summary, the building setback requirements for this site are as follows:

- (1) Setbacks required to three (3) storey podium levels:
 - (a) 3m 'Green Gateway' front setback to Princes Highway;
 - (b) 0m side setback to adjoining sites;
 - (c) 1m to rear King Lane.
- (2) Setbacks required above three (3) storey podium level:
 - (a) 6m front setback to Princes Highway above the 3rd level (i.e. an additional 3m beyond the podium levels);
 - (b) 4.5m side setback (and a maximum facade length of 40m);
 - (c) 4m to rear King Lane (i.e. an additional 3m setback beyond the podium level).

The proposal has been amended so that it fully complies with the setback requirements for the three (3) podium levels, including a 3m 'Green Gateway' setback to Princes Highway, a 1m setback to King Lane and nil side setbacks. The 3m "Green Gateway" setback has been provided for all three (3) basement levels as required by the DCP.

The proposal has also been amended to provide the full 4.5m side setbacks which are critical to ensure compliance with the objectives of the Arterial Edge of RDCP 2011 which have been provided above.

The remaining setbacks above podium level do not fully comply with RDCP 2011, as follows:

- Princes Highway - 4.5m - non-compliance (6m is required);
- King Lane - 3m - non-compliance (4m is required);

The non-compliances to these setbacks above podium level have been addressed by the applicant and the variations to the setbacks are supported. The amended proposal now provides a strong podium with a lighter building form above. Planting has been provided around the perimeter of the podium level that will contribute to the Green Gateway, softens the built form, provides amenity for residents and the streetscape, and also accentuates the break between the podium and built form above. The proposal also includes planting at the rear rooftop level that will be visible from the public domain and some surrounding properties. The critical 4.5m side setbacks have been provided which, combined with proposed additional setbacks at front and rear, will ensure a more open character is provided that will

allow vistas to be seen between buildings to the skyline beyond. Furthermore, the rear setback to King Lane is consistent with the 3m approved at 376 Princes Highway. The minor variations to the setbacks above podium level are therefore supported as the development is considered to satisfy the objectives of part 7.5.2 of RDCP 2011.

7.5.2 Street Character

Refer to discussion under '7.5.2. Setbacks' above. The proposal is considered satisfactory with regards to the 'Street Character' requirements of RDCP 2011.

7.5.2 Arterial Edge

Refer to discussion under '7.5.2. Setbacks' above. The proposal is considered satisfactory with regards to the 'Street Character' requirements of RDCP 2011.

7.5.2 Laneway

Refer to discussion under '7.5.2. Setbacks' above. The proposal is considered satisfactory with regards to the 'Street Character' requirements of RDCP 2011.

S.79C(1)(a)(iv) - Provisions of regulations

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.

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

S.79C(1)(b) - Likely Impacts of Development

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

- **Construction Traffic & Works Zone(s)**
The site has a frontage to Princes Highway and is also located with secondary frontage to a narrow lane. Construction traffic will need to be managed carefully to ensure impacts to traffic flow and safety. Therefore, recommended conditions require that a Construction and Traffic Management Plan be prepared prior to issue of the Construction Certificate, and that approval be obtained from the relevant authority (RMS) if a works zone is required on Princes Highway during works. Subject to compliance with the submitted reports and recommended conditions of consent, the impacts from the construction traffic and works is found to be satisfactorily minimised.
- **Construction Works**
Impacts associated with construction works under this DA will be minimised through use of standard conditions relating to hours of construction, noise and vibration, dust suppression, traffic management, shoring of adjoining properties, and the like, as well as specific conditions imposed by RMS and other authorities to minimise impacts on the adjacent classified road, railways, Telstra infrastructure and other infrastructure and the environment.
- **Traffic & Access**

The site is located within 500m walking distance of Rockdale railway and bus interchange, as well as local shops within Rockdale Town Centre. This will encourage future occupants to prioritise public transport use. The application complies with the parking requirements in the ADG as well as the provision of motorcycle and bicycle parking facilities, visitors parking, loading bay and car wash bay in accordance with RDCP 2011. The proposal has been amended to ensure that waste can be collected wholly within the site, and ample space is provided for queuing of vehicles within the site.

RMS have provided their Concurrence subject to recommended conditions which have been included in the draft Notice of Determination, and the proposal was also referred to the Bayside Traffic Development Advisory Committee (BTDAC) for consideration on 13 July 2016. The BTDAC provided a number of recommendations, including the inclusion of a concrete median island in Bestic Street, that waste collection be carried out within the site, that all loading and unloading be carried out within the laneway, that the RMS Traffic Signal Plan be updated to reflect changes in Bestic Street resulting from the concrete median island and associated line-marking, that redundant driveways be removed, that the TMP for excavation and demolition be submitted to Council for approval, that 'No Parking' restrictions be provided on both sides of King Lane and that a 'work zone' not be permitted on King Lane. These recommendations have been included in the draft Notice of Determination. Some of these requirements have also been imposed on DA-2016/108 for 376-386 Princes Highway. If completed under that DA, some conditions would be satisfied. However the conditions are imposed on this consent to ensure that the works are carried out by the first site to be developed in this part of King Lane.

The proposal is also supported by Council's Development Engineer subject to imposition of recommended conditions. Further consideration has been given to traffic issues in the assessment of the Infrastructure SEPP, and in the response to submissions section below. Overall, the parking and traffic impacts of the proposal are considered to be minimised and satisfactory.

- **Social Impact**
The proposal will enhance the public domain, including provision of a well designed building and some planting along the Princes Highway frontage. The residential units have access to good public transport and shops that will assist to reduce car use, and the proposal includes motorcycle and bicycle parking. The proposal also includes substantial areas of communal open space that will benefit from good solar access throughout the year. The proposal now includes some 3 bedroom units and will contribute to housing diversity within the locality.
- **Safety and Security**
Safer by Design principles of crime prevention through environmental design are incorporated into RDCP 2011 and this aspect has been considered in the assessment of this proposal. The proposal has been designed as a secure development, with restricted access to private and communal areas and to the basement parking areas. The proposal activates and enhances the sites frontage and will increase passive surveillance of the public domain. Furthermore, draft conditions are proposed requiring the installation of CCTV cameras at relevant locations, the preparation of a lighting maintenance policy, use of graffiti resistant materials at ground floor level and provision of an intercom facility for residents.

S.79C(1)(c) - Suitability of the site

The relevant matters pertaining to the suitability of the site for the proposed development have been

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

S.79C(1)(d) - Public submissions

The development has been notified in accordance with the provisions of Rockdale DCP 2011 for a minimum of 30 days for Integrated Development and one (1) submission has been received. The issues raised in the submission are discussed below:

Issue 1: Excessive height

Comment: The proposal has been amended to eight (8) stories plus roof terrace at the rear fronting King Lane, and complies with the maximum 22m building height permitted under RLEP. The building has also been amended to provide 4.5m side setbacks to provide visual relief when viewed from surrounding residential properties.

Issue 2: Overshadowing and Impacts to Sunlight

Comment: This matter has been addressed earlier in the report. While some impacts will occur to adjoining properties, the proposal satisfies the solar access requirements of RDCP 2011.

Issue 3: Noise impacts during demolition and construction

Comment: This issue has been considered in the assessment of Impacts previously in the report. The proposal will result in some noise impacts, however standard conditions regarding hours of construction are proposed to minimise impacts.

Issue 4: Traffic Congestion

Comment: This matter has been considered in the assessment of Impacts previously in the report. The impacts from this proposal will be minimal.

Issue 5: Conflict with Flight Path

Comment: The proposed building height has been approved by Sydney Airports.

S.79C(1)(e) - Public interest

The proposal has been assessed against the relevant planning policies applying to the site having regard to the objectives of the controls. As demonstrated in the assessment of the development application, the proposal is not supported by State and Council policies in regard to density, streetscape and amenity impacts. As such it is considered that the development application is not in the public interest.

S94 Contribution towards provision or improvement of amenities or services

A Section 94 Contribution Payment of \$354,178.53 is payable in accordance with Council's Policy and accordingly, imposed as a condition on the draft Notice of Determination.

Civil Aviation Act, 1988

The site is within an area that is subject to the Civil Aviation (Building Controls) Regulations 1988 made under the *Civil Aviation Act, 1988*.

Civil Aviation (Building Control) Regulations 1988

The Regulations require a separate approval from the Civil Aviation Safety Authority if a building or structure exceeds a prescribed height limit.

Section 5 Prohibition of the construction of buildings of more than 50 feet in height in specified areas

The subject site is affected by the 15.24m building height Civil Aviation Regulation, however the proposed maximum building height of to the top of the lift overrun exceeds the maximum and therefore the proposal was referred to Sydney Airports for comment. Sydney Airports have approved the proposed height by letter dated 25 May 2016 subject to conditions. The recommended conditions have been included in the draft Notice of Determination.

Schedule 1 - Draft Conditions of consent

General Conditions

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

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

Plan/Dwg No.	Issue No.	Dated	Received
ARCHITECTURAL PLANS—prepared by Collins Turner			
Title Sheet 261_000 DA9	DA9	08/09/2017	08/09/2017
Site Analysis / Context Plan 261_001 DA5	DA5	27/2/2017	27/06/2017
Site Plan 261_002 DA6	DA6	31/05/2017	07/09/2017
Basement Level 03 261_101 DA9	DA9	06/09/2017	07/09/2017
Basement Level 02 261_102 DA8	DA8	01/09/2017	07/09/2017
Basement Level 01 261_103 DA8	DA8	01/09/2017	07/09/2017
Ground Level 261_104 DA1	DA10	06/09/2017	07/09/2017
Level 02 261_105 DA8	DA8	06/09/2017	07/09/2017

Level 03 261_106 DA8	DA8	06/09/2017	11/09/2017
Level 04 261_107 DA8	DA8	06/09/2017	07/09/2017
Levels 05 – 08 261_108 DA8	DA8	05/09/2017	07/09/2017
Level 09 261_110 DA2	DA2	06/09/2017	07/09/2017
Level 09 – Communal Open Space 261_111 DA1	DA1	06/09/2017	06/09/2017
Roof Level 10 261_109 DA7	DA7	01/09/2017	07/09/2017
North South Elevations 261_202 DA8	DA8	06/09/2017	08/09/2017
North South Elevations – Without Screens 261_205 DA7	DA7	01/09/2017	11/09/2017
West Elevation 261_200 DA9	DA9	06/09/2017	08/09/2017
West Elevation – Without Screens 261_203 DA8	DA8	01/09/2017	11/09/2017
East Elevation 261_201 DA9	DA9	06/09/2017	11/09/2017
East Elevation – Without Screens 261_204 DA8	DA8	01/09/2017	11/09/2017
North South Section 2 261-301 DA1	DA1	01/09/2017	11/09/2017
East - West Section 1 261_300 DA9	DA9	01/09/2017	08/09/2017
Detail Section - Wintergarden 261_302 DA1	DA1	02/09/2017	11/09/2017
Level 09 - Communal Open Space 261_111 DA1	DA1	06/09/2017	11/09/2017
MATERIALS & FINISHES			
Sample Board of Materials & Finishes 261_700 DA5	DA5	27/02/2017	27/06/2017
Materials listed on Title Sheet 261_000 DA9	DA9	08/09/2017	08/09/2017

3. All new building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA).
4. **A Construction Certificate must be obtained from Council or an Accredited**

Certifier prior to any building work commencing.

5. The development must be implemented and all BASIX commitments thereafter maintained in accordance with BASIX Certificate Number (712455M_04) other than superseded by any further amended consent and BASIX certificate.

Note: Clause 145(1)(a1) 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: -

- (a1) 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>.

6. Further alterations and/or additions to the subject building shall not be undertaken without first obtaining approval. This includes enclosing of open fire stairs, relocation of fire booster valves, inclusion of a substation, the fitting of any form of doors and/or walls.
7. A separate approval is required for Strata Subdivision.
8. The roof top communal space and associated pergola / roof structures shall not to be used for habitable purposes.
9. The balconies shall not be enclosed at any future time without development consent.
10. This approval is not to be construed as permission to erect any structure on or near a boundary contrary to the provisions of the Dividing Fences Act.
11. Excavation, filling of the site (with the exception of the area immediately under the building envelope), or construction of retaining walls are not permitted unless shown on the approved plans and authorised by a subsequent construction certificate.
12. The materials and façade details approved under condition 2 and any other relevant condition of this consent shall not be altered or amended at the construction certificate stage without a prior S96 application and approval under the EP&A Act.

Development specific conditions

The following conditions are specific to the Development Application proposal.

13. **NSW Water**

The development must be implemented in accordance with the General Terms of Agreement issued by NSW Water by letter dated 9 May 2016:

General

- (i) An authorisation shall be obtained for the take of groundwater as part of the activity. Groundwater shall not be pumped or extracted for any purpose other than temporary construction dewatering at the site identified in the development application. The authorisation shall be subject to a currency period of 12 months from the date of issue and will be limited to the volume of groundwater take identified
- (ii) The design and construction of the building must prevent any take of groundwater after the authorisation has lapsed by making any below-ground levels that may be impacted by any water table watertight for the anticipated

life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high water table elevations to prevent potential future inundation.

- (iii) Sufficient permanent drainage shall be provided beneath and around the outside of the watertight structure to ensure that natural groundwater flow is not impeded and:
 - (a) any groundwater mounding at the edge of the structure shall be at a level not greater than 10 % above the level to which the water table might naturally rise in the location immediately prior to the construction of the structure; and
 - (b) any elevated water table is more than 1.0 m below the natural ground surface existent at the location immediately prior to the construction of the structure; and
 - (c) where the habitable part of the structure (not being footings or foundations) is founded in bedrock or impermeable natural soil then the requirement to maintain groundwater flows beneath the structure is not applicable.
- (iv) Construction methods and material used in and for construction shall be designed to account for the likely range of salinity and pollutants which may be dissolved in groundwater, and shall not themselves cause pollution of the groundwater.
- (v) DPI Water requires documentation (referred to as 'report') comprising measurements, maps, bore logs, calculations, results, discussion and justification for various matters related to the dewatering process. Information will be required at several stages: prior to construction commencing (initial report - which will accompany the application for the authorisation), at any time when an authorisation renewal is required or a significant change in activities occurs (intermediate report); and at the completion of dewatering and related operations (completion report). Reports need to be submitted to DPI Water at Parramatta Office, in a format consistent with electronic retrieval without editing restrictions; raw data should be presented in Excel spreadsheets without editing restrictions.

Prior to excavation

- (vi) The following shall be included in the initial report:
 - (a) measurements of groundwater levels beneath the site from a minimum of three relevant monitoring bores, together with details of the bores used in the assessment including bore logs and three-dimensional identification information.
 - (b) a map of the site and its immediate environs depicting the water table (baseline conditions) shown relative to the topography and approved construction footprint from the surface level and below. An assessment of the potential variation in the water table during the life of the proposed building together with a discussion of the methodology and information on which this assessment is based.
 - (c) details of the present and potential groundwater flow paths and hydraulic gradients in and around the site; the latter in response to the final volumetric emplacement of the construction.
 - (d) a schedule for the ongoing water level monitoring and description of the methodology to be used, from the date of consent until at least two months after the cessation of pumping. [DPI Water prefers that

monitoring be undertaken on a continuous basis using automatic loggers in boreholes.]

- (vii) The Applicant shall assess the likely impacts of the dewatering activities on other groundwater users or structures or public infrastructure; this assessment will include an appropriate bore, spring or groundwater seep census and considerations relevant to potential subsidence or excessive settlement induced in nearby buildings and property, and be documented together with all calculations and information to support the basis of these in the initial report.
- (viii) Groundwater quality testing of samples taken from outside the footprint of the proposed construction, with the intent of ensuring that as far as possible the natural and contaminant hydrochemistry of the potential dewatered groundwater is understood, shall be conducted on a suitable number of samples and tested by a NATA-certified laboratory. Details of the sampling locations and the protocol used, together with the test results accompanied by laboratory test certificates shall be included in the initial report. An assessment of results must be done by suitably qualified persons with the intent of identifying the presence of any contaminants and comparison of the data against accepted water quality objectives or criteria for the intended dewatering purpose. In the event of adverse quality findings, the Applicant must develop a plan to mitigate the impacts of the hydrochemistry on the dewatered groundwater and present the details of all assessments and plans in the initial report
- (ix) Groundwater quality testing generally in accordance with Clause 8, shall be undertaken on any anniversary or other renewal or alteration of any dewatering authorisation.
- (x) A reasonable estimate of the total volume of groundwater to be extracted shall be calculated and included in the initial report; together with details and calculation methods for the parameters and supporting information to confirm their development or measurement (e.g. permeability predicted by slug-testing, pump-testing or other means).
- (xi) A copy of a valid consent for the development shall be provided in the initial report.
- (xii) The method of disposal of pumped water shall be nominated (i.e. reinjection, drainage to the stormwater system or discharge to sewer) and a copy of the written permission from the relevant controlling authority shall be provided in the initial report. The disposal of any contaminated pumped groundwater (sometimes called “tailwater”) must comply with the provisions of the Protection of the Environment Operations Act 1997 and any requirements of the relevant controlling authority.
- (xiii) Contaminated groundwater (i.e. above appropriate NEPM 2013 thresholds) shall not be reinjected into any aquifer. The reinjection system design and treatment methods to remove contaminants shall be nominated and included in the initial report and any subsequent intermediate report as necessary. The quality of any pumped water that is to be reinjected must be demonstrated to be compatible with, or improve, the intrinsic or ambient groundwater in the vicinity of the reinjection site.

During excavation

- (xiv) Engineering measures designed to transfer groundwater around and beneath the basement shall be incorporated into the basement construction to prevent the completed infrastructure from restricting pre-existing groundwater flows.

- (xv) Piping, piling or other structures used in the management of pumped groundwater shall not create a flooding hazard or induce mounding of groundwater. Control of pumped groundwater is to be maintained at all times during dewatering to prevent unregulated off-site discharge.
- (xvi) Measurement and monitoring arrangements to the satisfaction of DPI Water are to be implemented. Weekly records of the volumes of all groundwater pumped and the quality of any water discharged are to be kept and a completion report provided after dewatering has ceased. Records of groundwater levels are to be kept and a summary showing daily or weekly levels in all monitoring bores provided in the completion report.
- (xvii) Pumped groundwater shall not be allowed to discharge off-site (e.g. adjoining roads, stormwater system, sewerage system, etc.) without the controlling authority's approval and/or owner's consent/s. The pH of discharge water shall be managed to be between 6.5 and 8.5. The requirements of any other approval for the discharge of pumped groundwater shall be complied with.
- (xviii) Dewatering shall be undertaken in accordance with groundwater-related management plans applicable to the excavation site. The requirements of any management plan (such as acid sulfate soils management plan or remediation action plan) shall not be compromised by the dewatering activity.
- (xix) The location and construction of groundwater extraction works that are decommissioned are to be recorded in the completion report. The method of decommissioning is to be identified in the documentation.
- (xx) Access to groundwater management works used in the activity is to be provided to permit inspection when required by DPI Water under appropriate safety procedures.

Following excavation

- (xxi) Following completion of the dewatering operations, the applicant shall submit to DPI Water, Parramatta Office, the completion report which shall include:
 - (a) detail of the volume of water taken, the precise periods and location of water taken, the details of water level monitoring in all of the relevant bores; and
 - (b) a water table map depicting the aquifer's settled groundwater condition and a comparison to the baseline conditions; and
 - (c) a detailed interpreted hydrogeological report identifying all actual resource and third party impacts, including an assessment of altered groundwater flows and an assessment of any subsidence or excessive settlement induced in nearby buildings and property and infrastructure.
- (xxii) The completion report is to be assessed by DPI Water prior to any certifying agency's approval for occupation or use of the completed construction.

14. Sydney Airport Conditions

Sydney Airport Corporation Limited (SACL) has approved the maximum height of the proposed building at 47.0 metres relative to Australian Height Datum (AHD). This height is inclusive of all vents, chimneys, aerials, TV antennae and construction cranes etc. No permanent or temporary structure (including construction cranes, etc.) is to exceed this height without further approval from Sydney Airport Corporation Limited.

Under Section 186 of the Airports Act 1996, it is an offence not to give information to the Airport Operator that is relevant to a proposed "controlled activity" and is

punishable by a fine of up to 50 penalty units.

For further information on Height Restrictions please contact SACL on 9667 9246.

Note: Construction cranes may be required to operate at a height significantly higher than that of the proposed controlled activity and consequently, may not be approved under the Airports (Protection of Airspace) Regulations. Sydney Airport advises that approval to operate construction equipment (ie cranes) should be obtained prior to any commitment to construct.

15. Roads and Maritime Services (RMS)

The following conditions imposed by Roads and Maritime Services (RMS) in their letter dated 28 April 2016 must be complied with:

- (a) Roads and Maritime has previously vested a strip of land as road along the Highway frontage of the subject property, as shown by grey colour on the attached Aerial — X.
Therefore, any new buildings or structures, together with any improvements integral to the future use of the site, must be erected wholly within the freehold property along the Highway boundary (unlimited in height or depth).
- (b) The redundant driveway on the Princes Highway boundary shall be removed and replaced with kerb and gutter to match existing. The design and construction of the kerb and gutter on Princes Highway shall be in accordance with Roads and Maritime requirements. Details of these requirements should be obtained from Roads and Maritime Services, Manager Developer Works, Statewide Delivery, Parramatta (telephone 8849 2138).

Detailed design plans of the proposed gutter crossing are to be submitted to Roads and Maritime for approval prior to the issue of a Construction Certificate and commencement of any road works.

A plan checking fee (amount to be advised) and lodgement of a performance bond may be required from the applicant prior to the release of the approved road design plans by Roads and Maritime.\

- (c) Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to Roads and Maritime for approval, prior to the commencement of any works.

Details should be forwarded to:

The Sydney Asset Management
Roads and Maritime Services
PO Box 973 Parramatta CBD 2124.

A plan checking fee will be payable and a performance bond may be required before Roads and Maritime approval is issued. With regard to the Civil Works requirement please contact the Roads and Maritime Project Engineer, External Works Ph: 8849 2114 or Fax: 8849 2766.

- (d) The developer is to submit design drawings and documents relating to the excavation of the site and support structures to Roads and Maritime for assessment, in accordance with Technical Direction GTD2012/001.

The developer is to submit all documentation at least six (6) weeks prior to

commencement of construction and is to meet the full cost of the assessment by Roads and Maritime.

The report and any enquiries should be forwarded to:
Project Engineer, External Works
Sydney Asset Management
Roads and Maritime Services
PO Box 973 Parramatta CBD 2124.
Telephone 8849 2114
Fax 8849 2766

If it is necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owner/s of the roadway is/are given at least seven (7) days notice of the intention to excavate below the base of the footings. The notice is to include complete details of the work.

- (e) All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping. A construction zone will not be permitted on Princes Highway.

16. Ausgrid

The following conditions imposed by Ausgrid must be complied with:

- (a) Prior to any development being carried out, the approved plans must be submitted to Ausgrid's local customer service office for approval to determine whether the development will affect Ausgrid's network or easements.
- (b) The applicant must check the location of underground cables by using Dial Before You Dig and comply with the requirements of NS156: Working Near or Around Underground Cables (Ausgrid, 2010).
- (c) The development must comply with both the Reference Levels and the precautionary requirements of the Draft Radiation Protection Standard for Exposure Limits to Electric and Magnetic Fields 0 Hz – 3 kHz (ARPANSA, 2006).

17. Amended / Additional Information satisfied prior to issue of Construction Certificate

The following matters shall be satisfied prior to issue of the Construction Certificate:

- (a) The screens proposed in front of all windows, balconies and balustrades located within the side elevations and rear (King Lane) elevation as shown in the approved plans shall be fixed angled verticle louvre blades with a depth of 85mm and constructed of Equitone or Rieder GRC Panels as shown in the Materials Schedule and as detailed in the 'Detail Section - Wintergarden' plan with Drawing No. 261-302 DA1 dated 2 September 2017. The detailed plans shall be submitted to, and approved by, Council's Director of City Futures prior to issue of the Construction Certificate. The plans shall be accompanied by a sample of the materials and colours proposed.
- (b) The screens provided in front of solid walls shall be fixed verticle louvre blades with a depth of 60mm and constructed of Equitone or Rieder GRC panels as shown in the Materials Schedule and as detailed in the 'Detail Section - Wintergarden' plan with Drawing No. 261-302 DA1 dated 2 September 2017.
- (c) Fire Stairs and Natural ventilation to lift lobbies / corridors - Detailed design of the fire stairs and associated facade treatment, planter areas and lobbies shall be submitted to, and approved by, Council's Director of City Futures prior to issue of the Construction Certificate. The plans shall demonstrate that the residential lobbies will be provided with natural light and ventilation as

committed to in the letter report from Urbis dated 4 September 2017, however the plans must also demonstrate how the lobbies will not be subject to unreasonable adverse wind and rain impacts. The detailed design shall also demonstrate how adjoining landscape areas can be maintained, and where proposed signage will be erected as per the submitted letter report dated 4 September 2017.

- (d) Residential entries / lobbies - The residential entries are to be improved so that they are clearly identifiable elements of the building in the street, and amended as follows to satisfy the objectives and requirements of RDCP 2011 and the ADG. The amendments shall be submitted to, and approved by, Council's Director City Futures prior to issue of the Construction Certificate. The amendments are also to include, at minimum, areas for seating, gathering and notice boards as follows:
 - (i) Lobby 1 - the lobby area shall be increased in size by deletion of the southern most 'Ambulant WC' and relocation of the door to the Fire Control Centre to be in line with the southern wall of the remaining Ambulant WC. This area shall be provided with seating and a notice board(s) for use by residents.
 - (ii) Lobby 2 - the southern wall of Retail Tenancy 2 shall be moved to be in line with the northern wall of the area marked "CE". This space shall be provided with a seat(s) and notice board(s).
- (e) Units 2.05 and 3.05 shall be amended by deletion of the western most bedroom. This area shall become an extension of the living space to provide an internal layout that satisfies the minimum unit size requirements and objectives of the Apartment Design Guide and RDCP 2011 relating to unit layout and access to Private Open Space (refer to Objective 4E-2 of the ADG).
- (f) The windows for bedrooms and living spaces in the eastern elevation of Level 1 shall have a minimum sill height of 1.0m.
- (g) Waste Management - Prior to issue of the Construction Certificate an updated Waste Management Plan must be submitted to, and approved by, Council's Director City Futures. The amended plan shall be updated for the reduced unit numbers, reduction in the size of the commercial tenancies, and for the reduced size and layout of the waste storage areas. The proposal must generally comply with the Council's Waste Management Technical Specifications, RDCP 2011, shall ensure that separate waste and recycling collection will be provided to residential and commercial tenants, and include an area of 8m² for bulky waste items as currently proposed.
- (h) Awning to Princes Highway - full design details of the proposed awning to Princes Highway, identified by grey dashed line on the approved Ground Floor Plan, must be submitted to, and approved by, Council's Director of City Futures prior to issue of the Construction Certificate. The awning is shown to be contained wholly within the site and have a maximum depth of 3m and cutouts with a depth of 1.2m around proposed trees. Plans, sections and relevant details, including materials, shall be submitted for approval.
- (i) Samples of proposed materials must be submitted to, and approved by, Council's Director of City Futures prior to issue of the Construction Certificate.
- (j) Planter beds shall be located adjacent to balcony openings for all balconies on Levels 1 and 2 which front the rear King Lane. The planters shall be provided in accordance with the plan with approved Plan No. 261-302 DA1.

- (k) Any hot water systems/units located on the balcony of a dwelling shall be encased in a recessed box with the lid/cover of the box designed to blend in with the building and all associated pipe work is to be concealed, as required by Control 19 of Part 4.7 of Rockdale DCP 2011.
- (l) Ceiling Heights
 - (i) Ceiling heights for all habitable areas shall be a minimum of 2.7 metres and ceiling heights for non-habitable areas shall be a minimum of 2.2m as measured vertically from finished floor level to the underside of the ceiling.
 - (ii) Ceiling heights for all non-habitable areas shall be a minimum of 2.4 metres as measured vertically from finished floor level to the underside of the ceiling.
 - (iii) Ceiling heights for the ground and first floor levels shall be a minimum of 3.3m.
- (m) Elevator size - All passenger lift cars are to have minimal internal dimensions of 2.1m x 1.5m, must be capable of carrying stretchers and have lift door openings wide enough to enable bulky goods (white goods, furniture etc) to be easily transported.
- (n) Mechanical ventilation - Any mechanical ventilation system for the basement car park must comply in all respects with the requirements of Australian Standard 1668, Part 1 & 2. The vents for this system are proposed within the roof top level landscape area and must be appropriately designed and screened by landscape planting.
- (o) Mechanical ventilation for commercial / retail tenancies - all ground floor level commercial tenancies shall be provided with mechanical ventilation which complies with the relevant Australian Standards to permit future uses for food and drink premises. The systems must vent above the roof top level.
- (p) Each unit shall be provided with a buzzer / button that will allow them to open the door(s) to the residential lobby and to the basement levels.
- (q) The air-conditioning units required under SEPP BASIX shall not be fixed to the external walls of the balcony or building and must be located in a position that is not easily visible from the public domain.
- (r) The proposal shall include the use of rainwater harvesting for all landscape planting at roof top level, podium level and for the green gateway planting in accordance with the requirements of Part 7.5 of RDCP 2011.
- (s) All plumbing, shall be concealed within the brickwork / facade of the building.
- (t) Garbage Rooms - Hot and cold water hose cocks shall be installed to the garbage room. Services or utility systems shall not be located in the garbage room.
- (u) The stormwater detention tank(s) and all other structures (with the exception of the awning and approved paving, must be located outside of the 3m front 'Green Gateway' setback to Princes Highway.

18. Street Numbering & Letterbox Provision

- (a) The building shall be provided with the following street number:

- Retail 1 - 398 Princes Hwy Rockdale
- Retail 2 - 406 Princes Hwy Rockdale
- Retail 3 - 410 Princes Hwy Rockdale
- Retail 4 - 412 Princes Hwy Rockdale

- Lot 101 – 97 King Lane Rockdale
- Lot 102 – 95 King Lane Rockdale
- Lot 103 - 93 King Lane Rockdale]
- Lot 104 – 91 King Lane Rockdale
- Residential Lobby 1 - 400 Princes Hwy Rockdale
- Unit numbers as per floor plans 261_105 DA6 – 261_108 DA6
- Residential Lobby 2 - 408 Princes Hwy Rockdale
- Unit numbers as per floor plans 261_105 DA6 – 261_108 DA6.

(b) Mail boxes must be installed in the position shown in the approved plans. The letterboxes must be lockable.

(c) Prominent house numbers are to be displayed, with a minimum number size of 150 mm in height for each number and letter in the alphabet.

19. Commercial / Retail Premises - Ongoing Use Conditions

The operations of the commercial / retail premises must comply with the following:

- Parking allocation must be provided in accordance with the requirements contained within the relevant Development Control Plan;
- Signs or goods shall not be displayed or placed on the public footpath or any other part of the public road at any time without Council's consent.
- All loading and unloading must be undertaken from the loading bay or designated commercial parking spaces, and the transfer of goods to and from the commercial / retail premises shall take place wholly within the property.
- Display windows at the street front must be provided with clear glazing with a maximum window sill height of 700mm. Glazing is not to be frosted or otherwise obscured at eye level (e.g. by shelving) between the heights of 0.7m-2.1m in accordance with RDCP 2011.
- Roller shutters over windows and entry doors are not permitted.
- Any signs must, unless separately approved, comply with the requirements of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 and cannot have / use:
 - flashing lights;
 - electronically changeable messages;
 - animated display, moving parts or simulated movement; or
 - a method and level of illumination that distracts or dazzles.

(f) All other relevant conditions of this consent.

20. Safer by Design

To maximise security in and around the development the following shall be incorporated into the development. Details for the following are to be approved by the Principal Certifying Authority prior to the issue of the Construction Certificate, implemented prior to issue of the Occupation Certificate, and maintained for the lifetime of the development:

- a) Monitored CCTV facilities shall be implemented throughout the development. Areas of focus include the basement car park (including entry and exits), main entry areas to the development and garbage/storage areas.
- b) A lighting maintenance policy shall be established for the development. Lighting shall be designed to the Australian and New Zealand Lighting Standards. Australia and New Zealand Lighting Standard 1158.1 - Pedestrian, requires lighting engineers and designers to consider crime risk and fear when selecting lamps and lighting levels.
- c) Security mirrors shall be installed within corridors and on blind corners to enable users to see around blind corners.
- d) Graffiti resistant materials shall be used to ground level external surfaces.
- e) Intercom facilities shall be installed at all vehicular and pedestrian entry/exit points to enable residents to communicate and identify with people prior to admitting them to the development.
- f) The front window of the ground floor tenancy must be kept free of shelves and promotional materials, etc. to ensure passive surveillance is maintained to and from the tenancy.

21. Parking Provision & Allocation

A total of 59 car parking spaces and 1 dedicated car wash bay, and a minimum of 6 bicycle parking spaces and 4 motorcycle parking spaces, must be provided within the development. The parking must be allocated in accordance with the Apartment Design Guide (ADG) and the relevant Rockdale Development Control Plan (RDCP) 2011 requirements in accordance with the minimum rates provided in the table below. This parking must be reflected in any subsequent strata subdivision of the development.

Dwelling Size (Proposed No. of units)	Required
Studio / 1 bed dwellings (33 units)	0.6 spaces / dwelling = 19.8 spaces
2 bedroom dwellings (22 units)	0.9 spaces / dwelling = 19.8 spaces
3 bedroom dwellings (5 units)	1.4 spaces / dwelling = 7 spaces
Total Car Parking Spaces for Residential Units	47 spaces (min.) (including 6 accessible spaces)
Visitor	1 space / 5 dwellings - 20% = 10 spaces (including 1 accessible space)
Bicycle (Res. + Com.)	1/10 units = 6 spaces (Min.)
Motorcycle (Res + Com.)	1/15 units = 4 spaces (Min.)
Carwash Bay	1 space (dedicated)

Commercial / Retail
Tenancies

1 space / 40m² - 20% = 2
spaces
(One parking space shall be
allocated to each of the largest
commercial / retail tenancies,
and a maximum of 1 space
may be allocated to each
commercial / retail tenancy).

Notes:

- *All residential visitor spaces, car wash bays and loading bays shall be labelled as common property on the final strata plan for the site.*
- *Tandem parking spaces must only be allocated to a single residential unit.*
- *The car-wash bay must be connected to the Sydney Water sewer system in accordance with Sydney Water requirements.*
- *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.*

22. Servicing (Loading & Unloading and Waste Collection)

(a) One (1) loading bay shall be provided at ground level to accommodate a Garbage collection vehicle (RCV). The RCV space shall be designed in accordance with Councils DCP, Rockdale Technical specification – Traffic, Parking and Access and AS 2890.2. A swept path analysis for the RCV entering the loading bay shall be provided to the Certifying Authority prior to issue of the Construction Certificate using a recognised computer software package such as Autoturn, complying with Section B3 of AS/NZS2890.1:2004.

(b) Any vehicular path of travel to or from the loading bay for the RCV shall have a minimum headroom clearance of 4.5m (to the underside of services, etc.).

(c) All loading, unloading and transfer of goods to and from the loading bay and premises shall take place wholly within the property. Loading areas are to be used only for the loading and unloading of goods, materials etc. not for any other purpose.

(d) All waste collection and deliveries to / from the site (including removalist trucks) must take place from within the approved loading bay.

(e) A buzzer providing access to the loading bay roller-door must be provided to Council's Waste Education & Contract Supervisor (John Arvanitidis - 9562 1661) prior to issue of the Occupation Certificate.

(e) The loading bay must be allocated as 'common property' on any future strata plan of subdivision under the Strata (Freehold) Schemes Act.

23. Parking, Access & Related Requirements

The design and construction of the off-street parking facilities shall:

- (a) Comply with Australian Standards, as follows:
 - (i) AS/NZS 2890.1:2004
 - (ii) AS2890.2:2002
 - (iii) AS2890.3:1993
 - (iv) AS/NZS2890.6:2009
- (b) The following conditions apply to the provision of car parking on-site and the adequacy of vehicular movements within the site:
 - (i) A dedicated 3.5m wide car wash facility shall be provided. A tap and power point shall be provided nearby. A sign shall be fixed saying 'Car Wash Bay'. The runoff shall be directed and treated as per Rockdale Technical Specification Stormwater Management. The space shall be dedicated as Common Property on any Strata Subdivision.
 - (ii) Provide bicycle parking facilities for residents that are class 1 or 2 in accordance with AS2890.3:1993. Bicycle parking facilities for residents shall not be Class 3 facilities.
 - (iii) Comply with Council's Vehicular Entrance Policy in relation to the design of the access driveways, in particular, the layout of the access driveways shall be provided in the form of a layback in the kerb and gutter.
 - (iv) Design the entry gate location for the basements so that there is no effect on traffic on the road (including footpath/cycleway) from vehicle queuing at the gate, and as a minimum of 2 car space must be provided between the gate and the future property boundary, subject to compliance with AS2890.1:2004, which may require more than 2 car space queue length.
 - (v) Internal height clearance shall be designed throughout the car park and access driveway in accordance with AS2890.1, AS2890.6, and commercial vehicle facilities shall be designed strictly in accordance with AS2890.2:2002.
 - (vi) The car parking spaces shall not be enclosed at any time.
- (c) For parking with people with disabilities, the clearance above the parking bay shall be 2.5 minimum.
- (d) The proposed loading bays shall be designed to accommodate an (RCV) Council Garbage Truck in terms of forwarding direction exit, height clearance of 4.5m and clear swept path within the ramp.
- (e) Bicycle parking facilities shall be designed in accordance with AS2890.3:1993.
- (f) Allocate all off-street visitor parking, loading bays and car wash bays as 'common property' on any future strata plan of subdivision under the Strata (Freehold) Schemes Act.

Note: Parking allocation conditions apply 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.

- 24. The existing and future owners (Registered Proprietor) of the property will be responsible for the operation and maintenance of the detention system. The

registered proprietor will:

- (i) permit stormwater to be temporarily detained by the system;
- (ii) keep the system clean and free of silt, rubbish and debris;
- (iii) maintain, renew and repair the whole or parts of the system so that it functions in a safe and efficient manner, and in doing so complete the same within the time and in the manner specified in written notice issued by the Council;
- (iv) carry out the matters referred to in paragraphs (ii) and (iii) at the proprietor's expense;
- (v) not make any alterations to the system or elements thereof without prior consent in writing of the Council;
- (vi) permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of emergency) to enter and inspect the land for compliance with the requirements of this clause;
- (vii) comply with the terms of any written notice issued by the Council in respect to the requirements of this clause within the time stated in the notice.

25. The existing and future owners (Registered Proprietor) of the property will be responsible for the efficient operation and maintenance of the pump system.

The Registered Proprietor will:

- (i) permit stormwater to be temporarily detained and pumped by the system;
- (ii) keep the system clean and free of silt, rubbish and debris;
- (iii) maintain, renew and repair the whole or parts of the system so that it functions in a safe and efficient manner; and in doing so complete the same within the time and in the manner specified in written notice issued by the Council;
- (iv) carry out the matters referred to in paragraphs (ii) and (iii) at the proprietor's expense;
- (v) not make alterations to the system or elements thereof without prior consent in writing of the Council.
- (vi) permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of emergency) to enter and inspect the land for compliance with the requirement of this clause;
- (vii) comply with the terms of any written notice issued by the Council in respect to the requirements of this clause within the time stated in the notice.

26. All wastewater and stormwater treatment devices (including drainage systems, sumps and traps) shall be regularly maintained in order to remain effective. All solid and liquid wastes collected from the device shall be disposed of in accordance with the Protection of the Environment Operations Act, 1997.

27. Noise Impacts & Attenuation

The plans and documentation prior to issue of the Construction Certificate for the relevant stage of works must demonstrate compliance with the following requirements:

- (a) The submitted Acoustic Report prepared by Acoustic Logic dated 16 February

2017 (Document Ref: 20151727.2/1602A/R1/EC) shall be updated to demonstrate that the proposed development will comply with all of the policies listed below, including compliance with AS2021-2000 as the site is affected by Aircraft Noise between ANEF 25 & 30:

- Rockdale Council Development Control Plan (RDCP 2011);
- NSW Department of Planning's 'Development near Rail Corridors and Busy Roads (Interim Guideline);
- State Environmental Planning Policy (INFRASTRUCTURE) 2007;
- Australian Standard AS2021-2000 for Aircraft Noise Intrusion (the site is located within an area affected by between the ANEF 25 and ANEF 30 contour, based on the Sydney Airport 2033 ANEF plan. The proposed development must be designed and constructed to comply with the requirements of AS2021-2000); and
- Australian Standard AS2107:2000.

(b) Noise Impacts between units:

(i) An acoustic report shall be prepared by a suitably qualified Acoustic Consultant prior to issue of the relevant Construction Certificate. The report must demonstrate that the plans submitted with the Construction Certificate will ensure compliance with the inter-tenancy flooring & wall construction requirements contained in RDCP 2011 which are as follows:

(A) Flooring within the development shall achieve the following minimum equivalent Association of Australian Acoustical Consultants (AAAC) Star Rating within the below specified areas of the development:

- 3 Star for tiled areas within kitchens, balconies, bathrooms and laundries. Tiled flooring within corridors, living areas and bedrooms is not permitted.
- 4 Star for timber flooring in any area.
- 5 Star for carpet in any area.

(B) Walls within the development shall be constructed to satisfy the requirements of the Building Code of Australia.

(ii) A suitably qualified acoustic engineer with MIE Australia membership or employed by a consulting firm eligible for AAAC membership is to certify that the details provided in the report required by (c) above satisfies the requirements of this condition, with the certification to be submitted to the Principal Certifying Authority for approval prior to the issue of the relevant Construction Certificate.

(c) Noise from Mechanical Plan / Ventilation - A detailed acoustic assessment of all proposed mechanical services plant including fans, compressors, condensers, air-conditioning plant, basement ventilation, and exhaust systems for the commercial tenancies must be undertaken by a suitably qualified acoustic consultant prior to issue of the Construction Certificate to determine what acoustic treatments will be required to control noise emissions to achieve the noise emission levels detailed in the submitted Acoustic Report.

28. Design Quality

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

- i. A Registered 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;
- iii. Evidence of the design architect's commission is to be provided to the Council prior to release of the Construction Certificate.

(b) The design architect of the project is not to be changed without prior notice and approval of the Council.

29. Storage

(a) The plans submitted with the Construction Certificate shall demonstrate that accessible storage has been provided to all apartments in accordance with the following requirements from the Apartment Design Guide (ADG):

- (i) The minimum storage area to be provided for each dwelling shall be:
 - Studio / 1 bed unit = 6m³
 - 2 bed unit = 8m³
 - 3 bed unit = 10m³

(ii) A minimum 50% of the storage space required by (b) above shall be provided in each apartment.

(iii) The storage areas located within the basement levels shall be of metal construction (mesh and/or solid metal) and must be provided with lock and key.

(b) The storage areas required by (a) above must be provided in accordance with the above requirements prior to issue of the Occupation Certificate.

30. Services

(a) Fire Boosters - The fire hydrant booster valves must be located in the position shown in the approved plans, and shall be enclosed in a cabinet and provided with appropriate locks and signage in accordance with AS2419.1. The boosters can be provided vertically to reduce space requirements. Any amendment to the Fire Booster location must be approved in writing by Council's Director of City Futures. A S96 application may be required.

(b) Substation - If a substation is required by Ausgrid, the location shall be approved in writing by Council's Director of City Futures prior to issue of the Construction Certificate. A S96 application may be required.

(c) Antenna / Satellite Dishes - The proposal may include the installation of a single master antenna for the development in accordance with Controls C1 and C2, Part 4.7 of RDCP 2011. No further antennas or satellite dishes may be installed without obtaining further approval (unless permitted as exempt development).

31. The approved completed landscape works shall be maintained for a period not less than 12 months.

On completion of the maintenance period, a Landscape Architect shall provide a report to the certifying authority (with a copy provided to Council if Council is not the principal certifying authority) stating the landscape maintenance has been carried out in accordance with approved landscape plans and designated specifications before release of the nominated landscape bond.

32. Median & No Stopping Signage in Bestic Street

The following requirements of the Bayside Traffic Development Advisory Committee (BTDAC) must be submitted to, and approved by, the Local Bayside Traffic Committee prior to issue of any Construction Certificate for works above the ground floor level:

(a) The applicant shall design a centre median along Bestic Street to curtail right turn movements from King Lane into Bestic Street and ensure left out movements from Kings Lane only. The median shall be designed generally in accordance with the recommendations of the Bayside Traffic Development Advisory Committee (BTDAC) of 13 July 2016.

(b) That no parking restriction be provided on both sides of King Lane. Plans and details satisfying this requirement shall be submitted to, and approved by, the Local Traffic Committee prior to issue of a Construction Certificate.

(c) That the RMS Traffic Signal Plan be updated to reflect the changes in Bestic Street with the proposed concrete median island and associated line marking and submitted to RMS for approval at the applicant's cost.

Note: The above requirements are also imposed on DA-2016/108 for 376-386 Princes Highway. If the above works have been completed under that DA, then the works would not be required under this application.

33. Landscape Plans

The Landscape Plans prepared by Sydney Design Collective must be amended to reflect the amended architectural plans and relevant requirements detailed below. The amended plans must be submitted to, and approved by, Council's Director of City Futures prior to issue of the Construction Certificate.

The amended plans shall satisfy the following matters:

(a) Podium Level Maintenance access path - the access path to maintain vegetation shall be relocated to be adjacent to residential units. Planter boxes shall be located at the perimeter / outer edges of the podium level.

(b) Maintenance Schedule

A maintenance schedule for a period of 12 months, which covers watering, fertilizing & weeding.

All plants must be watered at a regular intervals throughout; at planting stage, during construction stage and during the maintenance period stage, if any plant has suffered during these stages, they're to be replaced with similar species.

The fertiliser regimes have been devised to provide sufficient long-term fertility for the vegetation type. Weeding to be controlled by removing weed growth that may occur or recur throughout turfed, planted and mulched areas. Continue eradication throughout whilst ensuring organic and rock mulched surfaces have been maintained in a weed free and tidy condition.

(c) Irrigation Plan & Design

An irrigation plan comprising of subsurface drip systems and automatic

timers with rainwater / soil moisture sensor controls; where possible storm water runoff will be directed to the lawn and garden beds. Irrigation will be provided to all soft landscape areas and will be specified in an updated landscape plan.

(d) Landscape Details including Planter Designs, as follows:

(i) The species selection and location of planting shall maximise winter solar access and summer shade to dwellings. Modifications to planting shall, at minimum, include the following (unless otherwise agreed in writing by the Director of City Futures):

- (1) Communal Open Space - the design of the roof top communal open space area must be further detailed so that it clearly shows the location of planter boxes, grass areas, inclusion of pergola style roofing above the tables, material choices that are suited to this type of space, storage area(s). The provision of service vents and ducts shall be provided above Level 9 residential units roof top level.
- (2) The plans shall be amended to provide the 0.6m maintenance path at the podium level (required for safe access for ongoing maintenance of the podium level landscaping) to be located abutting the units. The planter beds shall be located at the outside edge of the podium level.
All landscape areas shall be provided with access to Greywater or Rainwater to meet their watering needs as per the requirements of Part 7.5 of RDCP 2011.
- (3) The proposal must include densely foliating shrubs at least 1.5m in height at roof top level to minimise adverse wind impacts in accordance with the recommendations contained in the Pedestrian Wind Environment Statement prepared by Windtech (dated 9 June 2017). The use of impermeable screening at roof top level is not supported and would be subject to separate approval.
- (4) Street Tree Planting - Street trees shall be *Corymbia Maculata* (Spotted Gum), unless otherwise agreed with Council.
- (5) Plantings for Green Gateway 3m setback from Princes Highway - The proposed *Stenocarpus sinuatus* (Firewheel) is supported. Shrubs and groundcovers are to include; *Dianella caerulea* and *revoluta*, *Lomandra* sp, *Veronica* sp, *Lobeilia* sp, *Hardenbergia violacea*, *Pimelea linifolia*, *Isopogon anemonifolius*, *Dillwynia retorta*, *Banksia spinulosa* 'Coastal Cushion' (Rockdale Technical Specification Landscape).
- (6) Rooftop plantings - The Specimen deciduous tree such as *Brachychiton* (Illawarra Flame Tree) should be reconsidered with the *Brachychiton bidwillii* or *populneus* or even a grafted *bidwillii* x *discolour* as these trees provide the same spectacular colour but are hardier.
Species Selection
- (7) The exact number of plants which are non-native is not known and no determination can be provided until the number of plants is presented on the Plant Schedule, because of this, the plan does not comply with (DCP 4.1.8) where planting of indigenous plant species is encouraged. Contact Council's Landscape Architect for recommended species.

- (8) The pavers in the front 3m 'green gateway' setback area must be permeable pavers;
- (ii) Materials and Finishes Schedule
 A material finish schedule is required to provide all materials used, included the shelter structures and furniture. An elevation is also required to provide additional information regarding planter heights and shelter clearances. Rooftop plant list needs to be updated on schedule. The communal space rooftop plan should be amended to provide the landscape area and to provide Opportunities for food growing spaces as indicated in the Landscape Statement of Effects rev B (Sydney Design Collective Landscape Architects).
 The rooftop planting may require various height beds and planters.
- (iii) General
 - (1) Stormwater and drainage systems are not to be located in, or under those areas shown as landscaped beds, or where existing or proposed trees are located.
 - (2) Retaining walls used for raised planter beds on concrete slabs shall accommodate a minimum 800mm of soil/plant mix (over and above any drainage medium).
 - (3) Podium landscaping and paved areas shall be drained into the stormwater drainage system. All waterproofing for planters on slab shall be installed and certified by a licensed waterproofing contractor.
 - (4) All pavements shall comply with AS/NZ 4586:1999 standards Class W (low) for slip resistance on both private and Council property.
 - (5) It is to be designed to be operational for a minimum of 10 years, to cover all new gardens and lawn areas.
- (iv) Planter boxes constructed over podium shall be built in accordance with the following requirements:
 - (1) Ensure soil depths in accordance with Council's DCP. The base of the planter must be screeded to ensure drainage to a piped internal drainage outlet of minimum diameter 90mm, with no low points elsewhere in the planter. There are to be no external weep holes.
 - (2) A concrete hob or haunch shall be constructed at the internal join between the sides and base of the planter to contain drainage to within the planter;
 - (3) Planters are to be fully waterproofed and sealed internally with a proprietary sealing agent and applied by a qualified and experienced tradesman to eliminate water seepage and staining of the external face of the planter. All internal sealed finishes are to be sound and installed to manufacturer's directions prior to backfilling with soil. An inspection of the waterproofing and sealing of edges is required by the Certifier prior to backfilling with soil;
 - (4) Drainage cell must be supplied to the base and sides of the planter to minimize damage to the waterproof seal during backfilling and facilitate drainage. Apply a proprietary brand filter fabric and backfill with an imported lightweight soil suitable

for planter boxes compliant with AS 4419 and AS 3743. Install drip irrigation.

- (5) Finish externally with a suitable paint, render or tile to co-ordinate with the colour schemes and finishes of the building.

34. A 10,000 litre Rainwater tank central water tank (no. 1) located in Basement area is to be included in Irrigation plan in conjunction with semi-pervious paving materials. The Rainwater tank requires a specific pump to be installed by qualified specialist to selected irrigated areas - rooftop, podium level 4 and ground floor beds and planters. *The Irrigation Plan is mandatory as it will assist in the maintenance of the proposed soft landscaping for 12 months.*

35. External Cladding

The external walls of the building including attachments must comply with the relevant requirements of the National Construction Code (NCC). Prior to the issue of a Construction Certificate and Occupation Certificate the Certifying Authority and Principal Certifying Authority must:

- a. Be satisfied that suitable evidence is provided to demonstrate that the products and systems proposed for use or used in the construction of external walls, including finishes and claddings such as synthetic or aluminium composite panels, comply with the relevant requirements of the NCC; and
- b. Ensure that the documentation relied upon in the approval processes include an appropriate level of detail to demonstrate compliance with the NCC as proposed and as built.

Prior to issue of the construction certificate

The following conditions must be completed prior to the issue of the Construction Certificate.

36. The following fees shall be paid to Council prior to the issue of a Construction Certificate. If payment is made after the end of the financial year, the amount shall be adjusted in accordance with Council's adopted fees and charges.
- i. A Footpath Reserve Restoration Deposit of \$34,486.50. This is to cover repair of any damages, or other works to be done by Council. This includes construction, removal, or repair as required to: kerb and guttering, existing or new driveways; paved areas and concrete footpaths. The deposit may be lodged with Council in the form of a Bank Guarantee (Any proposed Bank Guarantee must not have an expiry date). The deposit will not be returned by Council until works are completed and all damage is restored and all specified works are completed by Council.
 - ii. An environmental enforcement fee of 0.25% of the cost of the works.
 - iii. A Soil and Water Management Sign of \$18.00.
37. For work costing \$25,000 or more, a Long Service Leave Levy shall be paid. For further information please contact the Long Service Payments Corporation on their Helpline 13 1441.
38. An application for Frontage Works shall be made to Council's Customer Service Centre prior to issue of the Construction Certificate. All boundary works, egress paths, driveways and fences and other public domain works within the frontage of the

site shall comply with this level.

A fee is payable to Council for the Frontage Works application. If payment is made after the end of the financial year, the amount shall be adjusted in accordance with Council's adopted fees and charges.

39. A Section 94 contribution of \$354,178.53 shall be paid to Council. Such contributions are 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	\$271,549.40
Plan Administration & Management	\$1,711.35
Town Centre & Streetscape Improvements	\$13,877.71
Pollution Control	\$40,040.20
Community Services & Facilities	\$26,999.87

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

40. Prior to the issue of the Construction Certificate a certificate from a practicing Structural Engineer, registered with NPER, shall be submitted to Council stating that the subsurface structural components located on the boundary of the public road, including but not limited to the slabs, walls and columns, have been designed in accordance with all SAA Codes for the design loading from truck and vehicle loads.
41. Where the front fence is greater than 1200mm in height, the vehicular entry gates are to be set back a minimum of 900mm from the boundary and may only open inwards. The return fences on each side are to be splayed at an angle of 45 degrees to the boundary. Details of the gates to be included in the documentation accompanying the Construction Certificate.
42. Compliance with Council's Development Control Plan (DCP) 2011 – Requirements for Access. Access in accordance with Australian Standard 4299 must be provided to and within six (6) residential unit, and between this units and its allocated carparking space. The allocated parking space will be located in close proximity to the access points of the building. The adaptable unit(s) are to be unit numbers 1.03, 1.04, 2.03, 2.04, 3.04, and 4.04. 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 – Requirements for Access and the Building Code of Australia does not necessarily guarantee that the development meets the full requirements of the Disability Discrimination Act (DDA) 1992. It is the responsibility of the applicant to make the necessary enquiries to ensure that all aspects of the DDA legislation are met.

43. Compliance with Council's Development Control (DCP) 2011 in relation to requirements for access. Compliance with this condition will require the design and fitout of the commercial/retail areas to be in accordance with Australian Standard

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.

44. The applicant shall confer with Ausgrid to determine if an electricity distribution substation is required. Written confirmation of Ausgrid's requirements shall be obtained prior to issue Construction Certificate. If a substation is required, a Section 96 Application is required to be submitted to Council for determination. The substation must be located at the rear King Lane and be provided in a position and manner that will minimise impacts on the streetscape, amenity of occupants and built form.
45. (a) All low and high voltage street mains in that section of the street/s adjacent to the development shall be placed underground. This shall include any associated services and the installation of underground supplied street lighting columns where necessary. The applicant shall confer with Ausgrid to determine their requirements. Written confirmation of Ausgrid's requirements shall be obtained prior to issue Construction Certificate.

(b) The relocation of the existing electricity supply and lighting poles in the King Lane road reserve frontage of the site, is required to avoid conflict with the required 1m pedestrian footpath located along the King Lane frontage. The relocation works shall be undertaken in accordance with the requirements of Ausgrid and Bayside Council. If an amended street lighting pole cannot be provided that is located clear of the 1m footpath, the street light may be required to be attached to the building. The applicant shall enter into a contract with Ausgrid for the relocation works prior to the issue of the Construction Certificate, and the works must be completed prior to the commencement of the driveway works and issue of the Occupation Certificate. The applicant is responsible for all relocation costs, including costs associated with other cabling such as telecommunications cables.
46. The approved plans must be submitted to Sydney Water to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The Principal Certifying Authority must ensure that Sydney Water has approved the plans before issue of any Construction Certificate. For more information, visit www.sydneywater.com.au.
47. Details shall be submitted to Council for assessment and approval pursuant to Section 138 of the Roads Act 1993 in relation to the works detailed in the Roads Act section of this consent.
48. Prior to issue of the Construction Certificate, a longitudinal driveway profile shall be submitted to Principal Certifying Authority for assessment and approval. The profile shall start in the centre of the road and be along the critical edge (worst case) of the driveway. Gradients and transitions shall be in accordance with Council's Code. The profile shall be drawn to a scale of 1 to 25 and shall include all relevant levels, grades (%) and lengths.
49. Any sub-surface structure within the highest known groundwater table + 0.5m shall be designed with a waterproof retention system (i.e. tanking and waterproofing) with adequate provision for future fluctuation of the water table. The subsurface structure is required to be designed with consideration of uplift due to water pressure and "flotation" (buoyancy) effects. Subsoil drainage around the subsurface structure must

allow free movement of groundwater around the structure, but must not be connected to the internal drainage system. The design of subsurface structure, tanking and waterproofing, and subsoil drainage shall be undertaken by a suitably experienced Chartered Professional Engineer(s). Design details and construction specifications shall be included in the documentation accompanying the Construction Certificate for the relevant stage of works.

50. **Adjoining buildings founded on loose foundation materials**

As the basement floor are being proposed closer to existing built structures on neighboring properties, which may be in the zone of influence of the proposed works and excavations on this site, a qualified practicing geotechnical engineer must;

(a) Implement all recommendations contained in the report prepared by EIAustralia (Environmental Investigation Pty Ltd), Ref: E22846 GA_Rev 2, dated 1 April 2016, and a Geotechnical review dated 28 February 2017.

(b) Provide a certificate that the construction certificate plans are satisfactory from a geotechnical perspective and

(c) Confirm that the proposed construction methodology

To prepare a Construction Methodology report demonstrating that the proposed construction methods (including any excavation, and the configuration of the built structures) will have no adverse impact on any surrounding property and infrastructure. The report must be submitted with the application for a Construction Certificate **for the relevant stage of works**.

(d) Inspect the works as they progress. The Inspections are to occur at frequencies determined by the geotechnical engineer.

(e) The geotechnical engineer to comment on proposed stormwater drainage design for the basement area, mainly on AGG line connections / permanent dewatering and a tanked basement structure.

NB: (i) If the proposed construction of the basement carpark impedes the water table, thus requiring dewatering of the site, the application is Integrated Development

(ii) From the proposed basement pumped discharge drainage systems are permitted subject to complying with the design criteria listed in DCP.

(iii) The design of the basement structure will require consideration of the effects of the water table, both during and after construction (Tanking/waterproofing)

(f) Where a Private Certifier issues the Construction Certificate a copy of the above documentation must be provided to Council, once the Construction Certificate is issued **for the relevant stage of works**.

Note: A failure by contractors to adequately assess and seek professional engineering (geotechnical) advice to ensure that appropriate underpinning and support to adjoining land is maintained prior to commencement may result in damage to adjoining land and buildings. Such contractors are likely to be held responsible for any damages arising from the removal of any support to supported

land as defined by section 177 of the Conveyancing Act 1919.

51. The low level driveway must be designed to prevent inflow of water from the King Lane road reserve. The assessment of flows and design of prevention measures shall be in accordance with the requirements of Rockdale Technical Specification Stormwater Management. Details shall be included in the documentation presented with the Construction Certificate application.
52. (a) Prior to the issue of the Construction Certificate, detailed drainage design plans for the management of stormwater are to be submitted to Principal Certifying Authority for assessment and approval. Design certification, in the form specified in Rockdale Technical Specification Stormwater Management, and drainage design calculations are to be submitted with the plans. Council's Rockdale Technical Specification Stormwater Management sets out the minimum documentation requirements for detailed design plans.
- (b) The stormwater management for the proposed development should be in accordance with the requirements of DCP 4.1.3 and Rockdale Technical Specification – Stormwater Management. The provision of on-site detention shall have 2 years and 50 years orifice controls
- (c) The site is sufficiently large to warrant the use of a Water Sensitive Urban Design Approach (WSUD) to the design of the drainage system. Generally, WSUD involves recognition of a need to:
- (i) Reduce runoff and peak flows.
 - (ii) Conserve water by reducing demand on potable water supplies.
 - (iii) Protect water quality.
 - (iv) To incorporate an oil separator in accordance with Rockdale Technical Specification – Stormwater Management, section 7.5.4.
 - (v) The basement pumpwell size shall be in accordance with Clause 4.2.4 of DCP2011- Technical Specification for Stormwater Management.
53. Convex Mirrors - Basement Access
Prior to issue of the Construction Certificate, the plans must demonstrate compliance with the following:
- (a) Convex mirrors shall be installed at each corner within the basement car park to ensure the safe and easy access of vehicles to and within the basement within the one-way sections of ramp.
- (b) Provision shall be made for the queuing of two (2) vehicles at the main car park entrance. This section of driveway shall have a minimum width of 6.1m.
- (c) A management plan for the mirrors and traffic management shall be approved by Certifying Authority prior to the issue of the Construction Certificate. The management plan is to detail the criteria for the design, operation and maintenance of the mirror system.
- (d) A Management plan for the loading and unloading from delivery vehicles and access to the building shall be approved by Certifying Authority prior to the issue of the Construction Certificate.

Prior to commencement of works

The following conditions must be completed prior to the commencement of works.

54. A dilapidation survey shall be undertaken of all properties and/or Council infrastructure, including but not limited to all footpaths, kerb and gutter, stormwater inlet pits, and road carriageway pavements, in the vicinity which could be potentially affected by the construction of this development. Any damage caused to other properties during construction shall be rectified. A copy of the dilapidation survey and an insurance policy that covers the cost of any rectification works shall be submitted to the Accredited Certifier (AC) or Council prior to Commencement of Works. The insurance cover shall be a minimum of \$10 million.
55. A Soil and Water Management Plan shall be prepared. The Plan must include details of the proposed erosion and sediment controls to be installed on the building site. A copy of the Soil and Water Management Plan must be kept on-site at all times and made available on request.

Soil and sedimentation controls are to be put in place prior to commencement of any work on site. The controls are to be maintained in effective working order during construction.

Council's warning sign for soil and water management must be displayed on the most prominent point on the building site, visible to both the street and site workers. The sign shall be erected prior to commencement of works and shall be displayed throughout construction.

56. A Construction Management Plan (CMP) shall be prepared in accordance with the requirements of all relevant regulatory approval bodies. Prior to the commencement of works the Certifying Authority shall be satisfied that the Construction Management Plan has obtained all relevant regulatory approvals. The Construction Management Plan shall be implemented during demolition, excavation, and construction.

Prior to the issue of the relevant Construction Certificate, a Construction Traffic Management Plan (TMP) prepared by a suitably qualified person shall be submitted to and approved by the Certifying Authority. The Plan shall address, but not be limited to, the following matters:

- (a) ingress and egress of vehicles to the site;
- (b) loading and unloading, including construction zones;
- (c) predicted traffic volumes, types and routes; and
- (d) pedestrian and traffic management methods.

Note: The swept path of the longest vehicle entering and exiting the subject site, as well as manoeuvrability through the site, shall be in accordance with Austroads. A swept path plan shall be submitted to Certifying Authority for approval illustrating compliance with this requirement, prior to release of the Construction Certificate.

Any proposed landscaping, fencing or signage is not to impede the desired sight lines of all road users including pedestrians and cyclists.

All road works / regulatory signposting associated with the proposed development shall be at no cost to the Council or RMS.

Copies of the CMP and TMP shall be submitted to Council.

57. Vibration monitoring

Vibration monitoring equipment must be installed and maintained, under the supervision of a professional engineer with expertise and experience in geotechnical engineering, between any potential source of vibration and any building identified by the professional engineer as being potentially at risk of movement or damage from settlement and/or vibration during the excavation and during the removal of any excavated material from the land being developed.

If vibration monitoring equipment detects any vibration at the level of the footings of any adjacent building exceeding the peak particle velocity adopted by the professional engineer as the maximum acceptable peak particle velocity an audible alarm must activate such that the principal contractor and any subcontractor are easily alerted to the event.

Where any such alarm triggers all excavation works must cease immediately. Prior to the vibration monitoring equipment being reset by the professional engineer and any further work recommencing the event must be recorded and the cause of the event identified and documented by the professional engineer.

Where the event requires, in the opinion of the professional engineer, any change in work practices to ensure that vibration at the level of the footings of any adjacent building does not exceed the peak particle velocity adopted by the professional engineer as the maximum acceptable peak particle velocity these changes in work practices must be documented and a written direction given by the professional engineer to the principal contractor and any subcontractor clearly setting out required work practice.

The principal contractor and any subcontractor must comply with all work directions, verbal or written, given by the professional engineer.

A copy of any written direction required by this condition must be provided to the Principal Certifying Authority within 24 hours of any event.

Where there is any movement in foundations such that damage is occasioned to any adjoining building or such that there is any removal of support to supported land the professional engineer, principal contractor and any subcontractor responsible for such work must immediately cease all work, inform the owner of that supported land and take immediate action under the direction of the professional engineer to prevent any further damage and restore support to the supported land.

Note: Professional engineer has the same mean as in Clause A1.1 of the BCA.

Note: Building has the same meaning as in section 4 of the Act i.e. "building includes part of a building and any structure or part of a structure".

Note: Supported land has the same meaning as in section 88K of the Conveyancing Act 1919.

58. A sign must be erected at the front boundary of the property clearly indicating the Development Approval Number, description of work, builder's name, licence number and house number before commencement of work. If owner/builder, the Owner/Builder Permit Number must be displayed.
59. A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
 - i. stating that unauthorised entry to the work site is prohibited, and
 - ii. showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours. Any such sign is to be removed when the work has been completed. This condition does not apply to:
 - iii. building work carried out inside an existing building or
 - iv. building work carried out on premises that are to be occupied continuously (both during and outside working hours) while the work is being carried out.
60. Where it is necessary to import landfill material onto the site to fill the land to levels shown on the plans forming part of the consent, a certificate, prepared by a suitably qualified and experienced Contaminated Land Consultant, shall be submitted to Council being the Regulatory Authority prior to the commencement of works, certifying that the imported fill is suitable for the land use.
61. The site shall be secured by a 1800 mm (minimum) high temporary fence for the duration of the work. Gates shall be provided at the opening points.
62. Where construction/building works require the use of a public place including a road or footpath, approval under Section 68 of the Local Government act 1993 for a Barricade Permit is to be obtained from Council prior to commencement of work. Details of the barricade construction, area of enclosure and period of work are required to be submitted to the satisfaction of Council.
63. A hoarding or fence shall be erected between the work site and the public place when the work involved in the erection or demolition of a building:
 - i) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
 - ii) building involves the enclosure of a public place,Where the development site adjoins a public thoroughfare, the common boundary between them must be fenced for its full length with a hoarding, unless, the least horizontal distance between the common boundary and the nearest part of the structure is greater than twice the height of the structure. The hoarding must be constructed of solid materials (chain wire or the like is not acceptable) to a height of not less than 1.8m adjacent to the thoroughfare.
Where a development site adjoins a public thoroughfare with a footpath alongside the common boundary then, in addition to the hoarding required above, the footpath must be covered by an overhead protective structure, type B Hoarding, and the facing facade protected by heavy duty scaffolding unless either:
 - (i) the vertical height above footpath level of the structure being demolished is less than 4m; or
 - (ii) the least horizontal distance between footpath and the nearest part of the structure is greater than half the height of the structure.The overhead structure must consist of a horizontal platform of solid construction and vertical supports, and the platform must -
 - (i) extend from the common boundary to 200mm from the edge of the carriageway for the full length of the boundary;

- (ii) have a clear height above the footpath of not less than 2.1m;
- (iii) terminate not less than 200mm from the edge of the carriageway (clearance to be left to prevent impact from passing vehicles) with a continuous solid upstand projecting not less than 0.5m above the platform surface; and
- (iv) together with its supports, be designed for a uniformly distributed live load of not less than 7 kPa

The 'B' Class hoarding is to be lit by fluorescent lamps with anti-vandalism protection grids.

Any such hoarding, fence or awning is to be removed when the work has been completed.

The principal contractor or owner builder must pay all fees and rent associated with the application and occupation and use of the road (footway) for required hoarding or overhead protection.

- 64. Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.

65. Roads Act / Traffic Development Advisory Committee Requirements

The applicant shall design, construct and/or complete the works recommended by the Rockdale / Bayside Traffic Development Advisory Committee on 13 July 2016 as resolved by Council. Such works are to be designed and carried out in accordance with AUSTROADS and RTA Technical Directions, and are subject to detailed approval by the Bayside Traffic Committee prior to issue of the Construction Certificate.

No works shall commence until approval has been obtained for the design of all road and streetscape works listed above under the Roads Act 1993, the Transport Administration Act 1988 and the Road Transport (Safety and Traffic Management) Act 1999.

66. TELSTRA RESPONSE

Telstra have confirmed by email dated 8 April 2016 that they raise no objection to the proposed development subject to compliance with the following:

- (i) that the developer contact Telstra prior to commencement of works to disconnect any existing services;
- (ii) a duty of care is exercised when working in close proximity to Telstra assets; and,
- (iii) Contact must be made with '1100 Dial Before You Dig' to locate utilities prior to commencement of works.

During demolition / excavation / construction

The following conditions must be complied with during demolition, excavation and or construction.

- 67. A copy of the Construction Certificate and the approved plans and specifications must be kept on the site at all times and be available to Council officers upon request.
- 68. Hours of construction shall be confined to between 7 am and 6.30 pm Mondays to Fridays, inclusive, and between 8 am and 3.30 pm Saturdays with no work being carried out on Sundays and all public holidays.

69. Upon inspection of each stage of construction, the Principal Certifying Authority (or other suitably qualified person on behalf of the Principal Certifying Authority) is also required to ensure that adequate provisions are made for the following measures (as applicable), to ensure compliance with the terms of Council's approval:
- Sediment control measures
 - Provision of perimeter fences or hoardings for public safety and restricted access to building sites.
 - Maintenance of the public place free from unauthorised materials, waste containers or other obstructions.
70. Ground water shall only be pumped or drained to Council's stormwater system if the water is clean and unpolluted. The standard used to determine the acceptability of the quality of the water is the 'Australian and New Zealand Environment and Conservation Council - Australian Water Quality Guidelines for Fresh and Marine Waters 1992'.

Note: Prior treatment and/or filtration of the water may be necessary to achieve acceptable quality, including a non-filterable residue not exceeding 50 milligrams/litre or small quantities may be removed by the services of a Licenced Liquid Waste Transporter. It is an offence under the provisions of the Protection of the Environment Operations Act 1997 to pollute the stormwater system.

71. Demolition operations shall not be conducted on the roadway or public footway or any other locations, which could lead to the discharge of materials into the stormwater drainage system.
72. All waste generated on site shall be disposed of in accordance with the submitted Waste Management Plan.
73. A Registered Surveyor's check survey certificate or compliance certificate shall be forwarded to the certifying authority detailing compliance with Council's approval at the following stage/s of construction:
- i. Prior to excavation showing the area of the land, building and boundary setbacks.
 - ii. After excavation work, showing the area of the land, building and boundary setbacks.
 - iii. Prior to construction of each floor level showing the area of the land, building and boundary setbacks and verifying that the building is being constructed at the approved level.
 - iv. Prior to fixing of roof cladding verifying the eave, gutter setback is not less than that approved and that the building has been constructed at the approved levels.
 - v. On completion of the building showing the area of the land, the position of the building and boundary setbacks and verifying that the building has been constructed at the approved levels.
 - vi. On completion of the drainage works (comprising the drainage pipeline, pits, overland flow paths, on-site detention or retention system, and other relevant works) verifying that the drainage has been constructed to the approved levels, accompanied by a plan showing sizes and reduced levels of the elements that comprise the works.
74. All excavation and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards and guarded and protected to prevent them from being dangerous to life or property.

When excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building or an adjoining allotment of land, you shall:

- i. preserve and protect the building from damage and
- ii. underpin and support the building in an approved manner, if necessary and
- iii. give notice of intention to excavate below the level of the base of the footings of a building on an adjoining allotment of land to the owner at least 7 days prior to excavation and furnish particulars of the excavation to the owner of the building being erected or demolished.

Note: The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this conditions allotment of land includes a public road and any other public place.

Works shall not encroach onto or over adjoining properties, including retaining walls, fill material or other similar works. Soil shall not be lost from adjoining sites due to construction techniques employed on the subject site.

75. When soil conditions require it:

- i. retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil shall be provided, and
- ii. adequate provision shall be made for drainage.

76. Any new information discovered during demolition or construction works which has the potential to alter previous conclusions about site contamination, shall be notified to Council being the Regulatory Authority for the management of contaminated land. Works may be required to cease.

77. All contractors shall comply with the following during all stages of demolition and construction:

- A Waste Container on Public Road Reserve Permit must be obtained prior to the placement of any waste container or skip bin in the road reserve (i.e. road or footpath or nature strip). Where a waste container or skip bin is placed in the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
- A Road Opening Permit must be obtained prior to any excavation in the road reserve (i.e. road or footpath or nature strip). Where excavation is carried out on the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
- A Hoarding Permit must be obtained prior to the erection of any hoarding (Class A or Class B) in the road reserve (i.e. road or footpath or nature strip). Where a hoarding is erected in the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
- A Crane Permit must be obtained from Council prior to the operation of any activity involving the swinging or hoisting of goods across or over any part of a

public road by means of a lift, hoist or tackle projecting over the footway. Permits can be obtained from Council's Customer Service Centre.

- A Permit to Dewater or Pump Out a site must be obtained prior to the discharge of pumped water into the road reserve, which includes Council stormwater pits and the kerb and gutter. Permits can be obtained from Council's Customer Service Centre.

78. All demolition work shall be carried out in accordance with AS2601 – 2001: The Demolition of Structures and with the requirements of the WorkCover Authority of NSW.

79. The following conditions are necessary to ensure minimal impacts during construction:

- i. Building, demolition and construction works not to cause stormwater pollution and being carried out in accordance with Section 2.8 of Council's Stormwater Pollution Control Code 1993. Pollutants such as concrete slurry, clay and soil shall not be washed from vehicles onto roadways, footways or into the stormwater system. Drains, gutters, roadways and access ways shall be maintained free of sediment. Where required, gutters and roadways shall be swept regularly to maintain them free from sediment.
- ii. Stormwater from roof areas shall be linked via a temporary downpipe to an approved stormwater disposal system immediately after completion of the roof area.
- iii. All disturbed areas shall be stabilised against erosion within 14 days of completion, and prior to removal of sediment controls.
- iv. Building and demolition operations such as brickcutting, washing tools or paint brushes, and mixing mortar shall not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.
- v. Stockpiles are not permitted to be stored on Council property (including nature strip) unless prior approval has been granted. In addition stockpiles of topsoil, sand, aggregate, soil or other material shall be stored clear of any drainage line or easement, natural watercourse, kerb or road surface.
- vi. Wind blown dust from stockpile and construction activities shall be minimised by one or more of the following methods:
 - a) spraying water in dry windy weather
 - b) cover stockpiles
 - c) fabric fences
- vii. Access to the site shall be restricted to no more than two 3m driveways. Council's footpath shall be protected at all times. Within the site, provision of a minimum of 100mm coarse crushed rock is to be provided for a minimum length of 2 metres to remove mud from the tyres of construction vehicles.

An all weather drive system or a vehicle wheel wash, cattle grid, wheel shaker or other appropriate device, shall be installed prior to commencement of any site works or activities, to prevent mud and dirt leaving the site and being deposited on the street. Vehicular access is to be controlled so as to prevent tracking of sediment onto adjoining roadways, particularly during wet weather or when the site is muddy. Where any sediment is deposited on roadways it is to be removed by means other than washing and disposed of appropriately.

In addition builders / demolishers are required to erect a 1.5m high fence along the whole of the street alignment other than at the two openings. Such protection work, including fences, is to be constructed, positioned and maintained in a safe condition to the satisfaction of the Principal Certifying Authority, prior to the demolition of the existing structures and commencement of building operations.

- viii. Any noise generated during construction of the development shall not exceed limits specified in any relevant noise management policy prepared pursuant to the Protection of the Environment Operations Act, 1997 or exceed approved noise limits for the site.
80. Council's warning sign for soil and water management must be displayed on the most prominent point on the building site, visible to both the street and site workers. The sign must be displayed throughout construction. A copy of the sign is available from Council.

Prior to issue of occupation certificate or commencement of use

The following conditions must be complied with prior to issue of the Occupation Certificate or Commencement of Use.

81. An Occupation Certificate shall be obtained in relation to the approved works prior to any use or occupation of the building.
82. Where Council's park/reserve is damaged as a result of building work or vehicular building traffic, this area shall be restored by Council at the applicant's expense. Repairs shall be completed prior to the issue of the Occupation Certificate.
83. All excess excavated material, demolition material, vegetative matter and builder's rubbish shall be removed to the Waste Disposal Depot or the Regional Tip prior to final inspection.
Note: Burning on site is prohibited.
84. 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 standardized impact sound pressure level not greater than L'nT,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.
85. Ground level surfaces are to be treated with anti-graffiti coating to minimise the potential of defacement. In addition, any graffiti evident on the exterior facades and

visible from a public place shall be removed forthwith.

86. All works within the road reserve, which are subject to approval pursuant to Section 138 of the Roads Act 1993, shall be completed and accepted by council.
87. The underground placement of all low voltage street mains in that section of the street/s adjacent to the development, and associated services and the installation of underground supplied street lighting columns, shall be carried out at the applicant's expense. The works shall be completed and Ausgrid's requirements shall be met prior to issue of the Occupation Certificate.
88. Traffic Committee Requirements Satisfied
The recommendations of the Rockdale / Bayside Traffic Development Advisory Committee of 13 July 2016 must be implemented and completed prior to issue of any Occupation Certificate. This includes recommendations regarding the construction of a median in Bestic Street, the provision of 'No Parking' signs in King Lane and any required updates to the RMS Traffic Signal Plan due to changes in Bestic Street which are detailed in the Roads Act Conditions below.
89. Vehicles shall enter and exit the site in a forward direction at all times. A plaque with minimum dimensions 300mm x 200mm shall be permanently fixed to the inside skin of the front fence, or where there is no front fence a prominent place approved by the Principal Certifying Authority, stating the following: "Vehicle shall enter and exit the site in a forward direction at all times".
90. Prior to completion of the building works, a full width vehicular entry is to be constructed to service the property. Any obsolete vehicular entries are to be removed and reconstructed with kerb and gutter. This work may be done using either a Council quote or a private contractor. There are specific requirements for approval of private contractors.
91. Prior to issue of the Occupation Certificate, the internal basement ramp width is to be a minimum of 6.1m for the first length of driveway to ensure that two vehicles can queue at the basement entry without obstructing vehicles from exiting the basement.
92. The provision of a 1.0 metre wide right of footway in favour of Rockdale City Council along the boundary with King Lane. The right of footway is to be covered by a Section 88B Instrument, which may only be varied or extinguished with the consent of Rockdale City Council.

Council requires proof of lodgement of the signed Subdivision/Strata Certificate and 88B Instrument with the Land Titles Office.

93. Adaptable shared spaces must be provided with bollards within the shared area to prevent the use of these spaces for parking of vehicles.
94. Fifty-nine (59) off-street car spaces and 1 car wash bay, and a minimum of four (4) motorcycle parking spaces and 6 bicycle parking spaces 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.
95. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.
Application must be made through an authorised Water Servicing Coordinator.
Please refer to the Building Developing and Plumbing section of the web site www.sydneywater.com.au then refer to "Water Servicing Coordinator" under

"Developing Your Land" or telephone 13 20 92 for assistance.
Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.
The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to occupation of the development.

96. Prior to occupation, a registered surveyor shall certify that the driveway(s) over the footpath and within the property have been constructed in accordance with the approved driveway profile(s). The certification shall be based on a survey of the completed works. A copy of the certificate and a works-as-executed driveway profile shall be provided to Council if Council is not the Principal Certifying Authority.

97. Noise Requirements - Compliance

(a) Prior to issue of the Occupation Certificate, a Certificate of Compliance prepared by a suitably qualified and experienced acoustic consultant must be submitted to the Principal Certifying Authority (PCA) validating that:

(i) Noise emissions from all mechanical services plant including fans, compressors, condensers, air conditioners etc. to the nearest residential receiver do not exceed the noise emission criteria provided within the DA Acoustic Assessment report prepared by Acoustic Logic and submitted with the Application;

(ii) The noise reduction measures specified in the noise report prepared by Acoustic Logic dated 16 February 2017 (Document Ref: 20151727.2/1602A/R1/EC) 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.

(iii) That the requirements of Australian Standard 2021- 2000 Acoustic - Aircraft Noise Intrusion has been met.

(iv) The noise attenuation measures and the internal noise environment within all units complies with all relevant legislation and all requirements contained in Conditions 27 of this consent, including any updated and/or supplementary acoustic reports prepared to satisfy the requirements of Conditions 27 of this consent.

(b) If Council is not the PCA, a copy of the Certificate of Compliance required by (a) above must be submitted to Council prior to issue of the Occupation Certificate.

98. Landscape Completion / Certification / Ongoing Management

Prior to issue of the Occupation Certificate:

- (a) All landscape works are to be carried out in accordance with the approved landscape plans.
- (b) A Landscape Architect shall provide a report to the certifying authority (with a copy provided to Council, if Council is not the principal certifying authority) stating that the landscape works have been carried out in accordance with the approved plans and documentation.

The certificate shall also specifically confirm that the proposal complies with

the following (including but not limited to):

- (i) The front 'green gateway' setback of the site has been provided as genuine deep soil. In this regard, all surface areas must be provided with permeable paving / landscape planting as shown in the plans and must not be limited in depth by basement or other structures;
- (ii) The required trees have been planted in the street and front setback area;
- (iii) The requirements of Condition 32 have been complied with;
- (iv) A minimum soil depth of 800mm is provided for all planter beds on the podium levels;
- (v) A fully automated irrigation system has been installed to the podium landscaping; and
- (vi) Podium landscaping and paved areas are drained into the stormwater drainage system.

- 99. On completion of the installation of the mechanical ventilation systems and prior to the issue of the Occupation Certificate, a certificate of completion and performance from the design engineer shall be submitted to Council certifying that the system has been installed, inspected, commissioned, tested and performs in accordance with Australian Standards AS1668.
- 100. Prior to occupation, a chartered professional engineer shall certify that the tanking and waterproofing has been constructed in accordance with the approved design and specification. A copy shall be provided to Council if council is not the Principal Certifying Authority.
- 101. Prior to occupation a Chartered Professional Engineer shall certify that the stormwater system has been constructed in accordance with the approved plans and as required by Rockdale Technical Specification Stormwater Management. The certificate shall be in the form specified in Rockdale Technical Specification Stormwater Management and include an evaluation of the completed drainage works. A works-as-executed drainage plan shall be prepared by a registered surveyor based on a survey of the completed works. A copy of the certificate and works-as-executed plan(s) shall be supplied to the Principal Certifying Authority. A copy shall be provided to Council if Council is not the Principal Certifying Authority.
- 102. A gutter flow analysis will be required to be submitted for the protection of the low-level driveway in accordance with Section 4.6 of DCP.

The underground garage shall be floodproofed to a minimum of 100mm above the 1% Annual Exceedance Probability Gutter flow. The levels shall be certified by a registered surveyor prior to construction of the driveway or other openings

- 103. A positive covenant pursuant to the Conveyancing Act 1919 shall be created on the title of the lots that contain the stormwater detention & pump facilities, and the Traffic Signal facilities, to provide for the maintenance of these facilities.
- 104. Signs shall be displayed adjacent to all stormwater drains on the premises, clearly indicating "Clean water only - No waste".
- 105. The owner of the premises is required to comply with the following requirements when installing a rainwater tank:
 - Inform Sydney Water that a Rainwater tank has been installed in accordance with applicable requirements of Sydney Water.
 - The overflow from the rainwater tank shall be directed to the storm water system.

- All plumbing work proposed for the installation and reuse of rainwater shall comply with the NSW Code of Practice: Plumbing and Drainage and be installed in accordance with Sydney Water “Guidelines for rainwater tanks on residential properties.
- A first flush device shall be installed to reduce the amount of dust, bird faeces, leaves and other matter entering the rainwater tank.

106. The following matters shall be constructed in accordance with the approved plans and prior conditions of this consent prior to issue of the Occupation Certificate:

(a) All privacy screens to balconies and windows shall be constructed as shown in the plans and required by Condition 17(a) to minimise privacy impacts;

(b) Fire Stairs must not be enclosed stairwells as shown in the approved plans unless otherwise approved by Section 96 Application.

107. RMS Traffic Signal Plan

Prior to issue of the Occupation Certificate the RMS Traffic Signal Plan must be updated to reflect the changes in Bestic Street with the proposed concrete median island required by the Bayside Traffic Development Advisory Committee (BTDAC) and associated line marking. These works must be submitted to RMS for approval at the applicant's cost.

Roads Act

108. Construction related activities must not take place on the roadway without Council approval.

Short-term activities (including operating plant, materials delivery) that reduce parking spaces, affect access to a particular route or prevent or restrict the passage of vehicles along the road must not occur without a valid Temporary Roadside Closure Permit.

Activities involving occupation of the parking lane for durations longer than allowed under a Temporary Roadside Closure Permit require a Construction Zone Permit and must not occur prior to the erection of Works Zone signs by Council's Traffic and Road Safety Section.

Permit application forms should be lodged at Council's Customer Service Centre allowing sufficient time for evaluation. An information package is available on request.

109. The following works will be required to be undertaken in the road reserve at the applicant's expense:

- i) construction of a 1m wide concrete footpath along Kings Lane frontage of the development site;
- ii) construction of a new fully constructed concrete vehicular entrance/s;
- iii) removal of the existing concrete vehicular entrance/s, and/or kerb laybacks which will no longer be required;
- iv) reconstruction of selected areas of the existing concrete Footpath/vehicular entrances and/or kerb and gutter;
- v) construction of paving between the boundary and the kerb;
- vi) removal of redundant paving;

- vii) construction of kerb and gutter.

Note: Detailed plans of the works are required to be submitted to Council for assessment and approval pursuant to Section 138 of the Roads Act 1993, prior to the issue of the Construction Certificate.

- 110. All footpath, or road and drainage modification and/or improvement works to be undertaken in the road reserve shall be undertaken by Council, or by a Private Licensed Contractor subject to the submission and approval of a Private Contractor Permit, together with payment of all inspection fees. An estimate of the cost to have these works constructed by Council may be obtained by contacting Council. The cost of conducting these works will be deducted from the Footpath Reserve Restoration Deposit, or if this is insufficient the balance of the cost will be due for payment to Council upon completion of the work.
- 111. All driveway, footpath, or road and drainage modification and/or improvement works to be undertaken in the road reserve shall be undertaken in accordance with Council's Subdivision and Civil Works Construction Specification (AUS-SPEC 1). Amendment to the works specification shall only apply where approved by Council. Where a conflict exists between design documentation or design notes and AUS-SPEC 1, the provisions of AUS-SPEC 1 shall apply unless otherwise approved by Council.
- 112. This Roads Act approval does not eradicate the need for the Contractor to obtain a Road Opening Permit prior to undertaking excavation in the road or footpath.
- 113. Any driveway works to be undertaken in the footpath reserve by a private contractor requires an "Application for Consideration by a Private Contractor" to be submitted to Council together with payment of the application fee. Works within the footpath reserve must not start until the application has been approved by Council.
- 114. All works associated with the proposed development shall be at no cost to the RMS.
- 115. Public infrastructure works in the public road reserve shall not commence without prior approval of the design in accordance with the Roads Act 1993, the Transport Administration Act 1988 and the Road Transport (Safety and Traffic Management) Act 1999.

Development consent advice

- a. You are advised to consult with your utility providers (i.e. Energy Aust, Telstra etc) in order to fully understand their requirements before commencement of any work.
- b. *Telstra Advice – Dial Before You Dig*

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets, please contact Dial before You Dig at www.1100.com.au or telephone on 1100 before excavating or erecting structures (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before You Dig service in advance of any construction or planning activities.

- c. Where Council is not engaged as the Principal Certifying Authority for the issue of

the Subdivision Certificate (Strata), and the Section 88B Instrument contains easements and/or covenants to which Council is a Prescribed Authority, the Council must be provided with all relevant supporting information (such as works-as-executed drainage plans and certification) prior to Council endorsing the Instrument.

- d. All asbestos fibre demolition material and asbestos dust shall be handled, stored and removed in accordance with the relevant legislation and guidelines including:
- Work Health and Safety Act 2011
 - Work Health and Safety Regulation 2011
 - Code of Practice for the Safe Removal of Asbestos [NOHSC: 2002 (2005)]
 - Code of Practice for the Management and Control of Asbestos in Workplaces [NOHSC: 2018 (2005)]
 - Protection of the Environment Operations (Waste) Regulation 2005

All work procedures shall be devised to minimise the release of dust and fibres. A checklist of safety precautions when working with asbestos is available in Health & Safety Guidelines prepared by the WorkCover Authority of NSW. Collection, storage and transportation is subject to the Protection of the Environment Operations (Waste) Regulation 2005.

- e. Hazardous and/or intractable wastes arising from the demolition process shall be removed and disposed of in accordance with the requirements of the relevant statutory authorities (NSW WorkCover Authority and the NSW Environment Protection Authority), together with the relevant regulations, including:
- Work Health and Safety Act 2011
 - Work Health and Safety Regulation 2011
 - Protection of the Environment Operations (Waste) Regulation 2005.
- f. Demolition and construction shall minimise the emission of excessive noise and prevent “offensive noise” as defined in the Protection of the Environment Operations Act 1997. Noise reduction measures shall include, but are not limited to the following strategies:
- choosing quiet equipment
 - choosing alternatives to noisy activities
 - relocating noise sources away from affected neighbours
 - educating staff and contractors about quiet work practices
 - informing neighbours of potentially noise activities in advance
 - equipment, such as de-watering pumps, that are needed to operate on any evening or night between the hours of 8 p.m. and 7 a.m. or on any Sunday or Public Holiday, shall not cause a noise nuisance to neighbours of adjoining or nearby residences. Where the emitted noise exceeds 5 dB(A) [LAeq(15m)] above the background sound level [LA90] at the most affected point on the nearest residential boundary at any time previously stated, the equipment shall be acoustically insulated, isolated or otherwise enclosed so as to achieve the sound level objective.
- g. In the event of any inconsistency between conditions of this approval and the drawings/documents referred to in condition 2, the conditions of this approval prevail.
- h. A work zone in King Lane will not be supported.

