

## COUNCIL ASSESSMENT REPORT

<b>Panel Reference</b>	2016SYE079
<b>DA Number</b>	DA-2016/420
<b>LGA</b>	Bayside Council
<b>Proposed Development</b>	Construction of an eleven (11) storey mixed use development comprising 91 residential units, 3 commercial units & three levels of basement parking.
<b>Street Address</b>	397 Princes Highway, Rockdale
<b>Applicant/Owner</b>	Rockdale One Pty Ltd
<b>Date of DA lodgement</b>	23 June 2016
<b>Number of Submissions</b>	Three (3)
<b>Recommendation</b>	Approval, subject to conditions
<b>Regional Development Criteria (Schedule 4A of the EP&amp;A Act)</b>	Capital Investment Value (CIV) in excess of \$20 Million
<b>List of all relevant s79C(1)(a) matters</b>	<ul style="list-style-type: none"> <li>• SEPP 55</li> <li>• SEPP 65</li> <li>• SEPP (Infrastructure) 2007</li> <li>• SEPP (BASIX) 2005</li> <li>• SEPP (Major Developments) 2005</li> <li>• Rockdale LEP 2011</li> <li>• Rockdale DCP 2011</li> <li>• EPA Regulations - Regs 97A, 98A &amp; 98E.</li> </ul>
<b>List all documents submitted with this report for the Panel's consideration</b>	Architectural Plans – Full set of Final Plans Landscape Plans – Full set of Amended Plans Statement of Environmental Effects Covering Response Letter for Amended Plans SEPP 65 Verification Statement Clause 4.6 Variation Amended Photomontage Traffic Report Amended Traffic and Parking Matters Response
<b>Report prepared by</b>	Pascal van de Walle – Senior Assessment Planner Marta Gonzalez-Valdes – Co-ordinator Major Developments Luis Melim – Manager Development Services
<b>Report date</b>	24 July 2017

### Summary of s79C matters

Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report?

**Yes**

### Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?

**Yes**

*e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP*

### Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?

**Yes**

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**Special Infrastructure Contributions**

Does the DA require Special Infrastructure Contributions conditions (S94EF)?

**Not Applicable**

*Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions*

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**Conditions**

Have draft conditions been provided to the applicant for comment?

**No**

*Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report*

# BAYSIDE COUNCIL

## Planning Assessment Report

### Application Details

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<b>Application Number:</b>	DA-2016/420
<b>Date of Receipt:</b>	23 June 2016
<b>Property:</b>	397 Princes Highway, ROCKDALE NSW 2216 Lot 1 DP 1090661
<b>Owner:</b>	Rockdale One Pty Ltd
<b>Applicant:</b>	Rockdale One Pty Ltd
<b>Proposal:</b>	Construction of an eleven (11) storey mixed use development comprising 91 residential units, 3 commercial units & three levels of basement parking
<b>Recommendation:</b>	Approved
<b>No. of submissions:</b>	Three (3)
<b>Author:</b>	Pascal van de Walle
<b>Date of Report:</b>	24 July 2017

### Key Issues

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The proposal was the subject of a Design Excellence Competition prior to lodgement in accordance with Clause 6.14 of RLEP 2011. The Design Excellence Competition Jury found that the *Fuse Architecture* scheme provided a refreshing approach to the site and its surrounding context which responded well to the opportunities and constraints of the site. The Jury determined that the *Fuse Architecture* scheme had performed the highest against the objectives of the Design Brief and that it had the ability to achieve design excellence through further design development. The proposal was the winning scheme.

The submitted scheme included some variations to the Design Competition scheme, however the assessment has revealed that the proposal addresses the key issues raised by the Design Competition Jury. Furthermore, the Council's Design Review Panel were strongly supportive of the bulk, scale and proportions of the development and, subject to resolution of the issues raised and further refinement of the design, were of the opinion that the proposed development has the potential to create an exemplar for urban renewal and intensification in the Rockdale Town Centre. The issues raised by the DRP have been satisfactorily resolved and the proposal is found to generally satisfy the requirements of SEPP 65, including the Apartment Design Guide (ADG).

Based on the above, and on the detailed assessment, the proposal is found to exhibit 'design excellence' in accordance with Clause 6.14 of RLEP 2011. As a result, the proposal may benefit from the additional 12m height permitted for sites located within 'Area A' which have an area in excess of 1,500m<sup>2</sup> in accordance with Clause 4.3(2A)(a) RLEP 2011.

The proposed development exceeds the maximum permitted height by between 0.14 and 0.43m, and a Clause 4.6 variation has been submitted for consideration. Variations to the maximum height are not permitted for developments which benefit from the height bonus under Clause 4.3(2A) of RLEP 2011 unless they are for a *'demonstrable public benefit, such as the provision of pedestrian links'*. The Applicant proposes a 3m building setback to the sites northern boundary with the Unnamed Lane, a 0.63m widening and dedication of the Unnamed Lane to Council, and a 2.4m wide footpath for most of the length of the laneway frontage. This is found to be 'demonstrable public benefit' that permits consideration of a Clause 4.6 variation in this case. The Clause 4.6 variation submitted by the Applicant is well founded and is the minor variation to the height is supported in the circumstances of the case for the reasons outlined in the body of the report.

The current proposal does not include excavation works. These 'early works' are included in DA-2017/271 which was approved on 28 June 2017 and granted consent to "early works for shoring, piling and excavation of the site, and demolition of existing structures". The site has now been fenced however excavation works have not yet commenced.

The proposal is Integrated Development as it includes piling and construction of footings for the internal columns that will transect the water table. NSW Water has advised that the same Terms of Agreement imposed on DA-2017/271 be imposed on this consent.

The proposal also requires concurrence from Sydney Trains in accordance with Clause 86 of State Environmental Planning Policy (Infrastructure) 2007 due to piling and footings works associated with this application. Sydney Trains granted their concurrence by letter dated 24 July 2017.

The application has been assessed against the relevant planning controls and has been found to satisfy the objectives and/or requirements of the controls. This is subject to compliance with recommended conditions in some cases.

The application was notified to surrounding properties and three (3) submissions were received in response to the proposed development. The key issues raised include inadequate building setbacks to the north, impacts to traffic and truck movements in the Unnamed Lane, an underestimation of traffic generation, lack of consideration of possible traffic safety issues, the the adverse cumulative impacts resulting from high-rise developments fronting Princes Highway, and loss of views. The issues raised have been considered and the impacts are considered to be minimal or have been addressed by way of conditions of consent.

The proposal has been the subject of extensive design process, and is considered to provide a positive contribution to the Rockdale Town Centre. The proposal is recommended for approval subject to imposition of recommended conditions.

## Recommendation

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1. That the Sydney Central Planning Panel accept the Clause 4.6 variation to Clause 4.3 of RLEP 2011 (Height) as requested by the Applicant;
2. That this Development Application 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 objectors be notified of the Sydney Central Planning Panel's decision.

## Background

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### History

This is the second application for a mixed use development on the subject site. The first application DA-2016/30 was lodged with Council on 26 July 2015, and sought consent for the construction of an eleven-storey mixed use development at 395-397 Princes Highway, Rockdale, comprising ground floor commercial/retail space, 100 residential units, and 123 spaces over three basement levels.

That development application sought to exceed the maximum 22m building height permitted under RLEP 2011 by utilising Clause 4.3(2A), which allows buildings within 'Area A' and on a lot greater than 1,500m<sup>2</sup> an additional 12 metres. The application had not been the result of a design competition, as required, and at an extraordinary Council meeting on 4 November 2015 the Councillors resolved that an architectural design competition is reasonable and necessary for the redevelopment of 395-397 Princes Highway, Rockdale. DA-2016/30 was therefore withdrawn on 24 December 2015.

An architectural design competition was subsequently held in accordance with the Rockdale Design Excellence Guidelines 2015 and the endorsed Design Excellence Strategy and Brief, and the jury decided upon the scheme presented by Fuse Architecture by a majority vote. The Jury made a number of recommendations for the Proponent, the selected Architect, and the Consent Authority in the preparation and assessment of a future development application.

The current proposal does not include excavation works. These 'early works' are included in DA-2017/271 which was approved on 28 June 2017 and granted consent for "early works for shoring, piling and excavation of the site, and demolition of existing structures". The site has now been fenced however excavation works have not commenced.

### Proposal

The proposal seeks consent for construction of an eleven (11) storey mixed use development comprising 91 residential units, 3 retail tenancies and basement parking for 116 cars over three levels.

The application does not include subdivision, and a separate application has been approved (DA-2016/271) for early works associated with this proposal, including demolition, site clearing, excavation and shoring works associated with the proposed basement.

The current proposal consists of:

#### Construction

Construction of a mixed use development comprising 92 residential units, 3 retail tenancies and basement parking. The ground floor of the building contains only retail uses, residential entry lobby, storage rooms, bin storage and services. The residential units are located on Levels 1 - 11, as follows:

- *Retail Tenancies (Ground Floor)*

The proposal includes three (3) retail tenancies with frontage to Princes Highway and/or the Unnamed Lane, with a combined area of 559m<sup>2</sup> (plus an additional 56m<sup>2</sup> of storage areas). The tenancies are as follows:

- Retail Tenancy 01 - 185m<sup>2</sup>
- Retail Tenancy 02 - 162m<sup>2</sup>
- Retail Tenancy 03 - 212m<sup>2</sup>

- *Residential Units (Levels 1 - 10)*

The 91 residential units are located at Levels 1- 10 and comprise the following mix:

- 26 x 1 bedroom units (28.6%),
- 61 x 2 bedroom units (including the live/work unit) (67%),
- 4 x 3 bedroom units (4.4%).

#### Access & Public Domain Interface

Vehicular access and servicing is proposed from the Unnamed Lane, while pedestrian access is limited to the Princes Highway frontage which includes a single residential lobby and access to retail tenancies.

#### Car Parking

Car parking is provided for 116 vehicle. The Applicant proposes to allocate the parking spaces as follows (however recommended conditions propose an alternate allocation):

- 94 residential car spaces (including 9 x accessible spaces);
- 22 shared commercial / visitor spaces / car wash bay (including 2 x accessible spaces);

In addition to car parking, the applicant proposes:

- 4 motorcycle parking spaces;
- 10 bicycle parking spaces at basement B3 (caged area);

The residential car spaces are separated from the visitor & commercial spaces by an additional roller shutter door and security fence for security purposes.

#### Servicing

A loading bay for deliveries and garbage collection is provided within the area that comprises the easement benefiting the adjoining Telstra Exchange building at the rear of the site, accessed from the Unnamed Lane.

#### Communal Open Space

Two primary areas of communal open space have been proposed, including a 218m<sup>2</sup> area at the rear southern side of Level 1 and a 154m<sup>2</sup> area at Level 4 (which is partly covered by building above). The applicant considers that a further supplementary 82m<sup>2</sup> area of 'communal open space' exists to the rear ground floor level and that the setback area to the Princes Highway provides supplementary communal space.

Photomontage of the proposal is provided below (see **Figure 2**):



**Figure 11** - Photomontage of proposed development.

## Site location and context

The site is known as 395-397 Princes Highway, Rockdale. It comprises a single lot which is legally described as Lot 1 DP 1090661.

This site is located at the northern edge of the "Rockdale Town Centre" on the corner of Princes Highway, a six lane classified road, and an unnamed lane. The site is located directly opposite the large Spotlight building and the intersection of Bestic Street and Princes Highway. The public domain in front of the site contains traffic signals and large directional signage associated with this intersection.

The site is irregular in shape and has an area of 1,696m<sup>2</sup>. It has a primary frontage of 46.06m to the Princes Highway and a secondary frontage 40.44m to an unnamed lane immediately to the north of the site.

The site has a fall of approximately 900mm from the rear west down to the north-east, and a small brick retaining wall exists at the sites front boundary to Princes Highway. The property is generally hard paved and was most recently used as a car sales yard, with vehicular access from the unnamed lane. The site contained two demountable style office buildings, however demolition application DA-2016/271 was recently approved and these buildings may have been removed from the site.

There are no trees of significance within the site, however an existing small ficus is located within the Princes Highway public domain which is proposed to be retained.

The western part of the site is burdened by an easement for access and drainage of variable width that benefits the adjoining Telstra exchange building (lot 101, DP 1097898). This site is affected by Class 5 Acid Sulfate Soils, is flood affected and subject to Sydney Airports Building Height Controls.

The site is within close proximity to a range of public transport options including the Rockdale Railway Station and Bus Interchange (525m), as well as employment, retail, educational facilities, health and community services.

The public domain and adjoining sites contain significant infrastructure, including:

- Traffic Lights - located in front of the site Princes Highway frontage;
- RMS Directional Signage - Princes Highway frontage;
- Telstra cables within the Princes Highway frontage & the adjoining site (No. 401 Princes Highway);
- Ausgrid power poles and lines; and,
- Street lighting.

Development surrounding the site includes:

- Spotlight building - located on the opposite side of the unnamed lane (to the north), within the B6 Business Enterprise Corridor zone. Further to the north are a mix of commercial developments, all within the B6 Business Enterprise Corridor zone.
- Telstra Exchange - immediately to the west of the site (397A Princes Highway);
- 399-401 Princes Highway - immediately adjoining the site to the south, this site currently utilised as a depot. This site is also subject to a Development Application for a mixed use building (DA-2016/150).
- On the opposite side of Princes Highway to the east are a single storey funeral parlour 'Guardian Funerals', a single storey retail building with open car park, and the intersection of Bestic Street. On 23 May 2017 the Bayside Planning Panel approved a nine (9) storey mixed use development at 376-384 Princes Highway immediately opposite the site. Further to the east are low scale residential developments within the R2 Low Density Residential zone.

The Illawarra Railway Line is located further to the west immediately behind the Telstra Exchange building. Railways land associated with the railway line are located within 20m of parts of the site.





Figure 1 - Site Plan

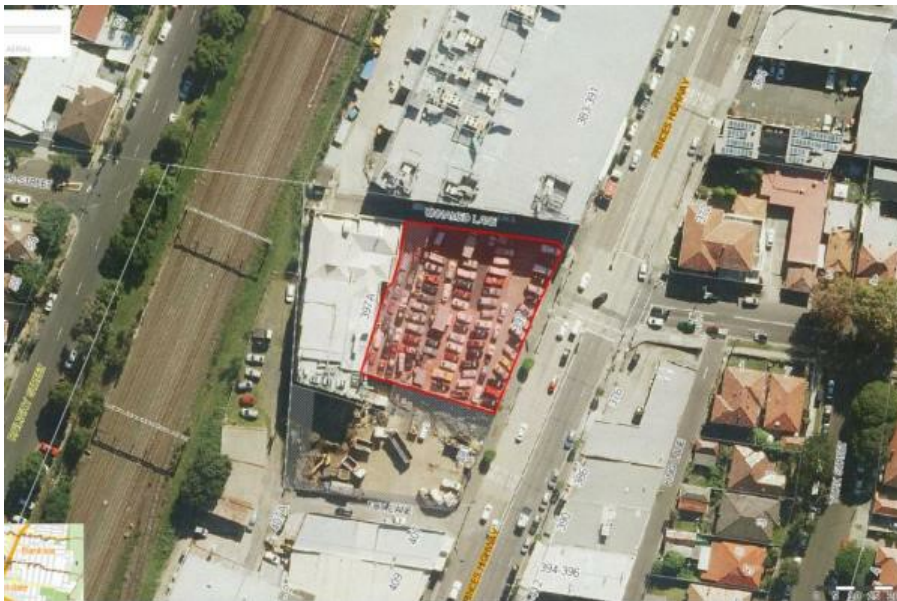
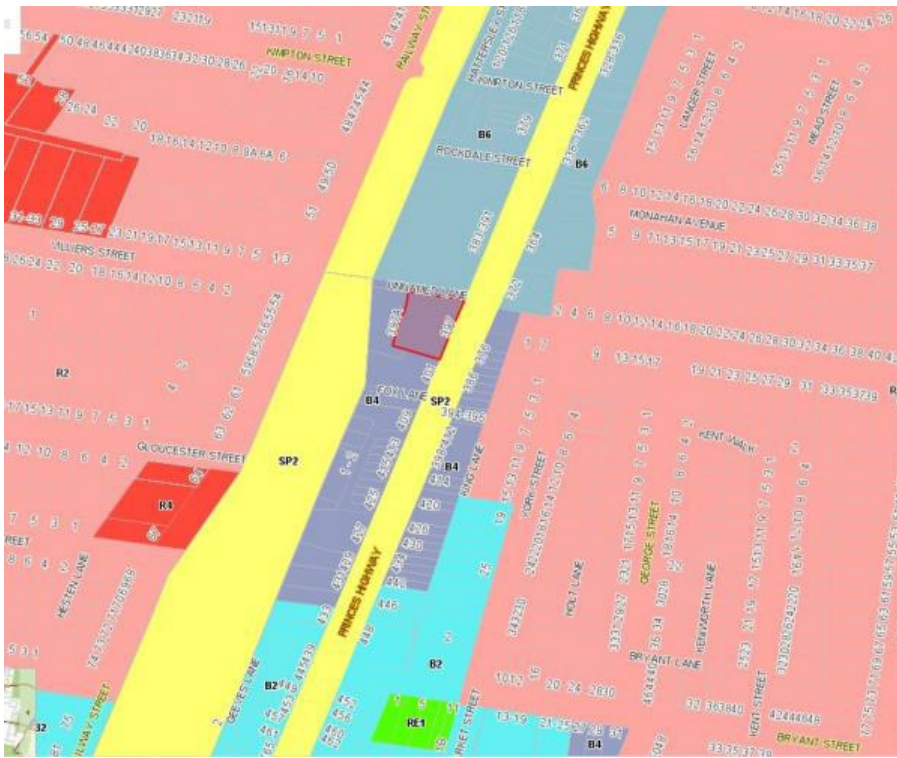


Figure 2 - Aerial Photo



**Figure 3 - Zoning Map (Extract, RLEP 2011)**



**Figure 4 - The Site (view from intersection of Bestic Street), including Spotlight building (right) and Telstra Exchange building (rear).**



**Figure 5** - Site (viewed from eastern side of Princes Highway).



**Figure 6** - Spotlight Building



**Figure 7** - 401 Princes Highway (immediately adjoining site to the south), with Telstra Exchange Building beyond.





**Figure 8 - Traffic lights & RMS Directional Signage in front of the site**



**Figure 9 - View east along the Unnamed Lane (Subject site on the right & Spotlight building on the left).**

## 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 'Early Works DA' for the site (DA-2016/271) includes the majority of excavation works associated with the proposal, however this application DA-2017/420 involves piling and construction of footings for the internal columns. The proposal is therefore Integrated Development pursuant to Section 91 of the Environmental Planning and Assessment Act 1979, and requires approval from NSW Water (NW). NW have advised Council that the General Terms of Approval issued for the Early Works DA (DA-2016/271) are applicable to this application. The GTA's have therefore been included in the Draft Notice of Determination, and the proposal is therefore acceptable in this regard.

#### **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 729550M.

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

Reduction in Energy Consumption - 32%

Reduction in Water Consumption - 41%

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 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 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 objection to the proposal and provided standard conditions of consent to be imposed on the draft Notice of Determination. The application is consistent with the provisions of Clause 45 and is acceptable in this regard.

#### **Clause 86 - Excavation in, above or adjacent to rail corridors**

The 'Early Works DA' for the site (DA-2016/271) includes the majority of excavation works associated with the proposal, however this application DA-2017/420 involves piling and construction of footings for the internal columns. Therefore, the proposal is subject to Clause 86 - 'Excavation in, above or adjacent to rail corridors' as the proposal involves the penetration of ground to a depth of at least 2m below ground level (existing) on land within 25m (measured horizontally) of the Eastern Suburbs and Illawarra rail corridor. Therefore, the proposal requires concurrence of the rail authority in accordance with clause 86(1)(b). On 24 July 2017, Sydney Trains (on behalf of Railcorp) provided concurrence to the proposal subject to recommended conditions of consent. These conditions have been incorporated into the draft notice of determination. Accordingly, the proposal is acceptable with regards to Clause 86.

#### **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.

The proposed development involves access to and from the site from the existing unnamed lane, with

no direct vehicular access from Princes Highway.

Accordingly, the proposal has been sent to the Roads & Maritime Service (RMS). The authority requested further information by letter dated 25 August 2016, and subsequently provided recommended conditions by letter dated 22 March 2017. The recommendations have been included in the draft Notice of Determination. The application is consistent with the provisions of Clause 101 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 a mixed commercial and residential development that is on land in or adjacent to the 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) and that the consent authority considers is likely to be adversely affected by road noise or vibration. 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.

In this regard, 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 (dated 5 April 2016), which considered the potential impact of road noise on the proposed development.

The report concludes that the development will satisfy the noise level requirements as outlined in the SEPP, 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 104 - Traffic Generating Development consistent with SEPP**

The proposal is classified as 'traffic generating development' under Schedule 3 of State Environmental Planning Policy (Infrastructure) 2007. In accordance with clause 104(3) of the SEPP, RMS is required to be notified of the proposed development and any submissions provided by RMS are to be considered. In this regard, the proposed development was referred to RMS who provided recommended conditions by letter dated 22 March 2017.

The proposal has been amended by widening the unnamed lane to 6m and modifying the south-western kerb to Princes Highway (to match the widened lane) to allow better entry conditions for vehicles from the highway. Swept path diagrams have been provided to demonstrate that two passenger vehicles are able to turn in/out of the lane simultaneously, thereby minimising impacts to the traffic flow along Princes Highway. Additional conditions are also proposed requiring that waste collection and servicing be undertaken during off-peak times to further minimise impacts to the flow of traffic on Princes Highway, and that waste collection be undertaken from the approved loading bay at the rear of the site with access from the Unnamed Lane. Subject to compliance with conditions, it is considered that the proposed development will have no detrimental impact upon the existing operation of the road network.

Further, the application was considered by Council's Traffic Development Advisory Committee (BTDAC) who provided recommended conditions of consent which have also been included in the notice of determination. Therefore, due to the above it is considered that the proposed development is consistent with Clause 104 of the SEPP.

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

The proposed development has 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**

Excavation works associated with this development are being carried out under DA-2016/271, and matters associated with site contamination have been considered in detail in the assessment of that application.

In summary, it was found that:

- The site is not identified as being contaminated in Council's records system, and the site is not known to have been used for a land use that is identified in Table 1 of the "Managing Land Contamination Planning Guidelines SEPP 55—Remediation of Lands".
- A Preliminary Geotechnical Investigation and Preliminary Waste Classification Assessment report prepared by Douglas Partners (Report No. 84749, April 2015), based on laboratory analysis of borehole samples collected from the site, was submitted with the application and concluded as follows:

*“Based on the total concentrations recorded, and the fact that asbestos was not observed during the field work or detected above laboratory reporting limits, the sampled soils from the boreholes would be classified as General Solid Waste (non-putrescible). The material should therefore be disposed of at an appropriately licensed General Solid Waste Landfill. It should be noted, however, that ex situ confirmation of this preliminary classification will be required prior to offsite disposal given the limited scope of the investigation. The natural soils below the filling may be able to be described as virgin excavated natural material (VENM) upon excavation providing they are not cross-contaminated during site works.”*

Further to the above, the report sets out procedures to manage groundwater if unexpected contamination was detected during excavation works.

Based on the information provided, consideration of the sites history, and the proposed development which includes excavation only, the proposal is found to be suitable for the proposed use in accordance with clause 7 of SEPP 55 subject to compliance with recommended conditions requiring compliance with the report.

### **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 was subject to a design competition, however it was also referred to the Design Review Panel following lodgement on 19 July 2016 to consider compliance with SEPP 65 and the ADG. The DRP appreciated the thorough contextual analysis undertaken and the design options explored to respond to the sites opportunities and constraints. The DRP were specifically supportive of the *"modelling of the built form to create the impression of two slender towers and to provide an interesting closure to the vista along Bestic Street"*, and recommended that no changes be made to reduce the height of the development as it would have a detrimental effect on the built form.

The DRP raised a number of issues with the proposal, however subject to resolution of the issues raised and further refinement of the design the DRP were of the opinion that the proposed development has the potential to create an exemplar for urban renewal and intensification in the Rockdale Town Centre.

The key issues raised by the DRP are discussed below:

- **Issue:** Public Domain Interface - Steps and level change in the Princes Highway setback should be removed and any level change required to meet flood constraints incorporated within the footprint of the building to create a seamless public domain free of hazards and impediments such as handrails and abrupt level changes.  
**Comment:** The application has been amended to delete the level changes and steps within the front setback area. The amended proposal is satisfactory.
- **Issue:** Green Gateway & Street Planting - The objectives of the Green Gateway must be integrated into the site design including tree planting within the Princes Highway and appropriate species used within the Unnamed Laneway to better reflect the street hierarchy.  
**Comment:** This is the first site within the 'Green Gateway' setback area on the western side of Princes Highway. The applicant is unable to, and not required to, achieve compliance with the 'green gateway' requirements for the northern part of the Princes Highway setback given that the building cantilevers over the ground level to address the sites context as recognised through the Design Excellence process. The southern part of the Princes Highway setback has, however, been amended to achieve compliance with the 'green gateway' setback, including additional planting within the front setback area to provide the second layer of tree planting. Appropriate details have also been provided with regards to awnings, paving and levels. Furthermore, the upper basement level has been setback 3m for the southern part of the site to provide a full level of soil depth to support the growth of proposed trees.
- **Issue:** Deep soil - the DRP advised that the basement cannot extend into the deep soil area to ensure the success of the green gateway, as well as ensure the provision on site of functional deep soil for tree growth.  
**Comment:** The application has been amended to provide proper deep soil areas at the rear of the site within the easement for the Telstra Exchange building. As noted above, the upper level basement has also been setback to provide a full level of soil depth to promote the health and proper growth of trees in the green gateway area. The proposal now includes 7% of deep soil and is satisfactory in this regard.
- **Issue:** Communal Open Space - The DRP considers that the communal open space at the southern side of Level 1 is inadequate as it was insufficient in size and shaded for most of the



day. They have recommended that it be supplemented by substituting two of the apartments at the western end of the southern tower at Level 10 (top floor level), set within the building envelope, as communal open space. This area should also include an accessible multi-sex toilet and kitchenette/barbeque, as well as consideration given to the recreational needs of families and children, to enhance the usability of the communal space which would also benefit from good solar access and views.

Comment: The applicant has not converted the top floor level units into communal open space, however instead proposes additional communal open space at the rear ground floor level and at Level 4. The amended proposal is supported subject to a condition requiring the improvement of the communal open space area at Level 4. Refer to detailed discussion below in the ADG assessment.

- Issue: Storage - some units are not provided with storage and must be rectified.  
Comment: All units have now been provided with storage which complies with the requirements of the ADG.
- Issue: Light Well Detailed Design - The DRP recommended that the spatial quality of the internal light well and circulation space be further explored. They were concerned that there was inadequate details to demonstrate that the proposed 50mm wide by 1500mm deep blades forming the 'veil' spaced only 100mm apart would not permit adequate amenity for the internal areas in terms of light and outlook. The DRP recommended that prototypes be made to ensure that the effect of the proposed 'rainforest' landscaping at level 1 and the outlook from bedroom and kitchen windows facing the back of the lift shaft will be satisfactory.  
Comment: A condition is proposed requiring that these details be resolved prior to issue of the Construction Certificate.
- Issue: Inadequate 3 bedroom units (3.3%)  
Comment: The applicant has included an additional fourth 3 bedroom unit, however recommended conditions result in provision of 3 x 3 bedroom units. Conditions are proposed requiring reconfiguration of some units to ensure that a total of five 3 bedroom units (5.5%) are provided within the site. This does not comply with the minimum 10% required by RDCP 2011, however is similar to another recently approved development in the area.

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

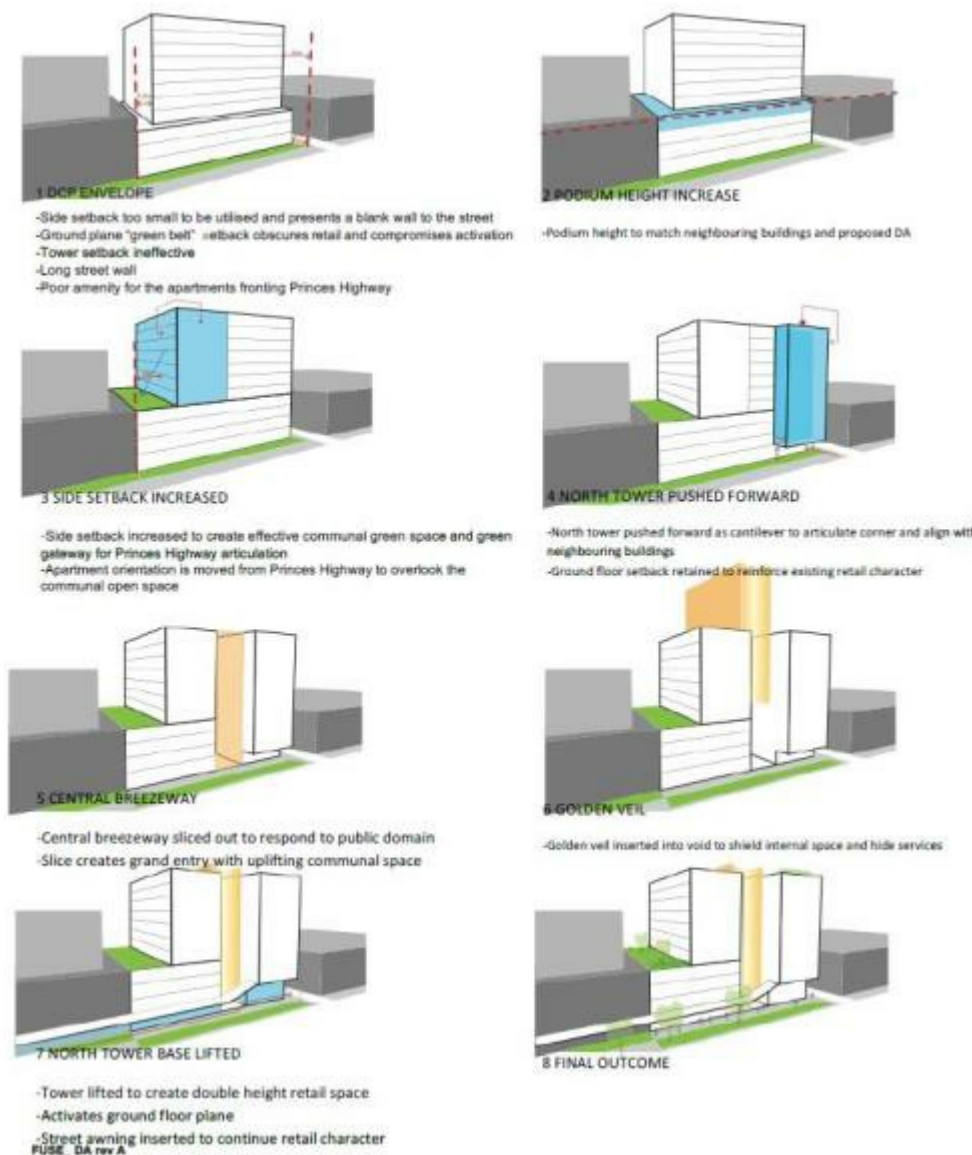
The application was accompanied by a Design Verification Statement provided by Fuse Architects, as well as a Design Statement which addresses the nine (9) design quality principles under the SEPP. The applicant's position is generally agreed with, and the 9 design quality principles have been considered in the assessment of the proposal and are found to be satisfactory as indicated below.

Principle 1 – Context and Neighborhood Character

The applicant and architect have given detailed consideration to the context of the development and the neighbourhood character in the development design. As noted by the DRP, the proposal responds to the site opportunities and constraints, including the Princes Highway frontage and the nil setback of the neighbouring 'Spotlight' building to the north. Furthermore, the proposal provides an appropriate 'book end' to Bestic Street, and is of a scale and form that is appropriate in the existing and future context. The proposal is the product of a Design Competition, and is considered to provide a high-quality outcome for the desired context of the Rockdale Town Centre.

## Principle 2 – Built Form and Scale

The building height is generally consistent with Council's LEP requirements, and is strongly supported by the DRP. The minor variations to the maximum building height are supported for the reasons discussed in response to Clause 4.6 of RLEP 2011 later in the report. The site is located on a corner position, and the scale of development when viewed from the street frontages is consistent with the LEP objectives as well as proposed developments on adjoining and nearby sites within the Rockdale Town Centre. While the proposed four storey podium at the southern side exceeds the three storeys required by RDCP 2011, the DRP have advised that a reduction in the scale would have detrimental affects on the built form and was a preferable outcome for the streetscape. It is considered that the variation will not impact compliance on other sites. The diagram below demonstrates how the built form was arrived at. The proposal will provide a positive contribution to the streetscape and Rockdale Town Centre.



**Figure 12 - Built form study (Fuse Architects)**

## Principle 3 – Density

The Rockdale Town Centre is not subject to FSR controls, and the density is generally guided by the maximum height provisions in RLEP 2011 and the required setbacks in RDCP 2011 & ADG. The proposed height and setbacks are found to be acceptable and is strongly supported by the DRP and

the Design Competition, and the density is considered suitable for this corner site located at the northern end of the Rockdale Town Centre which is located close to good public transport services. The proposal is therefore acceptable in this regard.

#### Principle 4 - Sustainability

The application complies with BASIX and includes a 3 metre landscape strip to the part of the Princes Highway frontage as well as tree planting along the Unnamed laneway. The proposal has been oriented to maximise the number of units which benefit from a northerly aspect, and the use of the breezeway results in the majority of units benefiting from cross-ventilation. The central breezeway will also reduce reliance on artificial lighting and the proposal is therefore satisfactory in this regard.

#### Principle 5 – Landscape

The proposal includes a 3 metre wide 'green gateway' setback to part of the Princes Highway which is primarily landscaped, and planting is also provided along the Unnamed Laneway frontage of the site. Planting is also provided at the rear of the site, at first floor podium, Level 4 podium and within the breezeway area. The proposed landscape areas will be complemented by retention of the existing street tree, will complement the building and assist to satisfy the objectives of the 'green gateway' entrance to Rockdale Town Centre.

#### Principle 6 – Amenity

The proposal satisfies the solar access requirements and significantly exceeds the cross ventilation requirements of the ADG. The applicant has amended the plans to address most of the amenity issues identified by the DRP, and a condition is imposed to ensure that the internal light well and circulation space will provide a high-quality space for future occupants. The units and rooms are of adequate size and dimensions, and storage has also been provided in accordance with ADG. The public domain interface has also been amended to ensure a positive relationship is achieved with the public domain, benefiting the amenity of pedestrians and users of the surrounding public domain. 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 been amended to remove concealment opportunities, including a reduction in the setback for the main building entry, and maximise passive surveillance of the surrounding public domain. Car parking for residential occupants has been separated from visitors and commercial car parking spaces, and security access points are provided to gain access to the lift lobby. 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 additional 3 bedroom units are required by way of conditions to ensure that the proposal includes a satisfactory variety of apartment sizes and layouts. The proposal includes adaptable units to satisfy RDCP 2011, and provides lobby spaces and circulation areas that will provide spaces for residents to meet. The proposal also includes a condition requiring the improvement of the proposed communal open space at Level 4 to ensure that it provides for a range of activities, is usable and provides an attractive and inviting area for use by future occupants. The proposal is therefore satisfactory in this regard.

#### Principle 9 – Aesthetics

The proposal includes a range of materials, colours and finishes that will provide a satisfactory

contemporary development in the context of the site and the changing nature of Rockdale Town Centre. The proposal was supported through the Design Competition and by the DRP, subject to further refinement of materials required for the lightwell. The proposal is therefore considered comply with this principle.

**(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
3D - Communal and Public Open Space	<p>25% of site area = 425m<sup>2</sup></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>Two areas of genuine communal open space are provided, including 218m<sup>2</sup> at Level 1 and 154m<sup>2</sup> at Level 4 (by way of condition) = 372m<sup>2</sup> (21.9%).</p> <p>The Level 1 communal open space does not achieve the minimum 2 hours solar access on 21 June</p>	<p><b>NO - see Note 1</b></p> <p><b>NO - see Note 1</b></p>
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 6m is required for this proposal which has a site area in excess of 1,500m<sup>2</sup>.</p> <p>On some sites achieving the design criteria may not be possible due to location of the building (e.g. CBD)</p>	<p>The proposal includes approximately 120m<sup>2</sup> of deep soil at the rear of the site (7.1%). In addition, a full level of soil depth is provided at the front of the site within the Green Gateway area.</p>	<p>Yes</p>

3J - Bicycle and car parking	<p>As per Guide to Traffic Generating Developments, or per council requirement, whichever is less.</p> <p>Parking provided off street.</p> <p><u>Required</u> 26 x 1 bed = 0.6 x 26 = 15.6 spaces 61 x 2 bed = 0.9 x 61 = 54.9 spaces 4 x 3 bed = 1.4 x 4 = 5.6 spaces TOTAL Residential Spaces = 76.1 = 77 spaces required</p> <p>Visitors (1 / 5) = 18.2 = 19 spaces.</p> <p>Commercial Parking = 1 / 40 spaces - 20% (for Rockdale Town Centre) = 559 / 40 - 2.8 = 12 spaces</p> <p>TOTAL PARKING REQUIRED = 77 + 19 + 12 = 108 spaces required.</p> <p><u>Provided</u> = 116 Spaces Provided. Applicant proposes to allocate as follows: - 95 residential parking spaces - 22 shared visitor / commercial spaces / car wash bay</p>	108 off-street parking spaces required. 116 provided.	Yes - However Applicant's parking allocation is not agreed with - <b>see Note 2.</b>										
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>35m<sup>2</sup></td></tr><tr><td>1 bedroom</td><td>50M<sup>2</sup></td></tr><tr><td>2 bedroom</td><td>70m<sup>2</sup></td></tr><tr><td>3 bedroom</td><td>90m<sup>2</sup></td></tr></table> <p>Internal areas includes only one bathroom. Additional bathrooms increase area by 5m<sup>2</sup> each.</p> <p>Further bedrooms increase minimum internal area by 12m<sup>2</sup> each.</p>	Apartment type	Minimum internal area	Studio	35m <sup>2</sup>	1 bedroom	50M <sup>2</sup>	2 bedroom	70m <sup>2</sup>	3 bedroom	90m <sup>2</sup>	<p>All units comply with the minimum requirements, with the exception of minor 2m<sup>2</sup> deficiencies for 9 x 2 bed + 2 bathroom units (i.e. these units have an area of 73m<sup>2</sup> - being Units 202, 302, 402, 502, 602, 702, 802, 902 &amp; 1002).</p>	<p><b>NO</b> - however the minor variations are acceptable as the units are north facing and are all of the same high quality layouts where the balconies are an extension of the indoor living spaces.</p>
Apartment type	Minimum internal area												
Studio	35m <sup>2</sup>												
1 bedroom	50M <sup>2</sup>												
2 bedroom	70m <sup>2</sup>												
3 bedroom	90m <sup>2</sup>												

4C – Ceiling heights	Minimum ceiling heights:			3m floor to floor is provided, which will permit a minimum 2.7m floor to ceiling height for habitable spaces. 3.3	Yes.															
	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: <table><tr><td>Building height</td><td>Habitable rooms and balconies</td><td>Non habitable rooms</td></tr><tr><td>Up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr><tr><td>Up to 25m (5-8 Storeys)</td><td>9m</td><td>4.5m</td></tr><tr><td>Over 25m (9+storeys)</td><td>12m</td><td>6m</td></tr><tr><td colspan="3">Buildings on the same site combine required building separations. Gallery treated as habitable space</td></tr></table>			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	Buildings on the same site combine required building separations. Gallery treated as habitable space			The proposal generally complies, however habitable rooms & balconies for units above 25m (i.e. the top 3 floors, being 9, 10 & 11) are setback 9m from southern side boundary instead of 12m as required. It is also noted that a submission received from the neighbouring property to the north (the Spotlight Building) raises objections to the proposed setbacks.	<b>NO - but acceptable (See Note 3)</b>
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																		
Buildings on the same site combine required building separations. Gallery treated as habitable space																				
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			71.5% (65 of 91 units)  19.7% (18 units)	Yes  <b>NO - but acceptable (see Note 4)</b>															

4F – Common circulation and spaces	<p>Max apartments off a circulation core on a single level is eight.</p> <p>10 storeys and over, max apartments sharing a single lift is 40.</p>	<p>Nine (9) units are located off a single circulation core at all levels, except for 10 units at Level 2).</p> <p>Two (2) lifts provided, being 1 lift per 45.5 units.</p>	<p><b>NO - but acceptable (see Note 5)</b></p> <p><b>NO</b> - but acceptable subject to proposed condition requiring that a higher quality lift be provided to minimise waiting times.</p>															
4E – Private open space and balconies	<p>Primary balconies as follows:</p> <table><tr><th>Dwelling type</th><th>Minimum area</th><th>Minimum depth</th></tr><tr><td>Studio</td><td>4m<sup>2</sup></td><td>-</td></tr><tr><td>1 bed</td><td>8m<sup>2</sup></td><td>2m</td></tr><tr><td>2 bed</td><td>10m<sup>2</sup></td><td>2m</td></tr><tr><td>3+ bed</td><td>12m<sup>2</sup></td><td>2.4m</td></tr></table> <p>Min balcony depth contributing to the balcony area is 1m.</p> <p>Ground level, podium or similar -POS provided instead of a balcony: min area 15m<sup>2</sup> and min depth of 3m.</p>	Dwelling type	Minimum area	Minimum depth	Studio	4m <sup>2</sup>	-	1 bed	8m <sup>2</sup>	2m	2 bed	10m <sup>2</sup>	2m	3+ bed	12m <sup>2</sup>	2.4m	<p>All units comply with these requirements.</p>	<p>Yes</p>
Dwelling type	Minimum area	Minimum depth																
Studio	4m <sup>2</sup>	-																
1 bed	8m <sup>2</sup>	2m																
2 bed	10m <sup>2</sup>	2m																
3+ bed	12m <sup>2</sup>	2.4m																
4B – Natural ventilation	<p>Min 60% of apartments are naturally cross ventilated in the first nine storeys of the building.</p> <p>Ten storeys or &gt; are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.</p> <p>Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.</p>	<p>89% of units achieve natural cross ventilation (81 units)</p>	<p>Yes.</p>															

4G – Storage	In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:	The plans demonstrate compliance.	Yes										
	<table><tr><th>Dwelling type</th><th>Storage size volume</th></tr><tr><td>Studio</td><td>4m<sup>2</sup></td></tr><tr><td>1 bed</td><td>6M<sup>2</sup></td></tr><tr><td>2 bed</td><td>8m<sup>2</sup></td></tr><tr><td>3 bed</td><td>10m<sup>2</sup></td></tr></table>	Dwelling type	Storage size volume	Studio	4m <sup>2</sup>	1 bed	6M <sup>2</sup>	2 bed	8m <sup>2</sup>	3 bed	10m <sup>2</sup>		
Dwelling type	Storage size volume												
Studio	4m <sup>2</sup>												
1 bed	6M <sup>2</sup>												
2 bed	8m <sup>2</sup>												
3 bed	10m <sup>2</sup>												
	At least 50% of the required storage is located within apartment												

#### Note 1 - Communal Open Space

The original design competition scheme included a generous area of communal open space at roof top level. This area was not proposed in the DA scheme as the applicant was required to reduce their building height to satisfy Sydney Airports requirements. The applicant has now provided two (2) main areas of communal open space at the rear of Level 1 and at Level 4, resulting in a total of 372m<sup>2</sup>, (21.9%) however a total of 425m<sup>2</sup> (25%) is required to satisfy the ADG. The applicant has also improved the landscape amenity of the rear area of the site, however this area is not considered to be genuine communal open space and is not included in the calculations.

The communal open space area at Level 1 is located to the south of the main building and between the four storey podium and Telstra Exchange building at the rear. This area will be in the shadow all day at mid-winter and will provide limited amenity for residents. Therefore, Council's Design Review Panel recommended the conversion of two units at the top floor level (Level 10) for use as communal open space. The applicant's alternative is to provide communal space at Level 4. This area is mostly covered by building above, is uninviting, poorly designed, impacted by the bedroom protrusion from Unit 408 and is not easily accessible to occupants of the development. Furthermore, the space does not provide for a range of activities as anticipated by the ADG.

It is considered that if the communal space at Level 4 is improved so that it is more usable, attractive, inviting and provides a range of activities for future residents, that the conversion of the two top floor (Level 10) apartments to communal open space as recommended by the DRP would not be necessary. A condition has been included requiring that the bedroom protrusion be deleted to make the area more usable, and that this area of 'communal open space' at Level 4 be significantly improved prior to issue of the Construction Certificate.

The deletion of the bedroom protrusion will also increase the communal open space provision by 21.5m<sup>2</sup>, resulting in a total area of 393.5m<sup>2</sup> (23.2%), which brings the proposal closer to numeric compliance.

The applicant also contends that the development includes publicly accessible setbacks to both street frontages which would be used for social interaction and landscaping for the amenity of future occupants, therefore providing a total of 35% of the site area as communal open space. They consider



that the communal area meets the requirements of the ADG.

The variation to communal open space is therefore supported in this case.

#### Note 2 - Car Parking

The applicant proposes a total of 116 off-street parking spaces. A total of 108 are required to comply with the Apartment Design Guide requirements and the application complies. The applicant does, however, proposed to allocated 95 car parking spaces for the Residential Units in accordance with RDCP 2011 allocations, being 1 space per 1 or 2 bedroom unit and 2 spaces per 3 bedroom unit, which exceeds the minimum 77 required by the ADG. To achieve this they proposed to share the visitors, commercial and car wash bay parking spaces. The sharing of commercial and visitors spaces in a town centre is problematic as it restricts the hours of operation for commercial premises as they are unable to provide parking outside of normal business hours and on weekends as this parking is required to be made available for visitor parking. Council's Technical Specifications also require the provision of a dedicated car wash bay for developments with in excess of 16 units, and Council's Engineers have advised that the proposed loading bay is located an unreasonable distance away from the residential lifts and that a dedicated Van loading bay is required in the basement nearby the lifts to ensure that loading will not take place from within the laneway or along the Princes Highway frontage. Therefore, to ensure that commercial operations are not restricted in future, a condition is proposed requiring that the 116 parking spaces be allocated as follows (refer to the table above for calculations / rates):

- Commercial Tenancies - 12 spaces
- Visitors Parking - 19 spaces
- Car Wash Bay - 1 space (dedicated)
- Van Delivery Bay - 1 space (dedicated for use by removalists / retail)
- Residential Units - 83 spaces

#### Note 3 - Setbacks

The proposal generally complies, however habitable rooms & balconies for units above 25m (i.e. the top 3 floors, being 9, 10 & 11) are setback 9m from southern side boundary instead of 12m as required. The windows and balconies for two of the four units at each of these 3 levels face toward the east or west away from the southern neighbour, however the balconies for two units at each of the 3 levels face toward the southern neighbour. The applicant has generally faced windows to bedrooms in toward the balcony area and toward the open breezeway area which minimises potential future overlooking concerns. Furthermore, the windows to the living areas are located 12m from the southern side boundary. Therefore, subject to imposition of a condition requiring that the balustrades be obscure glazed (or otherwise treated to minimise overlooking from balcony areas), the proposed variation is considered to be acceptable in this case as it satisfies the objectives of the requirement.

A submission has also been received on behalf of the owners of the neighbouring Spotlight building located on the opposite (northern) side of the Unnamed Lane (383-391 Princes Hwy). This submission raises objection to the proposed northern setback to the Unnamed Lane which do not comply with the ADG. The submission is discussed in further detail in the 'Public Submissions' section of the report however, in summary, the setback to the laneway and the B6 Enterprise Corridor zoned land on the opposite (northern) side of the lane is found to be acceptable. The Spotlight property is zoned B6 Enterprise Corridor and has a maximum permitted height of 14.5m. Furthermore, the Spotlight site (383-391 Princes Highway) is not proposed to be rezoned under the State Government's Priority Precinct proposal.

#### Note 4 - Solar Access

A total of 18 (19.7%) of units are south facing and do not receive any direct sunlight at mid-winter (i.e. 2 units per level). These units have a maximum depth of 8m to the kitchen and all have a secondary external frontage which contains windows opening onto the internal open breezeway. Overall, 53% of units in the development are north-facing and the development as a whole is found to provide a satisfactory level of amenity for future occupants.

#### Note 5 - Circulation Corridors

The proposal includes nine (9) units off a single circulation core for all levels, except for Level 2 & 3 which have 10 units with access from a single core, while the ADG recommends a maximum of eight (8). The objectives of this requirement are to ensure that developments are provided with good amenity and that they can properly service the number of apartments. In addition these spaces should promote safety and provide for social interaction between residents. The proposed circulation spaces are high quality spaces which benefit from significant amounts of natural light and ventilation, and include outlooks within and from the development. An area of planting has been provided at Level 1 which will further enhance the amenity of the circulation space. The spaces are generous and will allow residents space to meet and interact. The proposal is therefore considered to satisfy the objectives of the requirement and the variation is supported in this case.

### **Rockdale Local Environmental Plan 2011**

<b>Relevant clauses</b>	<b>Compliance with objectives</b>	<b>Compliance with standard/provision</b>
2.3 Zone B4 Mixed Use	Yes	Yes - see discussion
4.3 Height of buildings - Rockdale Town Centre	Yes	No - see discussion
4.6 Exceptions to development standards	Yes	No - see discussion
6.1 Acid Sulfate Soil - Class 5	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
6.6 Flood Planning Land	Yes	Yes - see discussion
6.7 Stormwater	Yes	Yes - see discussion
6.12 Essential services	Yes	Yes - see discussion
6.14 Design excellence	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 Shop Top Housing 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 in that it provides a mix of compatible land uses within the Rockdale Town Centre which is accessible by good public transport. The proposal will also provide bicycle parking at basement level and within the Unnamed Laneway, and is located in an area that will encourage walking and cycling. The proposal therefore satisfies the objectives of the zone.

#### 4.3 Height of buildings - Rockdale Town Centre

The maximum building height permitted at the site is 34m in accordance with Clause 4.3(2A) which provides a 12m bonus above the maximum 22m building height permitted by Clause 4.3(2) where:

- the site is located within Area A and on a lot having an area of at least 1,500m<sup>2</sup>;  
*Comment:* The site is located within Area A and has a site area of 1,696m<sup>2</sup>.
- the site is located on land bounded by a heavy black line on the Design Excellence Map;  
*Comment:* The proposal is located within the area bounded by the heavy black line on the Design Excellence Map;
- an architectural design competition that is consistent with the Design Excellence Guidelines has been held in relation to the development;  
*Comment:* The proposal has been the subject of a design competition (refer to assessment of Clause 6.14 below).
- the design of the development is the winner of the design competition;  
*Comment:* The proposal was the winning design (refer to assessment of Clause 6.14 below).
- the consent authority considers that the development exhibits design excellence;  
*Comment:* It has been found that the proposal exhibits 'design excellence' (refer to assessment of Clause 6.14 below).

The proposal therefore satisfies the relevant requirements of Clause 4.3(2A) and may therefore have a maximum height of 34m.

The building height has been reduced following lodgement to comply with Sydney Airports requirements, however the development continues to exceed the maximum 34m building height permitted under RLEP 2011 by between 0.14m & 0.43m as detailed below:

- The height of the parapet reduced to 34.14m at the SE corner (i.e. reduced from RL 49.23m to RL 48.12m to AHD).
- The height of the lift overrun has been reduced to 34.43m (i.e. reduced from RL 50.28m to RL 49.19 to AHD).

Clause 4.6(8)(ca) of RLEP 2011 does not permit consideration of a clause 4.6 variation to the maximum height permitted by Clause 4.3(2A) *"unless it is for a demonstrable public benefit, such as the provision of pedestrian links"*. The Applicant has proposed a 0.63m widening and dedication of the Unnamed Lane to Council, accompanied by a 2.4m wide footpath for most of the laneway frontage. This is found to be 'demonstrable public benefit' that permits consideration of a Clause 4.6 variation in this case as discussed in response to that clause. Ultimately, strict compliance with the maximum permitted height is found to be unreasonable and unnecessary in the circumstances of this case, and the proposed variation to the maximum height is supported in the circumstances of this case.

#### 4.6 Exceptions to development standards

The proposal exceeds the maximum 34m building height permitted under Clause 4.3(2A) of RLEP 2011 by between 0.14m & 0.43m as detailed below:

- The building height of the parapet is 34.14m at SE corner (i.e. RL 48.12m to AHD).
- The height of the lift overrun is 34.43m (i.e. RL 49.19 to AHD).

A clause 4.6 variation to the maximum height is not permitted "*unless it is for a demonstrable public benefit, such as the provision of pedestrian links*". The Applicant considers that the proposed front setback to Princes Highway and the 3m setback to the Unnamed Lane, which are both being made available for unfettered public use and access, are a demonstrable public benefit little different to the 'provision of a public link'. Furthermore, the applicant proposes a 0.63m widening of the Unnamed Lane which will be dedicated free of cost to Council which they consider is a demonstrable public benefit as it benefits not only future residents and visitors to the site but also users of adjoining sites and the general public. Furthermore, the applicant considers that the proposal is of a high quality design which has been the subject of a design competition, and that this provides a public benefit. Therefore, they contend is a 'demonstrable public benefit' that would permit consideration of a Clause 4.6 variation in this case.

The proposed 3m setback and footpath provision to the Unnamed Lane, combined with the 0.63m widening of the laneway, are considered to represent a demonstrable public benefit similar to that anticipated by the LEP and therefore the site may in this case benefit from a Clause 4.6 variation. This is also subject to compliance with a condition requiring the installation of a pram ramp within the Unnamed Lane being located opposite the existing pram ramp providing access into the Spotlight building, as this will improve the safety of pedestrians. It is noted that the 3m setback to Princes Highway is a standard requirement for all sites within the 'green gateway' setback area of the Rockdale Town Centre, therefore it is not considered to provide a 'demonstrable public benefit' as anticipated in clause 4.6 and on its own it would not permit a variation to the height.

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.

Furthermore, in accordance with clause 4.6(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 in accordance with clause 4.6(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.

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 non-compliances are minor and relate largely to the lift overrun and small sections of the building parapet. The proposed variation does not add significantly to the overall building height given that the lift core is centrally located in the building and generally incorporated within the roof feature
- The site is flood affected and undulating and cannot be lowered as it is required to achieve a minimum freeboard level;
- The variation to the height standard is for the purposes of satisfying the objectives of the zone;
- The proposed variance to the height control is consistent with the objectives of the height standard;
- The scale of development is consistent with the desired future character of the locality.
- The proposed minor exceedance in height will not result in any adverse impacts.
- Strict compliance is unreasonable and unnecessary in the circumstances of this case especially as the development proposal has undergone a review under the design excellence process and has responded to the site conditions;
- The request is well founded.

The applicant's justification is generally agreed with. The area of non-compliance to the height is minor in area and nature, and is generally located centrally within the site and will not be readily visible from the public domain. The proposed variation to the height standard is therefore supported in this case in context of clause 4.6 for the following reasons:

- The proposed height variation is restricted to a minor portion of the top floor of the development which is generally setback from the main building alignment.
- The additional height proposed is minor and is not considered to 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 development was the result of a design excellence competition and the scale of the development is strongly supported by the Council's Design Review Panel.
- The proposal uses quality materials and the design appropriately addresses the key corner site located at the northern entrance to the Rockdale Town Centre and at the termination of Bestic Street.
- The variation would not adversely impact on the environmental amenity nor the aesthetic character of the area.

The property is located on the corner of a laneway and at the termination of Bestic Street and addresses its position at the northern end of the Rockdale Town Centre as anticipated through the design excellence competition. Furthermore, 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 and public benefit in which to justify the contravention of the height standard for this site in the circumstances of this case. The Clause 4.6 request is considered to be well founded, and 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.

#### 6.3 Between 25 and 30 ANEF (2033) contours

The development is on land that is located 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. The proposal was accompanied by an Acoustic Report prepared by Acoustic Logic which addresses the matter of aircraft noise and details noise amelioration measures to be incorporated into the construction of the development in order to minimise aircraft noise impacts to future occupants, in compliance with the Australian Standards for indoor design sound levels. The proposed development complies with the requirements and objectives of this clause. A condition has been imposed in the draft Notice of Determination requiring the development to meet with the Australian Standards for indoor design sound levels.

#### 6.4 Airspace operations

The proposed development is affected by the Obstacle Limitation Surface (OLS) which is set at 49.19 metres to Australian Height Datum (AHD) as advised by SACL. The proposed building is nearby the flight path for the east-west runway and the building height has been reduced in height in accordance with Sydney Airports (SACL) requirements. SACL have issued their letter of approval on 2 August 2016 which includes the following maximum heights at the relevant co-ordinates:

- A – E328101.482 N6242016.316 – 48.77 metres AHD
- 30007 – E328082.005 N6242002.888 – 49.19 metres AHD
- 30008 – E328082.394 N6242005.661 – 49.19 metres AHD

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.

#### 6.6 Flood Planning Land

The site is affected by flooding and the proposal has therefore been designed to ensure that the driveway crossing, habitable floor levels and other relevant components of the development are in accordance with the requirements contained in Council's Flood Advice Letter and the "Overland Flow Study" prepared by S&E Ivanov Consultancy and submitted with the application. The plans have been assessed by Council's Development Engineer, and appropriate conditions of consent have been incorporated in the draft Notice of Determination, including compliance with the submitted Flood Management Plan. Subject to compliance with these conditions, the proposal is satisfactory in regards to flooding.

## 6.7 Stormwater

The proposal involves the construction of an on site detention system including rainwater tank to manage stormwater. The proposed stormwater system has been assessed by Council's development engineer and the proposal is satisfactory subject to imposition of appropriate conditions of consent, including standard conditions to ensure that discharge of stormwater will comply with Rockdale Technical Specification for Stormwater Management.

## 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.

## 6.14 Design excellence

In accordance with Clause 6.14, development consent must not be granted to development to which this clause applies unless the proposal has been the subject of an architectural design competition, is the winner of the competition, and the consent authority considers that the development exhibits design excellence.

As noted in the History section of this report, the proposal was the subject of a Design Excellence Competition prior to lodgement in accordance with Clause 6.14 of RLEP 2011.

The Design Excellence Competition Jury found that the Fuse Architecture scheme provided a refreshing approach to the site and its surrounding context which responded well to the opportunities and constraints of the site. The Jury determined that the Fuse Architecture scheme had performed the highest against the objectives of the Design Brief and that it had the ability to achieve design excellence through further design development.

The Jury noted the following key comments / issues in their initial report prepared by Urbis (dated April 2016):

- The upper levels of the north tower are pushed forward as a cantilever, beyond the retail tenancy below, in order to articulate the corner and align with the neighbouring building. This proposal reflects the gateway position of the site by accentuating the corner and providing a clear delineation between the adjacent B6 Enterprise Corridor zoning and the start of the Rockdale Town Centre B4 Mixed Use zoning.
- While it is acknowledged that the proposed cantilever is inconsistent with the setbacks specified in the Rockdale Development Control Plan 2011, the Jury considered that this non-compliance is justified in this instance as it fundamental to the design proposal and adequate justification can be provided to demonstrate strict compliance with this control is unreasonable and unnecessary. Specifically, the Jury are of the opinion that the gateway location, the double height ground floor glazing, the character and quality of the development to the immediate north of the site, the dramatic built form solution including the use of cantilevered structure and corner balcony treatments, and the articulation of the built form to create memorable, distinctive building appropriate to the location, all contribute to the justification for a non-compliance in this instance.
- The 'Central Gallery' space incorporates a 10m<sup>2</sup> light-well which is open to the sky and the common circulation space. The light-well is the primary source of natural light and air and limits opportunity for outlook to the second bedroom of two apartments (per floor) within the south

tower. The Jury were not convinced that this arrangement provided an acceptable level of amenity and had concerns with the potential visual and acoustic privacy impacts on the second bedroom. The Jury felt this issue required further attention for the scheme to achieve design excellence and consequently asked that Fuse Architecture further consider this aspect of the scheme (refer Section 4).

Based on the above, the Jury provided Fuse Architecture with one (1) week to resolve the design issues associated with the proposed 'Central Gallery', being as follows:

- Enclose the 'Central Gallery' space by adding glazing to each of its ends and replan the proposed apartments to relocate bedrooms to the building perimeter, thereby removing the necessity for a light well.
- Replan the 'Central Gallery' space to achieve an acceptable level of amenity for all proposed bedrooms, including visual and acoustic privacy, natural light, and natural ventilation, by increasing the size and proportion of the light-well / void space.

The Jury reviewed the amended information provided the following recommendations to the Architect, Proponent and Consent Authority in the preparation and assessment of the future Development Application:

1. *The proposal should be further developed to resolve the design of the 'Central Gallery'. Specifically, the Jury recommends that Fuse Architecture either:*

*Seek technical advice regarding visual and acoustic privacy, access to natural light and air, and compliance with the relevant planning controls and Australian standards. This includes:*

- *The amount of glazing at the façade line – i.e. whether the 'Central Gallery' should be open or closed;*
- *The material palette selection, particularly in the communal areas to deal with potential acoustic issues; and*
- *The positioning of internal windows, corridors, vertical circulation and services to provide adequate natural ventilation, visual and acoustic privacy.*

*Or if this is deemed to be not achievable:*

*- Replan the apartment layouts in the southern tower so as to remove the necessity for a light-well;*

2. *Careful consideration should be given to the material palette chosen to ensure the design intent and integrity of the competition scheme is retained. This includes:*

- *Development of the 'Golden Veil' concept to ensure a high degree of internal amenity is achieved whilst maintaining the sculptural and built form concepts critical to the articulation of the two primary elements of the architecture.*
- *Detailing of the glass to the below awning retail areas, including resolution of the 'structural glass' components.*
- *Detailing of the awning structure including the stormwater reticulation and re-entrant or 'shadow' connection to the built form above.*
- *Detailing of the façade in general including fenestration, balustrades, acoustic screens, roof landscaping, and edge conditions visible from the public domain.*

The Applicant has addressed the above issues in the Development Application. This has been



discussed in further detail in the assessment against SEPP 65 previously in the report, however in summary the applicant has:

1. Submitted an Acoustic Report and a Natural Ventilation Assessment which demonstrate that the two windows at each level facing the Central Gallery space will achieve an acceptable level of amenity. The Applicant's Design Statement advises that the Central Breezeway improves the amenity of residential units as follows:  
  
*"The central open breezeway at the core of the proposal becomes a catalyst for improving apartment amenity. Natural ventilation is provided to 88% of apartments due to the use of the breezeway as a strategic element driving pressure differentials. Given the combined noise from road, rail and aircraft traffic the Acoustic amenity of the bedrooms fronting the breezeway is also significantly improved. Glazing to perimeter bedrooms exposed to the context noise require 10.38 laminated glass while those on the breezeway require only 6mm float glass".*
2. The DA documentation has now been supplemented with details on DA803 and DA804 showing how the breezeway battens and the "golden veil". A further condition is proposed as recommended by Council's DRP requiring that the spacing between the blades be further explored. Subject to compliance with this condition the proposal is considered to satisfactorily address Item 1 of the Jury's comments.
3. Details DA801 and DA802 for the retail and public domain interface and awning along with the landscape and screening elements visible from the public domain have also been provided and are generally satisfactory subject to compliance with recommended conditions.

Further to the above, Council's Urban Designer identified that the submitted scheme included some variations to the Design Competition Scheme, specifically as follows:

- Level, steps and grades treatment to Princes Highway is much more elegant with steps and grades on the Competition scheme;
- The scheme included a roof terrace/communal space;
- The Retail space adjacent to the laneway is "Column free", this was an item specifically raised by the jury and comfortably supported by the competitor;
- There are "screening elements" to the balconies;
- The "golden blades" wrap under and above the building projection to the corner of the Princes Highway and the Laneway; and
- The basement carpark does not project into the 3m setback of the Arterial Edge.

These issues have been generally resolved in the amended design or have been found to be acceptable as discussed in the assessment below and previously in consideration of SEPP 65.

Based on the above, the proposal is considered to exhibit 'design excellence' in accordance with Clause 6.14 of RLEP 2011. As a result, the proposal may benefit from the additional 12m height permitted for sites with an area in excess of 1,500m<sup>2</sup> in accordance with Clause 4.3(2A)(a) of RLEP 2011 (refer to previous discussion in response to Clause 4.3 of RLEP 2011).

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

There are several proposed instruments which apply to the site and that are or have been the subject of public consultation under this Act, however none are applicable to this development.

## 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
4.1.1 Views and Vista	Yes	Yes - see discussion
4.1.3 Water Management	Yes	Yes
4.1.3 Flood Risk 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
4.4.2 Solar Access - General Controls	Yes	Yes
4.4.4 Glazing - General Controls	Yes	Yes
4.4.5 Visual privacy	Yes	Yes - see discussion
4.4.5 Acoustic privacy	Yes	Yes - see discussion
4.4.6 Noise Impact	Yes	Yes
4.4.6 Noise Impact - Non-residential	Yes	Yes - see discussion
4.4.7 Wind Impact	Yes	Yes - see discussion
4.5.1 Social Equity - Housing Diversity and Choice	Yes	No - see discussion
4.5.2 Social Equity - Equitable Access	Yes	Yes - see discussion
4.6 Parking Rates - Shops	Yes	Yes - see discussion
4.6 Car Park Location and Design	Yes	Yes
4.6 Vehicles Enter and Exit in a Forward Direction	Yes	No - see discussion
4.6 Basement Parking - General	Yes	Yes
4.6 Driveway Widths	Yes	Yes
4.6 Traffic - Classified Roads	Yes	Yes
4.6 Basement Parking - Residential Flat Buildings	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 - see discussion
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

<b>Relevant clauses</b>	<b>Compliance with objectives</b>	<b>Compliance with standard/provision</b>
4.7 Letterboxes	Yes	Yes
4.7 Hot Water Systems	Yes	Yes - see discussion
5.2 RFB - Building Entry	Yes	Yes
5.2 RFB - Lift Size and Access	Yes	Yes
5.3 Mixed Use - Ground Level Uses	Yes	Yes
5.3 Mixed Use - Retail	Yes	Yes
5.3 Mixed Use - Commercial	Yes	Yes - see discussion
5.3 Mixed Use - Flexible Space for First Floor Level	Yes - see discussion	No - see discussion
5.3 Mixed Use - Access to Premises	Yes	Yes
5.3 Mixed Use - Visual Connections	Yes	Yes
5.3 Mixed Use - Awnings	Yes	Yes - see discussion
5.3 Mixed Use - Secured Access to Parking	Yes	Yes
7.5.1 Street Role - Service Laneway	Yes	Yes
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 - see discussion
7.5.1 Communal Open Space	Yes	No - see discussion
7.5.2 Setbacks	Yes	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

#### 4.1.1 Views and Vista

The occupants of the upper levels of the proposed development will enjoys views toward Botany Bay, as well as district views to the north, east and west 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.

#### 4.4.5 Visual privacy

Consideration of visual privacy has been addressed in response to the assessment of the ADG. Subject to recommended conditions, the visual privacy impacts resulting from the proposal are found to be acceptable.

#### 4.4.5 Acoustic privacy

The proposal has frontage to a state road, is within an area affected by aircraft noise (ANEF 25<30), is nearby the Eastern Suburbs and Illawarra Railway Line and has also been designed in a manner that may result in adverse noise impacts to bedroom windows which face the internal breezeway.

The Jury for the Design Competition noted that the building design, specifically the limited provision of external windows at lower levels, addressed some of the acoustic impacts from the road and railway line - see comments below:

*"Bedroom and living room windows located on the east and west façade transition from a narrow aperture at the lower levels to a more generous aperture at the upper levels to respond to the acoustic and visual privacy impacts associated with the Princes Highway, rail line, and adjacent properties. The variation in aperture creates visual interest in the façade and allows the building to appear 'lighter' as the building ascends".*

The application was also accompanied by a *DA Acoustic Report* prepared by Acoustic Logic (dated 5 April 2016) which considered the potential acoustic impacts to future occupants of the development as well as possible impacts from air conditioning plant and ventilation on adjoining properties.

The acoustic report notes that all units must be provided with air-conditioning to ensure that the required internal noise levels can be achieved. Furthermore the report provides recommendations to ensure that the internal noise environment meets the relevant criteria for road and traffic noise within the Infrastructure SEPP, AS 2021 (Aircraft Noise) and relevant requirements. The recommendations include standard requirements such as glazing thickness.

The acoustic report included a separate section (Section 9) which considers with potential noise impacts to rooms with windows fronting the internal void. In summary, the investigation concluded that the potential noise transfer between apartments via the internal void will not impact on the amenity of future residence for the following reasons:

- *Noise from adjacent apartments or from the common areas will effectively be minimal compared to the combined noise from road, rail and aircraft traffic. Treatments detailed in Section 7 in order to mitigate external noise intrusion will be sufficient to prevent additional noise from the common areas and from the internal void.*
- *Each exposed room will have a window which can be closed to mitigate transfer via the internal void. The resulting acoustic performance will effectively be a double glazed system with a large air gap. The resulting acoustic separation will be equivalent to a BCA compliant party walls when the windows to the void are closed.*

Therefore, subject to imposition of relevant conditions the proposal is acceptable with regards to potential noise impacts to future occupants of the subject site as well as current and future users of adjoining sites in accordance with clause 4.4.5 of RDCP 2011.

#### 4.4.6 Noise Impact - Non-residential

The proposed uses for the non-residential tenancies are not yet known, however the premises has been designed to provide separate waste storage areas for these premises, and that all goods can be delivered from within the loading bay at the rear of the site. Subject to imposition of recommended conditions regarding use of the premises, it is considered that the non-residential uses will have minimal impacts on the amenity of the locality. The proposal is therefore satisfactory with regards to Control 3 of Clause 4.4.6 of RDCP 2011.

#### 4.4.7 Wind Impact

Detailed wind tunnel studies were conducted for the proposed development as detailed in the Wind Tunnel Test report (dated June 2016) prepared by Cermak Peterka & Petersen. The testing focused on various locations at the ground plane such as pathways and building entrances, as well as outdoor

terraces. The wind environment in the vicinity of the proposed development was generally found to be amiable and, while future conditions with the proposed development will be windier than without, the open breezeway assisted with reducing wind impacts by approximately 15%. The report found that some wind mitigations would be required to protect the western façade of the development such as a porous façade similar to the one shown for the eastern façade. The applicant advises that measures have been included in the building design to address this issue, and the proposal is therefore satisfactory with regards to wind impacts.

#### 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 proposed unit mix does not comply with the requirements of RDCP 2011. In this case, the proposal includes only 4.3% of 3 bedroom units while a minimum 10% is required. The applicant considers that larger dwellings are over represented in broader Bayside Council context with a higher proportion of detached dwellings and a total of 48% of all dwellings have 3 bedrooms or more. The applicant also advises that market demand is for smaller units in this location. These factors have been taken into account, however it is considered that the variation is excessive and that the mix is insufficient, and that an additional 3 bedroom unit should be provided resulting in 5.5% x 3 bedroom units. This is similar to another recently approved development in the town centre. Therefore, subject to a recommended condition requiring the provision of five 3 bedroom units, the proposal is considered to be similar to other developments and acceptable 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.  
The proposed development includes 9 adaptable units.

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

#### 4.5.2 Social Equity - Equitable Access

The proposal was accompanied by an Access Report prepared by Wall to Wall Design & Consulting (dated 22 June 2016). The report concludes that the submitted design is capable of complying with the performance requirements of the BCA and AS4299. The proposal is therefore acceptable in this regard.

#### 4.6 Parking Rates - Shops

RDCP 2011 requires the provision of 1 space per 40m<sup>2</sup> 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 12 parking spaces are required for the proposed retail premises [i.e.  $80\% \times 559 / 40 = 11.2$  spaces = 12 spaces (rounded up to the nearest whole)].

The applicant proposes to share a total of 21 visitors / commercial spaces, however this is not supported for the reasons discussed previously in the assessment of SEPP 65. Therefore, a

recommended condition requires the provision of 12 dedicated commercial parking spaces. The condition also proposes parking allocations for each commercial tenancy based on the area of each tenancy.

#### 4.6 Vehicles Enter and Exit in a Forward Direction

All vehicles can enter and leave the site in a forward direction, with the exception of trucks using the loading bay (including waste collection vehicles). The applicant has submitted swept path diagrams prepared by a qualified traffic consultant demonstrating that these service vehicles will be able to reverse into the loading bay and exit the site and access Princes Highway in a forward direction. These reverse movements are acceptable in the laneway. Therefore, the proposal is acceptable in this regard.

#### 4.6 Car Wash Facilities

The proposal includes a shared car wash bay & visitor parking space, however a condition is proposed requiring a dedicated car wash bay in accordance with Council's Stormwater Technical Specifications. Adequate car parking spaces are available to ensure compliance with the car parking requirements as discussed previously.

#### 4.7 Air Conditioning and Communication Structures

Details of antennas and satellite dishes have not been provided. A condition is proposed to ensure compliance with the RDCP 2011 requirements.

#### 4.7 Waste Storage and Recycling Facilities

The proposal includes separate waste storage rooms for residential and non-residential waste, a waste and recycling chute, and a service bay at the rear of the site that is capable of accommodating a maximum 7.5m waste collection vehicle. The laneway is unable to accommodate a larger vehicle and therefore waste collection must be undertaken by a private waste collection company. The applicant has submitted details of possible waste contractors who can collect waste from within the site.

The Bayside Traffic Development Advisory Committee (BTDAC) have also provided recommended conditions of consent requiring that waste collection be undertaken outside of peak times (6am - 10am, Monday to Friday) for Princes Highway, and that all waste be collected from the service bay.

Therefore, subject to compliance with the submitted Waste Management Plan and relevant conditions, waste and recycling will be carried out in accordance with RDCP 2011.

#### 4.7 Hot Water Systems

The detailed location of hot water systems has not been provided, however a condition is proposed requiring any such system on a balcony to be screened in accordance with RDCP 2011.

#### 5.3 Mixed Use - Commercial

The proposal includes three commercial premises with a total area of 559m<sup>2</sup> and a shower is provided at basement level for use by staff. The shower location is unsatisfactory and adequate space is available at ground floor level to accommodate this facility. Therefore, subject to imposition of a condition requiring the relocation of the staff shower facilities the proposal is satisfactory with regards to the commercial controls contained in Part 5.3 of RDCP 2011.

#### 5.3 Mixed Use - Flexible Space for First Floor Level

The proposal does not include 'flexible floor at the first floor level as required by the DCP. The

applicant's Statement of Environmental Effects contends that it is not considered practical in this building configuration. Furthermore, the site includes the provision of 559m<sup>2</sup> of non-residential floor space, and it is located adjacent to sites within the B6 Enterprise Corridor Zone. Therefore the variation to this requirement is considered acceptable in this case.

### 5.3 Mixed Use - Awnings

The proposal includes a 3m wide awning for the length of the buildings Princes Highway frontage, including below the undercroft area. The awning generally satisfies the requirements of RDCP 2011 in terms of its height above the footpath and setbacks from the street edge. The proposed awning includes cut-outs to ensure that growth of the trees within the 'green gateway' area will be unrestricted.

The awnings at these points may have a depth of 1.2m when measured from the facade of the building to provide some continued weather protection adjacent to the shop fronts. A condition of consent will permit such modification prior to issue of the Construction Certificate.

### 7.5.1 Commercial Space

The proposal includes three commercial / retail tenancies at the ground floor level with a combined area of 559m<sup>2</sup>. The spaces all have a minimum width of 6m and depth of 13m as required by RDCP 2011. In addition, the spaces have minimum 3.46m floor to ceiling heights, with the floor to ceiling height of the corner tenancy exceeding this. The proposed commercial spaces are generous and satisfy the objectives and requirements of the DCP.

### 7.5.1 Communal Open Space

The communal open space provision has been assessed under the Apartment Design Guide and was found to be acceptable subject to compliance with recommended conditions.

### 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 and additional setbacks to side boundaries to create an open character for this transition area into the 'Centre Core' area of the Rockdale Town Centre where buildings are built to the street edge and side boundaries.

The side Unnamed Lane frontage is also subject to the 'Laneway' street character and setback controls.

In summary, the building is required to have a 3 storey podium, with building setbacks as follows:

- Required setbacks to the three (3) storey podium are:
  - 3m Green Gateway setback to Princes Highway;
  - 1m to Unnamed Lane; and
  - 0m side setback to adjoining development sites.
- Required setbacks for all levels above the three (3) storey podium:

- 6m setback to Princes Highway above the 3rd level;
- 4m setback to the Unnamed Lane above the 3rd level;
- 4.5m side setback to adjoining property (i.e. 395-401 Princes Highway) and a maximum facade length of 40m;

While the 'Green Gateway' setback is critical to ensure that the objectives of the Rockdale Town Centre Masterplan are achieved, the proposal does not provide a 3m Green Gateway setback for the northern part of the Princes Highway setback. In addition, the proposal does not provide a 3 storey podium level as required by the DCP. The proposal does include the 3m Green Gateway setback for the southern part of the front Princes Highway setback which has been embellished with planting.

The built form and setbacks have been carefully considered by the Design Excellence Competition Jury as well as by Council's Design Review Panel. Both support the variations to the setbacks. As noted in response to Clause 6.14 of RLEP 2011, the Design Excellence Competition Jury found that the nil front setback for the northern tower could be justified in this case. In addition, the Design Review Panel were supportive of the proposed scale of the development and were strongly opposed to a reduction in the podium from four (4) to three (3) storey. An extract from the DRP Minutes is provided below:

*"The Panel is aware that there is a planning control along this section of Princes Highway which requires a 3 storey element on the front building alignment. The proposed design has a 4 storey element at the southeast corner of the site to which new development to the south would adjoin. Taking into consideration the modelling and proportions resulting from the design that evolved through the competition, the Panel believes that a 3 storey element in this position would be out of scale with the rest of the design and therefore the 4 storey element is considered to be critical. In all these circumstances, the Panel believes that the bulk form and scale is most appropriate".*

With regards to the side setback requirements to the laneway, the proposal exceeds the 1m setback requirement to the Unnamed Lane for the lower three levels, providing a 3m setback where only a 1m setback is required. While a 4m setback is required to the laneway above podium level, this has not been provided, however the 3m setback to the upper levels is supported as the outcome is the result of the design competition and is supported by Council's Design Review Panel.

With regards to the side setback to No. 395-401 Princes Highway, the proposal is required to provide a 0m setback to the lower three (3) podium levels and a minimum 4.5m setback to all levels above. The proposal provides a 0m setback to the podium levels (which in this case is 4 levels), while a 9m setback is provided to all upper levels. This significantly exceeds the minimum 4.5m and will assist to create the sense of openness in this transition area into the Rockdale Town Centre.

Therefore, while the proposal does not satisfy all of the setbacks required under RDCP 2011, the proposal was the winner of a Design Excellence Competition and is supported by Council's Design Review Panel. In addition, the planting proposed within the 'green gateway' portion for the southern part of the site combined with the large 9m southern side setback and break between the Spotlight Building and the site (which accommodates the Unnamed Lane) will ensure that the proposal is a high quality development which satisfies the objectives of part 7.5.2 of RDCP 2011.

#### 7.5.2 Street Character

The proposal does not comply with all of the setback requirements for the 'Street Character' part of Rockdale Town Centre, however the variations are supported in this case for the reasons detailed in the 'setbacks' section above.



### 7.5.2 Arterial Edge

The proposal does not comply with the setback requirements for the 'Arterial Edge' part of Rockdale Town Centre, however the variations are supported in this case for the reasons detailed in the 'setbacks' section above.

### 7.5.2 Laneway

The proposal exceeds the 1m setback to the laneway for lower levels, however it does not comply with 4m setback requirement to the laneway at upper levels (3m is provided). The variations are supported in this case for the reasons detailed in the 'setbacks' section above.

## **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:

- Impact on Telstra Exchange, Telstra Infrastructure & Telstra Easement

A Telstra Exchange building is located on the immediately adjoining property to the rear (west) of the subject site at 397A Princes Highway. Part of the Telstra exchange site and an easement within the adjoining property to the south (401 Princes Highway) also contains underground Telstra cables / infrastructure which may be impacted by the proposal. Both this application and the early works application (DA-2016/271) were notified to Telstra who requested additional information, including details of proposed temporary ground anchors that will protrude within their property. Based on assessment of the additional information, Telstra confirmed that they no longer raise any concern with the proposed development. A condition is proposed requiring that the Applicant submit plans to Telstra for approval prior to issue of any Construction Certificate or Commencement of Works.

In addition to the above, an easement for access and drainage burdens part of the subject Site and benefits the adjoining Telstra site. The applicant has obtained legal advice which confirms that the proposed development within the easement (which includes the loading bay, landscaping and footpaths) are not inconsistent with the terms of the Easement and will not unreasonably interfere with Telstra's rights under the Easement. The legal advice was based on reviews of the Title of the site, the title of the adjoining Telstra site and the relevant dealing (being Dealing No. C552967), as well as on review of the plans and the proposed use of the Easement area which is primarily for waste collection and deliveries. The Legal Advice also considers that any issue with Telstra being unable to access the area of the Easement due to proposed fencing can be overcome by providing them with a key. A condition is therefore proposed requiring that the rights provided to the adjoining lot by the existing easement to the sites north eastern side

are not impacted during works and/or following completion of the development.

Therefore, based on the above, the issues associated with the adjoining use of the site have been adequately dealt with and the impacts to the Telstra Exchange are minimised.

- Construction Traffic & Works Zone(s)

The proposed development is located on Princes Highway opposite the intersection of Bestic Street and construction traffic will need to be managed carefully to ensure impacts to traffic flow and safety. In addition, Council's Traffic Development Advisory Committee have advised that they will not support a Works Zone in the Unnamed Lane. 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

Construction of the mixed use development primarily involves piling and construction of the building. Excavation works have been separately approved (DA-2017/271). The 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 600m walking distance of Rockdale railway and bus interchange and 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 also been provided with Concurrence by RMS, is supported by Council's Traffic Development Advisory Committee (subject to recommended conditions relating to waste collection, provision of 'No Stopping' signs in the Unnamed Lane and provision of street lighting), and has been assessed by Council's Development Engineer. Specifically, the proposal includes widening of the Unnamed Lane to minimise impacts to traffic flow along Princes Highway and to minimise conflict between vehicles and trucks using the laneway. 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 amended proposal will also activate and enhance the public domain, including provision of the green gateway and commercial premises along the Princes Highway frontage. The residential units have access to good public transport that will assist to reduce car use, and the proposal includes motorcycle and bicycle parking. The proposal also includes satisfactory areas of communal open space that will benefit from good solar access throughout the year. The proposal does not provide a satisfactory number of 3 bedroom units, and a condition is proposed requiring the provision of an additional 3 bedroom unit to increase housing diversity

within the site.

- **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 residential and non-residential car parking areas (which have been separated to maximise security for residential car spaces while providing unrestricted access for the commercial spaces). The proposal activates and enhances the side laneway to maximise 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. The proposal has been amended to comply with Sydney Airports requirements and 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 and three (3) submissions have been received. The issues raised in the submissions are discussed below:

Issue 1: The building separation distances between the proposed development and the Spotlight site are inadequate.

Consideration / Comment: The adjacent site located to the north (i.e. the Spotlight Building) is located within the Banksia & Arncliffe Priority Precincts. A submission prepared by JBA Urban on behalf of the owners of the Spotlight building was received which considers that in the medium-long term this B6-Enterprise Corridor zoned land to the north may be considered suitable for future residential development. The submission notes that the separation distance from the proposed habitable rooms / balconies to the Spotlight building is 8m. JBA seeks that the setbacks for Levels 4-8 be increased to be a total of 6.5m from the northern site boundary and the setback for levels 9-11 be increased to be a total of 9.5m from the northern site boundary to ensure that the separation distances comply with RDCP 2011 and are shared equitably between the sites. The separation distances between habitable rooms required by RDCP 2011 are 12m (3-4 storey), 18m (5-8 storey) and 24m (9+ storeys).

The applicant has provided the following response to JBA's recommendation:

*In regard to the JBA submission, it is noted that since it was made, the draft Arncliffe and Banksia Rezoning Report has been released by the Department of Planning and Environment and has identified the adjoining site currently zoned B6 Enterprise Corridor to remain unchanged. This is despite identifying other nearby B6 lands on Princes Highway as having 'future opportunities for mixed use development' (Area 3 at p21). Therefore, the submission's premise requiring the sharing of residential building separation needs is unfounded.*

The Spotlight property is zoned B6 Enterprise Corridor and has a maximum permitted height of 14.5m. As noted by the Applicant, the Spotlight site is not proposed to be rezoned under the State Government's Priority Precinct proposal. Furthermore, the proposal is setback 3m from the sites northern boundary and approximately 5.4m from the centre line of the Unnamed Lane. If a residential development were proposed on the Spotlight site with a setback of 3m, this would provide an almost 11m separation distance between buildings across a laneway. Given that there is no current proposal for rezoning the site to the north, the provision of an additional setback is considered unreasonable and unnecessary especially where the separation distance is across a laneway and where the building faces the southern side of the Spotlight site where units on the adjoining site should primarily be orientated to the north, east or west to benefit from solar access.

Issue 2: The overall impact of traffic, including impacts on surrounding intersections, as well as the conflict with trucks accessing the Spotlight store. The JBA submission on behalf of the owners of the Spotlight site advises that the Spotlight store utilises the unnamed lane between the proposed development site and the Spotlight site for truck / servicing access for the Spotlight store, and that the Traffic & Parking Assessment makes no mention of this. Furthermore they consider that the conflict with residential vehicles or impact on the intersection of the laneway with Princes Highway have not been considered.

Consideration / Comment: The application has been amended to include a widening of the Unnamed Lane by 630mm so that it has a width of 6m. This will ensure that two B99 vehicles can enter / leave the intersection of the unnamed lane and Princes Highway simultaneously and minimise potential queuing impacts to Princes Highway. In addition, this will provide additional space for vehicles / trucks to pass in the lane as discussed previously in this report. The proposed development has been conditioned for a maximum truck size of 7.5m, and it is Council's understanding that trucks accessing the Spotlight store move through the site in a one-way direction, accessing the site from Rockdale Street to the north and exiting the site via the Unnamed Lane. The widened lane, combined with the reduced truck size and the one-way movement of trucks accessing the Spotlight store will assist to minimise conflicts between trucks and vehicles within the Unnamed Lane. Furthermore, RMS have provided their concurrence and Council's Development Engineer has found the proposal to be satisfactory subject to road widening proposed. The proposal is therefore considered to be satisfactory with regards to traffic and access.

Issue 3: The construction of high rise buildings along Princes Highway is having significant adverse impacts on the amenity and character of Princes Highway including overshadowing, wind tunnel effect, traffic, and so on.

Consideration / Comment: The proposal is generally compliant with the requirements of the Council's Local Environmental Plan (LEP) and Development Control Plan (DCP) in terms of height and setbacks. The Rockdale Town Centre was rezoned to permit larger developments and the proposal is considered to be in keeping with the emerging character and scale of development anticipated for the Princes Highway. The proposal is located within close proximity to good public transport and has been accompanied by a wind tunnel assessment report, and other reports, which demonstrate that impacts have been minimised.

Issue 4: Adverse impacts to views and outlook for residents living on the ridge above Banksia Station and Gardiner Park.

Consideration / Comment: The proposal is generally compliant with the height and setback provisions contained in Council's LEP and DCP, and will not result in any unexpected loss of views or outlook.

Issue 5: Local infrastructure is unable to accommodate the additional density.

Consideration / Comment: This matter cannot be addressed on a case by case basis, and is a matter

for strategic planning of the Council area. The submission has been forwarded to Council's Strategic Planning team.

Issue 6: The submitted Traffic Report underestimates the traffic levels generated by current usage, and therefore underestimates the traffic generated by the development. It also fails to address how traffic from the development will be prevented from turning right onto the highway or going straight down Bestic Street as some drivers currently attempt, and no consideration has been given to the cumulative impacts of traffic in the locality and on Princes Highway traffic flow.

Consideration / Comment: The proposal has also been provided with Concurrence by RMS, is supported by Council's Traffic Development Advisory Committee (subject to recommended conditions), and has been assessed by Council's Development Engineer. 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 Council is not able to control whether people will or will not comply with road rules, and this is a matter for the NSW Police. The proposal has been rezoned for a development of this scale and nature, and traffic impacts are a consideration beyond the scope of this assessment.

### **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 will allow the development of the site in accordance with its environmental capacity. The proposed building is a high quality building that will add architectural value to the existing streetscape. Furthermore, the proposal does not create unreasonable impacts on surrounding properties. As such it is considered that the development application is in the public interest.

### **S94 Contribution towards provision or improvement of amenities or services**

A Section 94 Contribution Payment of \$595,956.43 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. The proposed building height is a maximum of 34.43m and therefore the proposal was referred to Sydney Airports for comment. Sydney Airports approved the proposed height subject to conditions. The recommended conditions have been included in the draft Notice of Determination.

## **Schedule 1 - Draft Conditions of consent**

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## 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.

ARCHITECTURAL PLANS BY FUSE ARCHITECTURE			
Plan Title / Number	Revision	Dated	Received
Cover Sheet / DA000	C	27.03.2017	20.04.2017
Site Plan / DA002	C	27.03.2017	20.04.2017
Basement 3 Plan / DA111	D	02.05.2017	08.06.2017
Basement 2 Plan / DA112	D	02.05.2017	08.06.2017
Basement 1 Plan / DA113	D	02.05.2017	08.06.2017
Ground Floor Plan / DA114	D	03.04.2017	20.04.2017
Level 1 Plan / DA115	C	27.03.2017	20.04.2017
Level 2 Plan / DA116	C	27.03.2017	20.04.2017
Level 3 Plan / DA117	C	27.03.2017	20.04.2017
Level 4 Plan / DA118	C	27.03.2017	20.04.2017
Level 5 Plan / DA119	C	27.03.2017	20.04.2017
Level 6 Plan / DA120	C	27.03.2017	20.04.2017
Level 7 Plan / DA121	C	27.03.2017	20.04.2017
Level 8 Plan / DA122	C	27.03.2017	20.04.2017
Level 9 Plan / DA123	C	27.03.2017	20.04.2017
Level 10 Plan / DA124	C	27.03.2017	20.04.2017
Roof Plan / DA125	C	27.03.2017	20.04.2017
East Elevation / DA201	C	27.03.2017	20.04.2017
North Elevation (Rockdale St) / DA202	C	27.03.2017	20.04.2017
West Elevation / DA203	C	27.03.2017	20.04.2017
South Elevation / DA204	C	27.03.2017	20.04.2017
Princes Highway Streetscape / DA211	C	27.03.2017	20.04.2017
Section A-A (North Internal) / DA301	C	27.03.2017	20.04.2017
Section B-B / DA302	C	27.03.2017	20.04.2017
Section C-C / DA303	C	27.03.2017	20.04.2017

Adaptable Unit 1 / DA501	C	27.03.2017	20.04.2017
Adaptable Unit 2 / DA502	C	27.03.2017	20.04.2017
Awning Section + Elevation / DA801	C	27.03.2017	20.04.2017
Awning Section + Elevation / DA802	C	27.03.2017	20.04.2017
Screen Section + Elevation / DA803	C	27.03.2017	20.04.2017
Screen Plan and Detail Section / DA804	C	27.03.2017	20.04.2017
Princes Highway CGI / DA901	C	27.03.2017	20.04.2017
Materials, Finishes & Colour Board A801	A	27.08.13	23.06.2016
<b>LANDSCAPE PLANS BY BLACK BEETLE PTY LTD</b>			
Landscape Plan - Are Calculations / LP08	C	24.03.2017	20.04.2017
Landscape Plan - First Floor / LP02	B	13.03.2017	20.04.2017
Landscape Plan - Fourth Floor / LP03	C	13.03.2017	20.04.2017
Landscape Plan - Ground Floor / LP01	C	24.03.2017	20.04.2017
Landscape Plan - Sections and Details / LP06	B	17.03.2017	20.04.2017
Landscape - Section / LP04	B	13.03.2017	20.04.2017
Landscape - Section / LP05	B	13.03.2017	20.04.2017

3. All new building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA). Details of assessment of Part J compliance being submitted with the application for the issue of the Construction Certificate.
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 (729550M) 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, the location of the fire booster valves, any modifications to the driveway entrance, positioning of the car lift(s), or other modifications shall not be undertaken without first obtaining approval from Council under Section 96 of the EP&A Act. This includes the fitting of any form of doors and/or walls.
7. 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.
8. 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.
9. 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.

### 10. Sydney Airports

Sydney Airport Corporation Limited (SACL) has approved the erection of this development to the following maximum heights (refer to the diagram attached to their letter dated 29 November 2016 which show the positions below):

- *A – E328101.482 N6242016.316 – 49.2 metres AHD*
- *30007 – E328082.005 N6242002.888 – 49.19 metres AHD*
- *30008 – E328082.394 N6242005.661 – 49.19 metres AHD*

Should you wish to exceed this height a new application must be submitted.

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.

### 11. NSW Water

The development must be carried out in accordance with the following 'General Terms of Agreement' issued by NSW Water, Department of Primary Industries, in their letter for DA-2016/271 dated 23 March 2016:



## **A. General**

A1. 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.

A2. 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.

A3. 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 structure is founded in bedrock or impermeable natural soil then the requirement to maintain groundwater flows beneath the structure is not applicable.

A4. 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.

A5. 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.

## **B. Prior to excavation**

B6. 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.]

B7. 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.

B8. 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.

B9. Groundwater quality testing generally in accordance with Clause 8, shall be undertaken on any anniversary or other renewal or alteration of any dewatering authorisation.

B10. 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).

B11. A copy of a valid consent for the development shall be provided in the initial report.

B12. 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.

B13. 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.

#### C. During excavation

C14. 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.

C15. 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.

C16. 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.

C17. 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.

C18. 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.

C19. 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.

C20. 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

D21. 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.

D22. 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.

12. Sydney Trains Conditions

The following conditions imposed by Sydney Trains in their letter of concurrence dated 24 July 2017 must be complied with:

- (a) If required by Sydney Trains, prior to the commencement of works and prior to the issue of the Occupation Certificate, a joint inspection of the rail infrastructure and property in the vicinity of the project is to be carried out by representatives from Sydney Trains and the Applicant. These dilapidation surveys will establish the extent of any existing damage and enable any deterioration during construction to be observed. The submission of a detailed dilapidation report will be required unless otherwise notified by Sydney Trains.
- (b) Prior to the issuing of a Construction Certificate, the Applicant shall submit to Sydney Trains certification from the geotechnical engineer and structural engineer that the proposed works will not adversely impact on the rail corridor.
- (c) An acoustic assessment specifically dealing with the foundations of the building is to be submitted to Council prior to the issue of a construction certificate demonstrating how the proposed development will comply with the Department of Planning's document titled "Development Near Rail Corridors and Busy Roads- Interim Guidelines".
- (d) Prior to the issue of a Construction Certificate the Applicant is to engage an Electrolysis Expert to prepare a report on the Electrolysis Risk to the development from stray currents. The Applicant must incorporate in the development all the measures recommended in the report to control that risk. A copy of the report is to be provided to the Principal Certifying Authority with the application for a Construction Certificate.
- (e) If required by Sydney Trains, prior to the issue of a Construction Certificate a Risk Assessment/Management Plan and detailed Safe Work Method Statements (SWMS) for the proposed works are to be submitted to Sydney Trains for review and comment on the impacts on rail corridor. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.
- (f) Prior to the issuing of a Construction Certificate the Applicant is to submit to Sydney Trains a plan showing all craneage and other aerial operations for the development and must comply with all Sydney Trains requirements. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from the Sydney Trains confirming that

this condition has been satisfied.

- (g) If required by Sydney Trains, a track monitoring plan (including instrumentation and the monitoring regime during excavation and construction phases) is to be submitted to Sydney Trains for review and endorsement prior to the issuing of a Construction Certificate. The Principal Certifying Authority is not to issue a Construction Certificate until written confirmation has been received from Sydney Trains advising of the need to undertake the track monitoring plan, and if required, that it has been endorsed.
- (h) If required, prior to the issue of a Construction Certificate the Applicant is to contact Sydney Trains Rail Corridor Management Group to determine the need for public liability insurance cover. If insurance cover is deemed necessary this insurance be for sum as determined by Sydney Trains and shall not contain any exclusion in relation to works on or near the rail corridor, rail infrastructure. The Applicant is to contact Sydney Trains Rail Corridor Management Group to obtain the level of insurance required for this particular proposal. Prior to issuing the Construction Certificate the Principal Certifying Authority must witness written proof of this insurance in conjunction with Sydney Trains written advice to the Applicant on the level of insurance required. If required, prior to the issue of a Construction Certificate the Applicant is to contact Sydney Trains Rail Corridor Management Group to determine the need for the lodgement of a Bond or Bank Guarantee for the duration of the works. The Bond/Bank Guarantee shall be for the sum determined by Sydney Trains. Prior to issuing the Construction Certificate the Principal Certifying Authority must witness written advice from Sydney Trains confirming the lodgement of this Bond/Bank Guarantee.
- (i) Copies of any certificates, drawings, approvals/certification or documents endorsed by, given to or issued by Sydney Trains must be submitted to Council for its records prior to the issuing of a Construction Certificate.
- (j) Any conditions issued as part of Sydney Trains approval/certification of any documentation for compliance with the Sydney Trains conditions of consent, those approval/certification conditions will also form part of the consent conditions that the Applicant is required to comply with.

13. Roads and Maritime Services (RMS)

- (a) A Construction Traffic Management detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council prior to the issue of a Construction Certificate.
- (b) All demolition and construction vehicles are to be contained wholly within the site or on Rockdale Street as a construction zone will not be permitted on Princes Highway.
- (c) A Road Occupancy Licence should be obtained from Transport Management Centre for any works that may impact on traffic flows on Princes Highway during construction activities.
- (d) The swept path of the longest vehicle (to service the site) entering and exiting the subject site, as well as manoeuvrability through the site, shall be in accordance with AUSTROADS. In this regard, a plan shall be submitted to Council for approval, which shows that the proposed development complies with this requirement.
- (e) 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 Services.

Details should be submitted to Suppiah Thillai:  
suppiah.thillai@rms.nsw.gov.au

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.

- (f) Should the post development stormwater discharge from the subject site into the Roads and Maritime system exceed the pre-development discharge, detailed design plans and hydraulic calculations of any charges are to be submitted to the Roads and Maritime Services for approval, prior to the commencement of works on site.

Details should be submitted to Suppiah Thillai:  
suppiah.thillai@rms.nsw.gov.au

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 on telephone number 8849 2114.

- (g) The proponent should be advised that this property is also within a broad area under investigation for the proposed new M5 WestConnex Project. Further information for the WestConnex Project can be obtained from [www.westconnex.com.au](http://www.westconnex.com.au) or by contacting WestConnex - [info@westconnex.com.au](mailto:info@westconnex.com.au) or by calling 1300 660 248.

14. Ausgrid

- (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 and to determine whether an electricity substation is required, including written confirmation of Ausgrid's requirements for installation. (Note: if a substation is required and cannot be provided in the location shown in the approved plans, a Section 96 Application will be required for the amended location).
- (b) 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), for development in proximity to overhead power lines.
- (c) 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).

15. Telstra

Written confirmation from Telstra that they have agreed to the proposed works must be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate or any works commencing, whichever occurs first; and the arrangements and costs associated with any adjustment to telecommunications infrastructure shall

be borne in full by the applicant / developer.

16. Easement for Adjoining Site

The rights provided to the adjoining lot by the existing easement with Dealing No. C552967 must not be impacted upon during works and/or following completion of the development.

17. Amended / Additional Plans and/or Information

The following matters must be resolved to the satisfaction of the Principal Certifying Authority prior to issue of the Construction Certificate:

- (a) Prior to issue of the Construction Certificate the spatial quality of the internal light well and circulation space must be explored in further detail and approved by the Director of City Futures to ensure that Design Excellence is achieved. In this regard, prototypes of the internal light well and circulation space must be developed and 3D images generated to understand the spatial characteristics, including the effect of the proposed 'rainforest' landscaping at Level 1 and the outlook from bedroom and kitchen windows facing the back of the lift shaft, to determine the appropriate sizes and spacings for the blades that form the veil. As noted in the Design Review Panel's Minutes (dated 19 July 2016), they are concerned that the proposed 50mm wide by 1500mm deep blades forming the veil spaced only 100mm apart will be too enclosing and will not allow light to penetrate and views from within to outside.
- (b) An amended "Natural Ventilation Assessment" report must be provided to, and approved by, Council's Director of City Futures. The amended report must be provided with the information required by (a) above and must demonstrate that the final design of the blades will permit adequate ventilation to be provided to rooms that rely on the Central Gallery for air.
- (c) A shower shall be provided at ground floor level of the building for use by staff of the facility in accordance with part 5.3 of RDCP 2011.
- (d) The communal open space area at Level 4 must be improved to satisfy the objectives of the Apartment Design Guide. In this regard, the eastern most bedroom and adjacent storage room for Unit 408 shall be deleted and incorporated as part of the proposed communal open space area for use by all future residential occupants of the development. The communal open space area shall then be improved so that it is attractive and inviting to future occupants, and allow for a range of activities. At minimum, this space shall be amended to include gym facilities, bbq facilities, multi-sex toilet, meeting space for strata meetings / resident meetings, reading corner and other facilities. Part of the space may be enclosed if required.
- (e) The proposal shall include two additional 3 bedroom unit resulting in a total of five (5) x 3 bedroom units in the development to satisfy the objectives of RDCP 2011. Units 201 & 202 must be reconfigured to create one (1) x 3 bedroom unit and one (1) x studio or one-bedroom unit and Units 301 & 302 must be reconfigured to create one (1) x 3 bedroom unit and one (1) x studio or one-bedroom unit. The internal floor area and balcony area of each unit must meet (or exceed) the minimum requirements under the Apartment Design Guide. Alternate unit reconfiguration may be acceptable however this is subject to written agreement being obtained from Council's Director of City Futures prior to issue of the Construction Certificate.

If the reconfiguration required above results in an amendment to the car parking allocation within the site, then car parking shall be allocated to the

residential tenancies in accordance with the RMS requirements (as a minimum) as detailed in the table below.

<b>Dwelling Size</b>	<b>Required</b>
1 bed dwellings	0.6 spaces / dwelling
2 bedroom dwellings	0.9 spaces / dwelling
3 bedroom dwellings	1.4 spaces / dwelling

In addition to the above, a maximum of 83 car parking spaces may be allocated to residential tenancies, with the remainder allocated to the visitors and commercial / retail tenancies in accordance with Condition 21 below.

- (f) The balustrades for south facing units at Levels 9, 10 and 11 must be obscure glazed or provided with other treatment to minimise overlooking toward the southern site. These balustrades may not be clear glazed.
- (g) 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.
- (h) 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.
- (i) Elevator / Lift Capability & Size
  - (i) All 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.
  - (ii) Elevators in the building must be of a quality and speed that will be able to handle a peak 5-minute traffic volume of 8% of the population and provide an Interval of 50 seconds or less. The population of the building must be established using ABS data for the locality.
- (j) 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.
- (k) Mechanical ventilation for commercial 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.
- (l) Each unit shall be provided with a buzzer / button that will allow them to open the door(s) to the car lifts to permit visitor entry to the basement levels.
- (m) 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.



- (n) All plumbing, shall be concealed within the brickwork / facade of the building.
- (o) A continuous footpath with a maximum width of 1.2m may be provided for the full frontage of proposed Retail Tenancies 1 & 2 in lieu of proposed planting. The remainder of the planting proposed within the 'green gateway' must be retained.
- (p) Windows must be provided in the external facade of the bathrooms for Units 105, 206, 306, 406, 506, 606, 509, 609, 706, 709, 806, 809, 906, 909, 1006 and 1009.
- (q) Where cut-outs have been provided within the awning to Princes Highway (to allow tree growth), the awning may be amended to protrude a maximum of 1.2m into the 'green gateway' to provide continuous weather protection for the retail frontage.
- (r) The ground floor level plans shall be amended to demonstrate that all level changes, including any required steps and ramps, are provided within the commercial / retail premises. No stairs / steps are permitted within the 3m green gateway setback to Princes Highway, nor within the public domain. The transition between the public domain and the 'green gateway' setback must be seamless and free of barriers or any level change.
- (s) Landscape Plans - The landscape plans shall comply with the following requirements prior to issue of the Construction Certificate:
  - (i) Existing street trees within the Princes Highway frontage must be retained. The RMS will not permit replacement planting nearby the existing traffic lights.
  - (ii) 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.
  - (iii) 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).
  - (iv) A minimum soil depth of 300mm is required for turfed areas on podiums or roof-tops or any other concrete slab, including the soil above stormwater drainage tanks.
  - (v) A minimum soil depth of 800mm is required for planted areas (other than turf) on podiums or roof-tops or any other concrete slab.
  - (vi) 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.
  - (vii) All pavements shall comply with AS/NZ 4586:1999 standards Class W (low) for slip resistance on both private and Council property.
  - (viii) Planter walls are to be a majority of 1050mm high and other planters are 600mm high (which must be specified on the landscape details plan. The 600mm high Localised mounding to a 1000mm depth of soil to accommodate the trees within the lower planter walls.
  - (ix) Design, Supply and install a permanent automated sub-surface irrigation system using on-site rainwater collection tank water (minimum 20,000 litres) referenced from drawing LP07/B. The extent of the irrigation system is capable of supplying 32mm of water per week over all areas noted on the design (to be supplied to council as an 'Irrigation Plan'. Water is to be delivered via subsurface

drip lines buried below the finished ground level to garden beds and trees and via pop up sprays on flexible arms to the lawn area. It is to be designed to be operational for a minimum of 10 years, to cover all new gardens and lawn areas.

- (x) The rear 157.3m<sup>2</sup> area of the site coloured purple in the Landscape Plan LP08/C (dated 24.03.17) must be provided as genuine deep soil area as proposed. In this regard, all surface areas must be provided with permeable paving / gravel / landscape planting as shown in the plans and must not be limited in depth by basement or other structures.

#### 18. Waste Collection and Deliveries

- (a) One (1) loading bay shall be provided at ground level to accommodate a 7.5m length servicing vehicle, and one (1) dedicated van loading bay shall be provided at basement B1 level within close proximity to the elevators for use by retail and residential premises.
- (b) The Commercial vehicle facilities shall be designed in accordance with AS2890.
- (c) Any vehicular path of travel to or from the loading bay for the 7.5m length servicing vehicle shall have a minimum headroom clearance of 3.5m (to the underside of services, etc.), and any vehicular part of travel to or from the loading bay for the Van shall have a minimum headroom clearance of 2.3m.
- (d) Waste collection and servicing, including removalist vans, must be carried out entirely within the site and service bay at all times. Waste collection, deliveries, removalists and / or any other servicing must not, at any time, be undertaken from the Princes Highway or Unnamed Laneway street frontages.
- (e) Waste may collected by a private waste contractor. A contract for waste collection must be entered into prior to issue of the Occupation Certificate for the residential component of the development, and prior to commencement of use for each of the non-residential tenancies.
- (f) Waste collection must be undertaken during off-peak times (i.e. waste collection must not be undertaken during Clearway times for the western side of Princes Highway, which is currently 6am to 10am, Monday to Friday).
- (g) Deliveries and servicing associated with the non-residential tenancies must not be undertaken during clearway times for Princes Highway (currently 6am - 10am, Monday to Friday), nor between 8:00pm and 6:00am Monday to Friday, nor between 8:00pm and 8:00am on Saturdays. In addition, deliveries associated with the commercial premises must not be undertaken on Sundays or Public Holidays.
- (h) The loading bay must be allocated as 'common property' on any future strata plan of subdivision under the Strata (Freehold) Schemes Act.

#### 19. Basement Access Control

Prior to issue of the Occupation Certificate, and for the lifetime of the development, basement access shall be managed as follows:

- (a) Separated residential and non-residential parking areas must be provided.
- (b) Commercial / Visitors Parking - Access to the commercial / visitors parking must be managed as follows at all times.
  - (i) An 'Auto gate / roller door' must be provided at the main basement driveway entrance from the Unnamed Lane. The gate / roller door shall

be located in order to permit the queuing of one (1) vehicle when waiting to enter the basement garage from the Unnamed Lane.

- (ii) The control mechanism for the gate shall be arranged such that access to the basement garage for registered proprietors of the commercial units, their visitors, and residential visitor parking spaces does not require security clearance or assisted entrance between the hours of 7:30am to 6:00pm Monday to Saturday and 7:30am to 1:00pm on Sunday. Where the hours of operation of the commercial units are approved outside of these hours, the access arrangements shall match the approved hours of operation.
- (iii) Intercom facilities must be installed at the main vehicular entry/exit and at all pedestrian entry/exit points to enable residents to communicate with and identify people prior to admitting them to the development (including providing access to the basement area outside of approved business hours for the commercial tenancy).

(c) Residential Parking - must be managed as follows at all times:

- (i) A second roller door / gate combined with security fencing must be provided within Basement Level B1 to secure the residential parking spaces from the commercial / visitors parking. Refer to Condition 21 for the parking allocation requirements.
- (ii) This second roller door / gate must be operated by a system that is accessible by occupants of the residential component of the development only.

20. The works must not impact upon the rights provided by the Easement of variable width benefiting the adjoining property No. 397A Princes Highway for access and drainage purposes (C552967).

21. Parking Provision & Allocation

A total of 114 car parking spaces, 10 bicycle parking spaces, 6 motorcycle parking spaces, 1 dedicated car wash bay and 1 dedicated Van delivery bay must be provided within the basement levels of 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.

<b>Dwelling Size / (Proposed No.)</b>	<b>Required</b>
1 bed dwellings (26 units)	0.6 spaces / dwelling = 15.6 spaces (min.)
2 bedroom dwellings (61 units)	0.9 spaces / dwelling = 54.9 spaces (min.)
3 bedroom dwellings (4 units)	1.4 spaces / dwelling = 5.6 spaces (min.)
<b>Total Car Parking Spaces for Residential Units</b>	<b>77 spaces (min.) (including 9 accessible spaces)</b>

Visitor	1 space / 5 dwellings = 19 spaces (including 1 accessible space)
Bicycle (Res. + Com.)	1/10 units = 10 spaces (Min.)
Motorcycle (Res + Com.)	1/15 units = 6 spaces (Min.)
Carwash Bay	1 car wash bay (dedicated space)
Van Loading Bay	1 Van Loading Bay (dedicated with minimum width of 3.0m)
Commercial Tenancies	12 spaces allocated as follows: - Tenancy 1 - 4 spaces - Tenancy 2 - 3 spaces - Tenancy 3 - 5 spaces

**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. Parking & Vehicular Access**

The design and construction of the off-street car & bicycle parking facilities shall comply with the following requirements, with details provided with the Construction Certificate and complied with prior to issue of the Occupation Certificate:

- Comply with Australian Standards, as follows:
  - AS 2890.1
  - AS 2890.6
- Internal Height Clearance - shall be designed throughout the car park and access driveway in accordance with AS2890.1 and AS2890.6.
- Car Wash Bay - The required car wash bay must comply with Rockdale Technical Specification – Stormwater Management, in relation to the minimum width and configuration of car wash bays.
- Bicycle Parking - A minimum of ten (10) bicycle parking spaces must be provided for residents that are of Security Level A or B in accordance with AS2890.3:2015. Bicycle parking facilities for residents shall not be Level C facilities.
- 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.
- All off street visitor parking, loading bays and car wash bays must be allocated as 'common property' on any future strata plan of subdivision under the Strata (Freehold) Schemes Act.
- Headroom clearance for car spaces located below planter boxes or deep soil areas shall be a minimum of 2.3m.

- (h) Parking spaces must not be enclosed without further approval of Council. The enclosure of car spaces is not permitted unless the enclosure complies with the design requirements of AS2890.1.

23. Street Numbering

- (a) The premises shall be provided with the following street numbers:
- Retail 01 - 399 Princes Highway
  - Retail 02 - 397 Princes Highway
  - Residential Lobby - 395 Princes Highway (and Unit numbers as shown in the approved plans)
  - Retail 03 - 393 Princes Highway
- (b) Mail boxes must be installed in the position shown in the approved plans. The letterboxes must be lockable.
- (c) Prominent street numbers are to be displayed on each retail premises and the residential lobby, with a minimum number size of 150 mm in height for each number and letter in the alphabet.

24. 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 = 6m<sup>3</sup>
  - 2 bed unit = 8m<sup>3</sup>
  - 3 bed unit = 10m<sup>3</sup>

- (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.

25. Retail / Commercial Premises - Operational Conditions

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

- (a) Parking allocation must be provided in accordance with the conditions of this consent;
- (b) Materials, goods or machinery shall not be stored, placed or otherwise permitted to stand between the building line and the street alignment, or any other part of the public road at any time without Council's consent.
- (c) All loading, unloading and transfer of goods / waste to and from the loading bay and premises shall take place wholly within the property, and in accordance with Condition 18 (and any other relevant conditions) of this Consent.
- (d) The front windows of the ground floor commercial / retail tenancies must be kept free of shelves, and a maximum of 15% of the window display area may be covered with promotional materials, obscure glazing and/or other

treatment to ensure passive surveillance is maintained to and from the tenancies.

- (e) Any proposed signs must, unless separately approved, comply with the requirements of the State Environmental Planning Policy (Exempt and Complying Development Code) 2008. In addition, any signage cannot have / use:
  - (i) flashing lights;
  - (ii) electronically changeable messages;
  - (iii) animated display, moving parts or simulated movement; or
  - (iv) a method and level of illumination that distracts or dazzles.
- (f) All other relevant conditions of this consent.

## 26. 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 a maximum of 15% of the window display area may be covered with promotional materials or covered in any other way (e.g. obscure glazing) to ensure passive surveillance is maintained to and from the tenancy.
- (g) Separate lift access must be provided from the basement car parking to the residential and non-residential areas. This may be achieved through use of security swipe cards, or other system, that will ensure that non-residential tenants and visitors to these premises cannot access the residential floor levels.
- (h) Residential parking spaces must be secure and separate from non-residential vehicle parking and servicing areas.

## 27. Services

- (a) Fire Boosters - The fire hydrant booster valves must be located in the position shown in the approved plans, and enclosed in a cabinet as shown in the plans. The cabinet must be provided with appropriate locks and signage in accordance with AS2419.1. 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 - the substation must be located in the position shown in the approved plans. A S96 application will be required if the position of the substation is proposed to be altered.

(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).

28. Noise from Mechanical Plant / Ventilation & Air Conditioning

(a) The use of the premises, building services, equipment, machinery and, ancillary fittings shall not give rise to an “offensive noise” as defined under the provisions of the Protection of the Environment Operations Act, 1997.

(b) The use of mechanical plant including air conditioners, fans, compressors, condensers, freezers, swimming pool or spa pumps (whether commercial or domestic) shall not cause sound pressure levels in excess of the criteria given in the NSW Industrial Noise Policy – 2000.

(c) Residential air conditioners shall not cause ‘offensive noise’ as defined by the Protection of the Environment Operations Act 1997 or contravene provisions of the Protection of the Environment (Noise Control) Regulation 2008 where emitted noise from a residential air conditioner can be heard within a habitable room in any other residential premises at night.

29. Noise Impacts & Attenuation

The plans and documentation submitted with the Construction Certificate must demonstrate compliance with the following requirements:

(a) The submitted Acoustic Report prepared by Acoustic Logic (Revision 0, dated 5 April 2016) (Ref: 20160464.1/0504A/R0/RL) 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.

(c) 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.

(d) 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.

30. Strata By-Laws

(a) By-laws shall be registered prior to registration of any Strata Plan and maintained for the life of the development, which requires that :

(i) 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;

(ii) 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;

(iii) 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.

(iv) The trees and plants located within the 3m 'Green Gateway' setback must be maintained in accordance with the approved Landscape Plan for the lifetime of the development.

(b) Proof of registration of the By Law shall be submitted to Council prior to the



registration of any Strata Plan.

31. 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.
32. 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.
33. 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.
34. Overland Flow Path  
The overland flow path shall not be obstructed, restricted or altered without the approval of Bayside Council. In addition, all recommendations contained in the Overland Flow Study prepared by S & E Ivanov Consultancy, Dated 6 July 2014, must be implemented.

35. The rainwater tank shall be routinely de-sludged and all contents from the de-sludging process disposed – solids to the waste disposal and de-sludged liquid to the sewer.
36. The visible light reflectivity from building materials used on the façade of the building shall not exceed 20% and shall be designed so as not to result in glare that causes any nuisance or interference to any person or place. A statement demonstrating compliance with these requirements shall be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate for the relevant stage of works.
37. All existing and proposed lights shall comply with the Australian Standard AS4282 - 1997 "Control of the Obtrusive Effects of Outdoor Lighting". In this regard, the lighting of the premises shall be directed so as not to cause nuisance to the owners or occupiers of adjacent/adjoining premises or to motorists on adjoining or nearby roads.
38. Design Quality / Design Excellence  
(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 Registered 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 Registered Architect's commission is to be provided to the Council prior to release of the Construction Certificate.  
  
(b) The Registered Architect is not to be changed without prior notice and approval of the Council.
39. Vehicular Entrance & Road Signage

The plans submitted with the Construction Certificate must comply with the following requirements, with all relevant requirements implemented prior to issue of the Occupation Certificate:

- (a) 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.
- (b) The gate / roller door for the basement shall be located in order to permit the queuing of one (1) vehicle when waiting to enter the basement garage from the Unnamed Lane.
- (c) The driveway design must ensure that all traffic from the site turns right out into the laneway towards Princes Highway. Signage must be installed within the site / laneway in addition to the appropriate driveway design.
- (d) 'No Stopping' restrictions / signs must be provided on both sides of the laneway between Princes Highway and the western boundary of the site, subject to the approval of the Bayside Traffic Committee.
- (e) 'Giveaway' priority control signage must be provided in the laneway west of Princes Highway subject to approval of the Bayside Traffic Committee.
- (f) That the street lighting be provided in the lane-way as per Ausgrid standards and public domain plan
- (g) The powerpole will have to be relocated if it is affected by the widening of the laneway. The laneway has to be 6m wide between kerbs.

- (h) Line marking, street lighting and regulatory signage requirements in (a) - (g) above must be in accordance with RMS requirements and guidelines, must be approved Bayside Traffic Committee prior to issue of the Construction Certificate and must be implemented prior to issue of the Occupation Certificate.

40. Required Infrastructure Works – Roads Act 1993

No occupation or works are to be carried out on public land (including a road or footpath) or access provided over a public reserve adjacent to the development site without approval being obtained from Bayside Council and the necessary fee paid under the Roads Act 1993 and/or the Local Government Act 1993.

Note: Approval under the Roads Act or Local Government Act cannot be granted by a principal Certifying Authority or by a Private Certifier. Failure to obtain approval from Bayside Council may result in fines or prosecution.

The implementation of this Consent generates a need for works to be completed in a public place owned by Council and RMS, with such works being at no cost to Council or RMS.

The required works include the following which must be completed prior to issue of the Occupation Certificate:

- (i) Landscaping and embellishment of Princes Highway and Unnamed Lane, frontages to the development site, including footpaths, paving, street trees, tree pits/grates and other planting, and street furniture etc;
- (ii) Undergrounding of existing Ausgrid electricity supply cabling (low and high voltage, as applicable) in above Street frontages to the development site;
- (iii) Installation of new street lighting in both road frontages to the development site;
- (iv) Construction of a driveway (vehicular entrance) and associated construction and reconstruction of driveway layback, footpath and kerb and gutter.
- (v) Removal of redundant driveway laybacks and reinstatement with kerb and gutter in above streets.
- (vi) Construction of a pram ramp located opposite the pram ramp entrance to the Spotlight Building at 383-391 Princes Highway;
- (vii) Proposed Drainage Pipe relocation.

**A. Design**

The scope of works is to be confirmed by Bayside Council. For identified works the preparation of the design and specification shall be undertaken in accordance with the design brief issued by Bayside Council, and the Engineering Drawing Guide: For Works In Association With Developments And Subdivisions and Engineering Specification Guide: For Works In Association With Developments And Subdivisions, or approved replacement documents. For identified works the preparation of the design and specification shall be undertaken by a professional engineer, or other professional person, meeting the requirements of the design brief issued by Bayside Council.

Note: To enable the scope of works to be determined and alignment levels issued a completed Driveway/Frontage Works Application Form must be submitted together with the required fee, under the Roads Act 1993 and/or the Local Government Act

1993 for the scope of works to be confirmed and alignment levels issued.

Note: The works required will be confirmed using the following criteria:

- i) To ensure that infrastructure construction and reconstruction required to facilitate both pedestrian and vehicular access into and around the site is provided.
- ii) To ensure that there is adequate construction and reconstruction of stormwater infrastructure to facilitate drainage of the site and minimise impacts to the site and adjoining properties as a result of the development.
- iii) To ensure that infrastructure relevant to the proposed development meets current standards and specifications.
- iv) To mitigate any impacts the development may have on traffic and pedestrian safety.
- v) To satisfy the requirements of any Development Control Plan, Public Domain Plan, Streetscape Manual or any other relevant Council Plan, including the Section 94 Contributions Plan.
- vi) To ensure there are adequate transitions between newly constructed infrastructures and existing infrastructure.

The Certifying Authority shall ensure that engineering design plans and specifications have been prepared for the above identified works. For identified works the preparation of the design and specification shall be undertaken by a meeting the qualification and registration requirements of the Bayside Council - Rockdale Technical Guide: Computer Aided Design and Drafting (CADD), 2012. The plans and specifications must be to a detail suitable for construction issue purposes and comply with all documentation specifications identified in the Bayside Council - Rockdale Technical Guide: Computer Aided Design and Drafting (CADD), 2012.

The detailed design and specification shall be undertaken in accordance with Rockdale City Council's current infrastructure design and specifications guidelines:

- i) Applicable Australian Standards, AUSTRODS guidelines and Council's Minor Works Specifications;
- ii) Infrastructure Design Manual / AUS-SPECs (neither approved / adopted);
- iii) Engineering Specification Guide: For Works in Association with Developments and Subdivisions.

Note: An application is to be made to Bayside Council for a permit for Frontage Works Construction, along with payment of the required fees and charges prior to undertaking design. Under this application, Council will provide boundary levels and confirm technical specifications for design of the works. A minimum of 21 days will be required for Council to design submissions. Early submission is recommended to avoid any delays in obtaining a Construction Certificate.

#### **B. Prior to Issue of the Relevant Construction Certificate**

A detailed design and specification for works to be carried out on public land (including a road or footpath) shall be completed and approved by Bayside Council pursuant to the Roads Act and/or Local Government Act prior to construction. All fees for inspection by Bayside Council shall be paid and the works approval for works in a public place activated.

Note: Approval under the Roads Act or Local Government Act cannot be granted by a Principal Certifying Authority or by a Private Certifier. Failure to obtain approval from Rockdale City Council may result in fines or prosecution.

Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

The Certifying Authority must not issue a Construction Certificate without the formal written approval of Council (as Roads Authority) under the Roads Act 1993. Construction of the works must proceed only in accordance with any conditions attached to the Council Roads Act 1993 approval.

### **C. Before Occupation**

All works required in the public place as detailed by the approved design and specification must be completed before occupation of the development. All works-as-executed records for works establishing infrastructure assets to be handed over to Council for ongoing maintenance shall be provided to Bayside Council, and a handover certificate issued by Bayside Council.

#### **41. Public Place Activities - Site Management Plan**

The implementation of this Consent generates a need for works on the development site and in a public place to be appropriately managed to ensure the protection of the environment and safety of the other public place users.

### **A. Before Commencement of Works including Demolition**

A Site Management Plan must accompany the completed Driveway/Frontage Works Application Form. If any demolition of infrastructure in a public place is to commence prior to the issue of a works approval for works in a public place the applicant must submit to Bayside Council a separate Demolition Site Management Plan. These plans must satisfy the Objectives and Controls of Bayside Council - Rockdale Development Control Plan 2011 relating to site management and must incorporate the following throughout demolition and construction:

- i) safe access to and from the site during construction and demolition
- ii) safety and security of the site, road and footpath area including details of proposed fencing, hoarding and lighting
- iii) method of loading and unloading excavation machines, building materials
- iv) how and where, construction materials, excavated and waste materials will be stored.
- v) methods to prevent material being tracked off the site onto surrounding roadways
- vi) erosion and sediment control measures

### **B. During Works**

The site management plan measures must remain in place and be maintained throughout the period of works and until the site has been stabilised and/or restored in accordance with the works approval for works in a public place.

#### **42. Public Place Works - Pre-commencement Inspection**

The implementation of this Consent generates a need for the adequate regulation of the works and activities in a public place.

### **A. Before Public Place Works**

A Pre-commencement Inspection/meeting is to be convened by the holder of the Consent for the works approval for works in a public place. The meeting shall be held on-site a minimum 5 days prior to any demolition and/or construction activity and be held between the hours of 8.00 am and 4.30 pm Monday to Friday. The meeting must be attended by a representative of the Principal Certifying Authority, the builder/site

manager of the building/civil construction company and supervising engineer, in addition to a representative of Bayside Council. The attendance of the owner is required when it is intended to use more than one builder/principal contractor throughout the course of construction.

The purpose of the meeting is to:

- i) Ensure safe passage for pedestrians, Work and Hoarded Zones are maintained in accordance with Bayside Council requirements;
- ii) Check the installation and adequacy of all traffic management devices;
- iii) Confirm that the consents, approved design plans and approved specifications are retained on site.

Note: The consent for the works approval for works in a public place must be activated and all inspection fees must be paid to Bayside Council prior to the meeting. Please refer to Bayside Council Councils Adopted Schedule of Fees and Charges.

43. Public Place Works - Supervising Engineer

The implementation of this Consent generates a need for the adequate supervision of the works and activities in a public place.

**A. Before Construction**

The consent holder must engage an appropriately qualified supervising engineer to supervise construction of any works approved to be carried out in a public place approved by Bayside Council under the Roads Act and/or Local Government Act.

The supervising engineer must hold qualifications, licenses and insurance as determined by Council, and submit evidence of the qualifications, licenses and insurance prior to the commencement of construction.

**B. During Construction**

The supervising engineer must supervise the works as listed above to ensure compliance with:

- i) any consent issued by Bayside Council pursuant to the Roads Act and/or the Local Government Act, including conditions annexed to this consent.
- ii) the approved design and specification, including any approved amendments by Bayside Council to the design and specification
- iii) the consent issued by the consent authority under the Environmental Planning and Assessment Act
- iv) any related design and construction parameters specified by Council.

**C. Before Occupation**

The engineer must certify the Works-as-Executed drawings or provide a separate certification that the requirements of the consent for the works approval for works in a public place have been met.

**Prior to issue of the construction certificate**

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

44. 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 \$35,810.00. 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 \$17.50.
45. 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.
46. A Frontage Works application shall be made to Council's Customer Service Centre prior to issue of the Construction Certificate. All boundary works, egress paths, driveways and fences shall comply with this level.  
A fee is payable to Council for the determination of Frontage Works. 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.
47. A Section 94 contribution of \$595,956.43 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	\$456,920.91
Community Services & Facilities	\$45,431.51
Town Centre & Streetscape Improvements	\$23,351.77
Pollution Control	\$67,373.30
Plan Administration & Management	\$2,878.94

  
Copies of Council's Section 94 Contribution Plans may be inspected at Council's Customer Service Centre, Administration Building, 444-446 Princes Highway, Rockdale.
48. 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. An Engineer Design Certificate is also required to be submitted for the design of the Basement system including shoring walls.
49. A suitable qualified engineer is to certify that the structure can withstand the forces of floodwater, scour, debris and buoyancy in a 1% AEP flood event.
50. All building materials shall be flood resistant, or flood compatible to a height of

500mm above the 1% AEP flood, or flow level. All internal electrical switches, power points or similar utilities liable to flood damage shall be set at a minimum of 500mm above the 1% AEP flood, or flow level. Details shall be provided and approved prior to the issue of a construction certificate.

51. A list of the proposed and existing essential services to be installed in the building shall be submitted to Council in accordance with the relevant requirements.
52. Adaptable Unit Provision  
Compliance with Council's Development Control Plan (DCP) 2011 – Requirements for Access. Access in accordance with Australian Standard 4299 must be provided to and nine (9) residential units, and between these units and their allocated carparking spaces. 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 shown in the approved plans. 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.

53. 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 1428.1-2009.

**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.

54. (a) All low 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 pole adjacent to the intersection of Princes Highway and the Unnamed Lane may need to be relocated to avoid conflict with the widened laneway. The relocation works shall be undertaken in accordance with the requirements of Ausgrid. The applicant shall enter into a contract with Ausgrid for the relocation works prior to the issue of the Construction Certificate, unless Ausgrid determine in writing that relocation is not required. The works must be completed prior to the commencement of the road widening 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.
55. Prior to the issue of the Construction Certificate, the approved plans must be submitted to Sydney Water Tap in™ online service to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met.



Sydney Water's Tap in™ online service is available at:  
<https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>

56. Section 138 of the Roads Act 1993

Details shall be submitted to Council for assessment and approval pursuant to Section 138 of the Roads Act 1993 in relation to the following:

- (i) Construction of footpath, kerb, gutter and streetscape works in both Princes Highway and the Unnamed Laneway, including the provision of a pram ramps (including a pram ramp in the Unnamed Lane located opposite the existing pram ramp which provides access to the Spotlight Building).
- (ii) Public domain works.
- (iii) Public drainage works.
- (iv) Construction of vehicular and service bay entrances.

Should any required works require modifications to the traffic signals and/or existing RMS directional signage, approval is required from RMS prior to works commencing.

57. 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.

58. Tanking of Basement Structure

Any sub-surface structure within the highest known groundwater table / rock + 0.5m shall be designed with a waterproof retention system (ie Structural 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.

A design certificate is required to be submitted for the design of the Basement system including shoring wall. The certificate shall be issued by a Chartered Professional Engineer competent in Structural engineering.

The design of the basement and any other underground structure or excavation shall take into consideration of geotechnical recommendations.

*Notes:*

- a. All structures that are fully or significantly below ground shall be fully tanked to finished ground level.*
- b. After construction is completed no seepage water is to discharge to the kerb. Permanent dewatering will not be permitted.*
- c. Continuous monitoring of ground water levels may be required.*

59. Prior to the issue of the construction certificate approval from the utility provider is required for the works the existing utility with the road reserve fronting boundary. You are required to consult with your utility providers (i.e. Energy Aust, Telstra etc) in order to fully understand their requirements before commencement of any work.
60. As the basement floors are being proposed closer to existing built structures on neighbouring 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 preliminary geotechnical investigation report prepared by Douglas Partners Pty Ltd, Report Ref: Project 84749.06, Rev.0, dated 8 April 2015.

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

(c) Confirm the proposed construction methodology

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.

(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.

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

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

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.

61. 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 sub-contractor 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 sub-contractor clearly setting out required work practice.

The principal contractor and any sub-contractor 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 damaged 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 sub-contractor 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.

62. The driveway must be designed to prevent inflow of water from the road reserve, including in a 1% AEP flood event. The assessment of flows must be undertaken in accordance with Council's Technical Specifications. Details shall be included in the documentation presented with the Construction Certificate Application.
63. A dedicated car wash bay is required. A tap shall be provided. A sign shall be fixed saying 'Car Wash Bay'. The runoff shall be directed and treated as per Rockdale Technical Specification Stormwater Management. Details shall be provided with the plans accompanying the Construction Certificate.
64. All basement surface runoff including car wash bay shall be directed through a propriety oil and sediment filtration system prior to discharge. Details of the pit type, location, performance and manufacturer's maintenance and cleaning requirements

shall be submitted and approved prior to the issue of the construction certificate.

The owners/occupiers are to undertake all future maintenance and cleaning to the manufacturer's requirements.

65. Stormwater Drainage Plans

Prior to the issue of the Construction Certificate, amended 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. Stormwater management requirements for the development site, including the final discharge/end connection point, must comply with Rockdale Technical Specification Stormwater Management.

The drainage plans must show how groundwater is managed within basement including shoring walls, temporary and permanent.

Subsoil drainage shall be provided and designed to allow the free movement of groundwater around any proposed structure, but is not to be connected to the internal drainage system

The design shall take into consideration and implement all recommendations contained in the preliminary geotechnical investigation report prepared by Douglas Partners Pty Ltd, Report Ref: Project 84749.06, Rev.0, dated 8 April 2015.

*Notes:*

*a. The subsoil drainage for groundwater management for the proposed development should be in accordance with the requirements of DCP 4.1.3, 4.1.4 and Rockdale Technical Specification – Stormwater Management.*

*b. The basement pumpwell size shall be in accordance with Clause 4.2.4 of DCP2011- Technical Specification for Stormwater Management.*

## **Prior to commencement of works**

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

66. 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.

67. 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.

68. Construction Management Plan / Construction Traffic Management Plan

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 existing 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.

69. 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.
70. 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.
71. 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.
72. 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.

73. 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.
74. 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.

### **During demolition / excavation / construction**

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

75. 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.
76. 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.

77. 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.

78. Any new information discovered during demolition, excavation or construction works which has the potential to alter previous conclusions about site and/or ground-water contamination shall be notified to Council being the Regulatory Authority for the management of contaminated land. Works may be required to cease until matters are resolved.
79. 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.
80. All waste generated on site shall be disposed of in accordance with the submitted Waste Management Plan.
81. 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. After excavation work for the footings, but prior to pouring of concrete, showing the area of the land, building and boundary setbacks.
  - ii. 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.
  - iii. 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.
  - iv. 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.
  - v. 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.
82. 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.

83. 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.

84. 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, including works associated with ground anchors). 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 current 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.

85. 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.

86. 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.

87. 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.
88. The existing street trees located within the Princes Highway frontage shall be retained and protected throughout all stages of the project.

### **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.

89. An Occupation Certificate shall be obtained in relation to the approved works prior to any use or occupation of the building.
90. Appropriate signage and tactile information indicating accessible facilities shall be provided at the main entrance directory, or wherever directional signage such as lifts or building directories or information is provided to those buildings where access and facilities for people with disabilities has been provided. Such signage shall have regard to the provisions of AS1428.1 and AS1428.2.
91. 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.
92. 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.
93. The approved recommendations from the Flood Management Report shall be implemented prior to occupation.
94. 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, including the provision of new street trees within the Unnamed Lane.

(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, amongst other matters, confirm compliance with the following requirements:

- (i) Minimum 2m depth of planting soil has been provided for the full 3m wide 'green gateway' deep soil zone located at the front of the site to permit tree planting.
- (ii) A minimum soil depth of 800mm is provided for all planter beds on the podium levels;
- (iii) A fully automated irrigation system has been installed to the podium landscaping;

(iv) Podium landscaping and paved areas are drained into the stormwater drainage system.

(v) The rear 157.3m<sup>2</sup> area of the site coloured purple in the Landscape Plan LP08/C (dated 24.03.17) has been provided as genuine deep soil area as proposed. In this regard, all surface areas must be provided with permeable paving / gravel / landscape planting as shown in the plans and must not be limited in depth by basement or other structures.

(c) The approved landscaping, including trees within the 'green gateway setback' are to be maintained to the approved standard at all times.

95. 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 prior to issue of the Occupation Certificate.
96. 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.
97. Where an electricity substation is required by Ausgrid, a final film survey plan shall be endorsed with an area having the required dimensions as agreed with Ausgrid over the location of the proposed electricity distribution substation site. The substation site shall be dedicated to Council as public roadway, or as otherwise agreed with Ausgrid. Ausgrid's requirements shall be met prior to release of the issue of the Occupation Certificate.
98. 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.
99. The provision of a 2.37 metre wide right of footway / footway easment in favour of Bayside Council along the boundary with the Unnamed Laneway. The right of footway is to be covered by a Section 88B Instrument, which may only be varied or extinguished with the consent of Bayside Council.

Council requires proof of lodgement of the signed Subdivision Certificate and 88B Instrument with the Land Titles Office prior to issue of the Occupation Certificate.

100. The dedication of the following to Council for road widening purposes:
  - (i) A 630mm wide strip along the western frontage of the development site (i.e. for the full frontage of the Unnamed Laneway); and
  - (ii) A 3m x 3m splay. The dedication is unlimited in depth however limited in height to the underside of the proposed awning structure.

Council requires proof of lodgement of the signed Subdivision Certificate and 88B Instrument with the Land Titles Office prior to issue of the Occupation Certificate.

101. Bollard(s) must be installed by the Developer in the shared space located adjacent to each of the accessible car parking spaces to prevent use of these areas for car parking.

Bollards are to be constructed from steel pipe minimum 100mm diameter, domed at the top and filled with concrete. They are to protrude 1100 mm out of the ground, painted white, with reflectors attached. Future maintenance will be the responsibility of the owner and/or occupier.

102. A total of 114 off-street car spaces, one (1) dedicated van delivery bay (3.0m width) and one (1) dedicated car wash bay, 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.
103. Prior to the issue of the Final Occupation Certificate, a Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water.

It is recommended that applicants apply early for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design.

Application must be made through an authorised Water Servicing Coordinator. For help either visit [www.sydneywater.com.au](http://www.sydneywater.com.au) > Plumbing, building and developing > Developing > Land development or telephone 13 20 92.

104. 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.
105. 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 internal noise environment within all units complies with all relevant legislation and all other requirements contained in Conditions 17 & 29 of this consent, including any updated and/or supplementary acoustic reports prepared to satisfy the requirements of Conditions 17 and 29 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.

106. 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.
107. 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.
108. Prior to occupation, a Chartered Professional Engineer shall certify that the construction of the overland flow path, including construction of all channels, pipes, banks, levees, etc has been undertaken in accordance with the approved plans and flood assessment/flood management report. The Chartered Professional Engineer shall also certify that habitable floor levels and garage floor levels adjacent to the

overland flow path have been constructed in accordance with the approved plans and that freeboard is provided in accordance with Rockdale Development Control Plan (DCP) 2011. The certificate must be based on inspection of the site and review of a works-as-executed plan of the overland flow path, which shall be prepared by a Registered Surveyor. A copy of the engineer's certificate and surveyor's works-as-executed plan shall be provided to Council where Council is not the Principal Certifying Authority.

109. A certificate from a Registered Surveyor shall be provided to the Principal Certifying Authority (PCA) certifying that the habitable/commercial floor level and lift access level is constructed a minimum of 500mm above the 1% Annual Exceedance Probability (A.E.P) Flood Level. A copy of the certificate shall be provided to Council where Council is not the Principal Certifying Authority.
110. 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.
111. Prior to issue of the Occupation Certificate, all street signage must be installed within the road reserve in accordance with the requirements of Condition 39. Such street signage must be approved by the Local Traffic Committee prior to installation.
112. The underground garage shall be floodproofed to a minimum of 500mm above the 1% Annual Exceedance Probability flood level. The levels shall be certified by a registered surveyor prior to construction of the driveway or other openings.
113. The development shall comply with Rockdale Development Control Plan (DCP) 2011, and the Planning Considerations and Development Controls listed in the Flood Advice letter issued by Council on 13 April 2015 (ref: F08/691, FA-2015/36).
114. Positive Covenants
  - (a) A positive covenant pursuant to the Conveyancing Act 1919 shall be created on the title of the lots that contain the stormwater detention facility to provide for the maintenance of the detention facility.
  - (b) A positive covenant for the management of the road infrastructure shall be placed on the Certificate of Title of the lot containing the infrastructure. The positive covenant shall instruct that all management undertaken in the road reserve (including but not limited to maintenance and cleaning) shall be conducted in accordance with the approved Road Reserve Maintenance Specification. The public infrastructure in the road reservation includes, but is not limited to, all:
    - a. Road carriageway and footpath pavements;
    - b. Road carriageway and footpath furniture;
    - c. Road carriageway and footpath pavement markings and signs;
    - d. Road drainage pipelines, inlet pits, and subsoil drainage; and
    - e. Street trees and landscaping.
115. All Relevant Conditions Satisfied

All other relevant requirements of this consent shall be satisfied prior to issue of the Occupation Certificate, including relevant requirements raised in the 'Development

Specific' and 'Prior to issue of the Construction Certificate' sections of this Consent.

### **Prior to issue of subdivision certificate**

The following conditions must be complied with prior to the issue of the Subdivision Certificate or the Strata Certificate.

- 116. The subdivision is to occur in accordance with Development Consent No. DA-2016/420, particularly in regard to conditions, which have not yet been satisfactorily completed prior to release of the Subdivision Certificate.
- 117. A Subdivision Certificate and four (4) copies of the plans for the endorsement of the General Manager shall be submitted to Council prior to lodgment with the Land and Property Information office. An original and four (4) copies of the 88B Instrument are to be submitted.
- 118. The submission and approval of a subdivision certificate application for the proposed road dedication detailed in the conditions of this consent. In this regard, a fee is payable in accordance with Council's current adopted Fees and Charges.
- 119. 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](http://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 release of the Subdivision/Strata Certificate.

- 120. All existing and proposed services on the property shall be shown on a plan, and shall be submitted to Council. This includes electricity, gas, water, sewer, stormwater and telephone services. Where any service crosses one lot but benefits another lot, it is to be covered by an easement. The service easement is to be covered by a Section 88B Instrument, which may only be varied or extinguished with the consent of Bayside Council. These provisions are to be put into effect prior to the release of the Subdivision/Strata Certificate.

### **Roads Act**

- 121. 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.

122. Where applicable, the following works will be required to be undertaken in the road reserve at the applicant's expense:

- i) construction of a concrete footpath along the 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.

123. In addition to the works in the road reserve listed above, the following modification and/or improvement works to the road and drainage will be required to be undertaken at the applicant's expense:

- (i) Construct a 630mm road widening along the Unnamed Laneway frontage of the site;
- (ii) Relocate lintels and pits;
- (iii) Construct pedestrian ramps (including a ramp opposite to the pedestrian access to the Spotlight building).
- (iv) All other works identified in Condition 40.

**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.

124. 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.
125. 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.
126. Where the works are undertaken by a Private licensed Contractor, the contractor shall:
- i) Undertake quality system testing as specified in Specification CQS of AUS-SPEC. Records of quality testing shall be made available to Council at the completion of the

works;

ii) Engage a supervising engineer (superintendent). The supervising engineer shall, upon completion of the works, submit an engineering certificate for the completed works;

iii) Provide Council with one (1) copy of works as executed drawings upon completion of the works. The works as executed drawings shall be based on a survey of the works by a registered surveyor.;

iv) Make a payment to Council of the required fee for inspection of the works in accordance with Council's approved Fees and Charges Schedule. The payment shall be made prior to the commencement of works. If payment is to be made after the end of financial year, this amount shall be adjusted in accordance with Council's adopted fees and charges;

v) Provide Council with 48 hours notice of the following:

- a) Commencement of the works
- b) Completion of subbase;
- c) Completion of Drainage works; and
- d) Completion of works.

**Note:** An inspection by Council is required at each of these stages. Works shall not continue until inspected by Council. Inspection by Council does not relieve the responsibility of a Private Licensed Contractor to undertake quality testing in accordance with the Council's Construction Specifications (AUS-SPEC), have the works inspected by the superintendent and have the superintendent submit an engineering certificate.

vi) Maintain the works for the duration of the Defects Correction Period, which shall be 12 months. (The Defects Correction Period commences on the date of acceptance of the completed works by Council). During this period the contractor shall:

- a) Keep the works clean and free of silt, rubbish and debris;
- b) Maintain, renew and repair, either in whole or in part, defective works as identified in written notice by the Council so that the works function 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;
- c) Carry out the matters referred to in paragraphs (i) and (ii) at the contractor's expense;
- d) Not make alterations to the system or elements thereof without prior consent in writing of the Council;
- e) Comply with the terms of any written notice issued by the Council in respect to the requirements of this condition within the time stated in the notice.

In the event of the contractor failing to comply with the terms of any written notice served in respect of the matters in this condition the Council or its authorised agents may carry out any work required to ensure the safe and efficient operation of the system and recover from the registered proprietor the cost of carrying out the work, and if necessary, recover the amount due by legal proceedings (including legal costs and fees).



127. 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.
128. 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.

## **Development consent advice**

### **a. *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](http://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.

- b. 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.
- c. 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.
- d. All site works shall comply with the occupational health and safety requirements of the NSW WorkCover Authority.
- e. 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.

