

COUNCIL ASSESSMENT REPORT

Panel Reference	2017SCL001
DA Number	DA-2017/224
LGA	Bayside Council
Proposed Development	Integrated Development and Staged Development – Darrell Lea site – Stage 1 consists of the construction of four (4) residential flat buildings comprising 513 units and twenty (20) townhouses; basement car parking; construction of a new access road connecting Rocky Point Road and Production Avenue, including the construction of a new signalised intersection at Rocky Point Road and road upgrade works to Production Avenue; landscaping works, including ground level landscaping for communal open space and green rooftops at the residential flat buildings; land subdivision, land dedication and building envelope for a child care centre; retention of the existing commercial building at 168 Rocky Point Road and demolition of all other existing structures; tree removal and bulk earthworks.
Street Address	152-200 & 206 Rocky Point Road, Kogarah
Applicant/Owner	Rocky Point Road Development Pty Ltd – c/o Ethos Urban
Date of DA lodgement	21 December 2016
Number of Submissions	Fourteen (14), including six (6) from the same individual. Therefore submissions received from nine (9) separate parties
Recommendation	Approval, subject to conditions
Regional Development Criteria (Schedule 4A of the EP&A Act)	Capital Investment Value (CIV) in excess of \$20 Million
List of all relevant s79C(1)(a) matters	• SEPP 55 • SEPP 65 • SEPP (Infrastructure) 2007 • SEPP (BASIX) 2005 • SEPP (Major Developments) 2005 • Rockdale LEP 2011 • Rockdale DCP 2011 • Greater Metropolitan REP No. 2 – Georges River Catchment • Civil Aviation (Building Control) Regulations 1988 • EPA Act – Section 91A – Integrated Development • EPA Act – Section 93F – Planning Agreements • EPA Regulations - Regs 92, 97A, 98A & 98E.
List all documents submitted with this report for the Panel's consideration	Architectural Plans, Elevations & Sections Photomontages Perspectives Overshadowing diagrams Materials Sample Board Project Summary Schedule GFA, Solar, Deep Soil & Cross Ventilation Diagrams Landscape Plans & Landscape Masterplan New Access Road Plan & Public On-street Parking Production Lane New Access Road Cross Sections Statement of Environmental Effects Applicant's Response to Further Information Request Clause 4.6 Variation

	Traffic Impact Assessment Traffic Statement No. 1 from Traffix Traffic Statement No. 2 from Traffix Subdivision Plan Signed Deed of License with 20-28 Production Ave (Neighbouring Land Owner) Voluntary Planning Agreement (VPA)
Report prepared by	Pascal van de Walle – Coordinator Development Assessment Marta Gonzalez-Valdes – Coordinator Development Assessment Luis Melim – Manager Development Services
Report date	17 November 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**

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

Conditions

Have draft conditions been provided to the applicant for comment? **Yes**
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

Application Number:	DA-2017/224
Date of Receipt:	21 December 2016
Property:	152 Rocky Point Road, KOGARAH 206 Rocky Point Road, KOGARAH (Lot 1 DP 666138) 200 Rocky Point Road, KOGARAH 160 Rocky Point Road, KOGARAH 152 - 200 Rocky Point Road, KOGARAH (Lot 2 DP 405531), (Lot 1 DP 599502), (Lot 22 DP 620329), (Lot 2 DP 838198), (Lot 1 DP 1144981)
Owner:	JQZ Nine Pty Ltd
Applicant:	Rocky Point Road Development Pty Ltd
Proposal:	152-200 & 206 Rocky Point Road, KOGARAH NSW 2217 - Integrated Development and Staged Development – former Darrell Lea site – Stage 1 consists of the construction of four (4) residential flat buildings comprising 513 units and twenty (20) townhouses; basement car parking; construction of a new access road connecting Rocky Point Road and Production Avenue, including the construction of a new signalised intersection at Rocky Point Road and road upgrade works to Production Avenue; landscaping works, including ground level landscaping for communal open space and communal terraces to some rooftops of the residential flat buildings; land subdivision, land dedication and building envelope for a child care centre; retention of the existing commercial building at 168 Rocky Point Road; and tree removal and bulk earthworks
Recommendation:	Approved
No. of submissions:	14 submissions received, however 6 from the same person. Therefore a total of nine (9) submitters.
Author:	Pascal van de Walle
Date of Report:	17 November 2017

Key Issues

This proposal constitutes a Concept Development Application made under Section 83B of the EP&A Act, that includes the concept proposal for a staged development comprising 533 residential dwellings, basement car parking for 704 vehicles, construction of a new access road through the site from Rocky Point Road and Production Avenue, construction of a new signalised intersection, land subdivision and dedication, landscaping and construction of a child care centre. Full details for the child care centre will

be the subject of a further Stage 2 application. Approval for all other works is sought in Stage 1 which is described in detail in the Proposal section of the report.

The site was most recently zoned primarily for industrial purposes and was occupied by Darrell Lea Chocolates. The site was the subject of a Planning Proposal in 2014 and was rezoned to both B6 Enterprise Corridor and R4 High Density Residential under Rockdale Local Environmental Plan (RLEP 2011). As part of the Planning Proposal a Voluntary Planning Agreement (VPA) was entered into. The VPA was entered into on 9 May 2017 and one key element includes construction of a child care centre which, once constructed, would be dedicated to Council. The dedication would include the land and completed child care centre which must be completed prior to issue of the Occupation Certificate for the 350th dwelling. A broad range of other matters are included in the VPA and this is addressed in the body of the report.

The proposal has been referred to the Design Review Panel on three (3) occasions, including two (2) meetings at pre-DA stage and one (1) meeting following lodgement. The DRP considers that the emerging character that will be created by this development is generally appropriate within the sites context, however a number of issues were raised. In addition, the proposal results in a number of small variations to the requirements of the Apartment Design Guide (ADG). The issues identified are considered to have been satisfactorily addressed in the amended plans or by way of recommended condition of consent.

The site is affected by a Deed of Licence entered into with the registered proprietor of No.20-26 Production Avenue. This Deed provides the adjoining owner with the right to utilise a 3m wide strip at the northern boundary of the site for fire egress and building maintenance purposes. This results in a loss of deep soil landscape planting and therefore a condition is proposed requiring an increased setback to Building D to ensure adequate amenity is provided for future occupants. This results in a 139.5m² reduction in the total GFA.

The proposed development has an FSR of 2.04:1 and exceeds the maximum permitted 2:1 FSR for the site by 1.93%. When considering the reduction in GFA for Building D, the proposal results in an FSR of 2.03:1 (1.53% variation). The Clause 4.6 variation submitted by the Applicant is considered to be well founded and is the minor variation to the FSR is supported in the circumstances of the case for the reasons detailed in the body of the report.

The proposal is Integrated Development as it includes excavation works that will transect the water table. NSW Water has provided their Terms of Agreement which have been imposed in the draft conditions.

The proposal is identified as Traffic Generating Development under State Environmental Planning Policy (Infrastructure) 2007 and also required concurrence from RTA for installation of the proposed new signalised intersection at Rocky Point Road and the New Access Road. RMS have granted their concurrence by letter dated 12 September 2017.

The property has been used for industrial purposes and is located next to land zoned for industrial purposes. The application was accompanied by a 'Targeted' Phase 2 Contamination Assessment report. The report recommends that the surrounding soils be investigated during the assessment process to identify the presence of any previously unidentified soil contamination. They consider that this can be achieved by inclusion of an Unexpected Finds Procedure to identify any localised area of contamination, or suspected contamination, in a Construction Environmental Management Plan

(CEMP). Council's Environmental Health Team have assessed the report and found it to be acceptable. Accordingly, the consent authority can be satisfied that, in accordance with Clause 7 of SEPP 55, the land is suitable for the proposed residential use subject to compliance with recommended conditions of consent requiring the CEMP as recommended by Coffey.

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 a total of 14 objections were received, however 6 were from the same person. Therefore the proposal attracted a total of nine (9) submitters. One of the submissions raised concerns with traffic impacts resulting from the proposal, however the submission stated that they did not object to the proposed development. The key issues raised include traffic impacts, overdevelopment, excessive height, privacy and overlooking, security, impacts to trees, exhaust from vehicles, inadequate provision of services and inappropriate location in relation to public transport provision. The issues raised have been considered and the impacts have been addressed in amended plans or conditions of consent, or are considered to be minimal or unable to be addressed as part of this proposal.

The proposal has been the subject of extensive design process and is recommended for approval subject to imposition of recommended conditions.

Recommendation

1. That the Sydney Eastern City Planning Panel accept the Clause 4.6 variation to Clause 4.4 of RLEP 2011 (FSR) 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 decision.

Background

History

The site was most recently zoned primarily for industrial purposes and was occupied by Darrell Lea Chocolates. The site was the subject of a Planning Proposal in 2014 and was rezoned to both B6 Enterprise Corridor and R4 High Density Residential under Rockdale Local Environmental Plan (RLEP 2011). As part of the Planning Proposal a Voluntary Planning Agreement (VPA) was entered into. The VPA was entered into on 9 May 2017 and one key element includes construction of a child care centre which, once constructed, would be dedicated to Council. The dedication would include the land and completed child care centre which must be completed prior to issue of the Occupation Certificate for the 350th dwelling. Other matters included in the VPA are discussed later in the report.

Since amendment of the LEP the site was acquired by JQZ, the current owner of the site.

Two (2) pre-lodgement meetings were held with Council's Design Review Panel (DRP) on 21 July 2016 and 14 September 2016, and a pre-DA meeting was held with Council on 3 August 2016. The pre-DA meetings included schematic plans for the redevelopment of the whole site, including land located within both the B6 and R4 zones.

Demolition works at the site have been completed under a Complying Development Certificate issued by a Private Certifying Authority (CD-2017/82).

Relocation of the Sydney Water pipeline toward the sites southern boundary has also been completed. The applicant has confirmed that these works were permitted without the need for Council approval, and that works were carried out in accordance with the relevant environmental assessments under Part 5 of the Environmental Planning and Assessment Act (EP&A Act) 1979. The works were carried out in proximity to adjoining Margate Street properties and trees located within rear yards. The applicant has confirmed that the works have not resulted in impacts to trees in the rear yards of the Margate Street properties.

An application for Subdivision of the site into three (3) lots was lodged with Council on 18 January 2017. The subdivision application does not include the child care centre allotment, which forms part of this DA. The proposal is for subdivision of the whole site into three (3) allotments including:

- one (1) allotment for the R4 High Density Residential zone,
- one (1) allotment for the B6 Enterprise Corridor zone and
- one (1) allotment for the road widening associated with intersection works to Rocky Point Road.

The subdivision DA must be updated to reflect amendments to the proposal, specifically the agreement that the road be dedicated to Council.

The current application does not include any building construction works within the land zoned B6. The applicant advises Council that they are currently preparing the plans and that they will be submitting these in the near future.

Proposal

This proposal constitutes a Concept Development Application made under Section 83B of the EP&A Act, is a (formerly known as a 'staged development application') that includes the concept proposal for a staged development comprising 533 residential dwellings, a child care centre and a proposed new access road through the site from Rocky Point Road and Production Avenue.

Full details for the child care centre will be the subject of a further Stage 2 application. Approval for all other works is sought in Stage 1 which is described in detail below:

STAGE 1

Stage 1 includes site preparation and road construction works across the whole site (i.e. within both R4 and B6 zoned land), however all other works are contained to the land zoned R4 High Density Residential. The R4 zoned part of the site has an area of 22,374m².

Development of the land zoned B6 Enterprise Corridor is not included in this application and will be subject to separate applications. Preliminary meetings have been held with the applicant for some of these sites.

The proposal originally requested approval for demolition works, however all demolition works have been completed separately under a Complying Development Certificate (refer to History section above for details). All buildings and structures have now been demolished, or have approval for demolition, with the exception of the commercial building at No. 168 Rocky Point Road. This building is a more recent development that is currently operational and will be integrated with other commercial developments in the future DA that will be lodged for the B6 zoned land.

Proposed works within Stage 1 specifically consists of:

Tree Removal & Protection

Removal of all trees located within that part of the site zoned R4 as detailed in the Arboricultural Report. No trees will be removed from the land zoned B6, other than those already removed during demolition works for safety reasons. Council's Tree Management Officer also issued some permits to facilitate removal of trees following submission of separate Arborists report demonstrating the need for their removal.

The proposal will not impact any of the 15 trees located within adjoining residential properties to the south fronting Margate Street.

The landscape plan includes replacement tree planting of over 164 trees.

Bulk Earthworks

Bulk earthworks within the R4 and B6 zones associated with the future development and construction of the new access road.

Residential Dwellings

Construction and use of 533 residential dwellings including twenty (20) townhouses and 513 apartments. The dwelling mix proposed is provided below:

- 1 bedroom dwellings: 117 (22%)
- 2 bedroom dwellings: 352 (66%)
- 3 bedroom dwellings: 64 (12%)

Note: A condition is proposed requiring the deletion of parts of Building D and the resulting conversion of 6 x 3 bedroom units into 6 x 1 bedroom units due to site constraints resulting from the Deed entered into with the adjoining property owner. The resulting dwelling mix used for assessment purposes is as follows:

- 123 x 1 bedroom dwellings (23.1%)
- 352 x 2 bedroom dwellings (66%)
- 58 x 3 bedroom dwellings (10.9%)

A detailed description of the proposed residential buildings is provided below:

- Townhouses (Building G) - Twenty (20) Townhouses with basement parking for 40 vehicles.

Each of the townhouses is two storey with roof-top terraces and contains three (3) bedrooms and two (2) car spaces, as follows:

- Basement Level - two (2) car parking spaces with internal access to the dwelling;

- Ground Floor Level - open plan living / dining / kitchen, bedroom at the rear, front north facing courtyard, rear private open space;
- First Floor Level - two bedrooms, study, main bathroom & ensuite bathroom;
- Roof Top Level - roof top terrace, privacy screen to the southern end.

The terraces are setback from the New Road by between 5.7 to 8.4m and the area in front of the lots is primarily proposed as communal open space. Individual street access is provided for each proposed terrace.

- Residential Flat Buildings - Four (4) residential flat buildings comprising 513 units with basement parking for 664 vehicles.

The flat buildings range in height from 6 to 13 storeys (Buildings B, C, D & E) and are connected by three (3) x two (2) storey terrace style residential blocks (Blocks BC, CD & DE).

(i) Building B

- 8 to 13 storeys, with a maximum height of 42.05m (RL 48.05m to AHD)
- 178 units

(ii) Building C

- 6 to 11 storeys, with a maximum height 37.2m (RL 41.0m to AHD)
- 93 units

(iii) Building D

- 6 to 11 storeys, with a maximum height of 37.16m (RL 40.30m to AHD)
- 93 units

(iv) Building E

- 8 to 13 storeys, with a maximum height of 37.75m (RL 40.30m to AHD)
- Communal gym
- 137 units

- Interconnecting Terrace buildings - Blocks BC, CD & DA (Building L)

These three (3) blocks connect each of the four residential towers identified above and each consists of four (4) x attached two (2) bedroom cross-through dwellings / terraces with individual entries from ground level. These dwellings contain private open space at roof-top level.

These three (3) blocks contain a total of 12 x two (2) bedroom dwellings.

Parking, Access & Servicing

The proposal includes 704 parking spaces for the residential dwellings (including visitors spaces), 22 new public on-street parking spaces along the new access road and retention of 40 on-street parking spaces along Production Lane, as follows:

- Construction of a part two and part three level basement car park underneath the RFB's with a single access point from Production Lane, including:
 - 664 car spaces
 - 48 motorcycle spaces

- 53 bicycle parking spaces
- 3 loading bays have been provided in the basement for all waste collection and removalist trucks to utilise.
- Construction of a single level of basement parking for the townhouses, containing double garages for each townhouse and providing parking for a total of 40 vehicles;
- On-street parking along the New Road, including 22 public parking spaces (Note: a recommended condition requires that two of these spaces be accessible parking spaces).
- Retention / Provision of 40 public parking spaces along Production Lane.

Parking for the single remaining commercial building at No. 168 Rocky Point Road will be managed under the existing consent.

New Road, Widening of Rocky Point Road & New Signalised Intersection

The proposal includes construction of a new two-way internal access road, widening of Rocky Point Road and construction of a new signalised intersection. The proposed road works are partly within the Geroges River Council LGA and the intersection works have been provided with concurrence from RMS. The road works are described in further detail below:

- New internal access road connecting Rocky Point Road and Production Avenue.

The new internal access road will have a width of 20.1m, however the area adjacent to the future Council owned child care centre will have a width of 18.2m. The new road will include:
 - Two-way traffic movement;
 - Shared pedestrian / bicycle path along the northern side of the New Road;
 - Pedestrian footpath along the southern side of the New Road;
 - 22 on-street Parking bays (constructed using permeable pavers);
 - Tree & landscape planting;
 - Street lighting; and
 - Stormwater Drainage, including diverted stormwater drainage pipes from Rocky Point Road;
 - Service provision (e.g. underground electricity cables, stormwater drainage, etc.).
- New signalised intersection at Rocky Point Road / Weeney Street intersection, including bicycle signals for regional bicycle route.
- Road widening works to the eastern side of Rocky Point Road to facilitate the new intersection (including a new right hand turn lane for traffic travelling in a northerly direction).
- Land subdivision and dedication of the new road into two (2) lots accommodating the proposed intersection to be dedicated to RMS and the new road to be dedicated to Council.

Road upgrades to Production Lane (to the east of the site)

- Connection of proposed internal access road to Production Avenue;
- Reconfiguration and rationalisation of existing public parking spaces along Production Avenue as a result of the new intersection and basement driveway entrance. New spaces will be provided within an existing landscape beds;
- Construction of a bicycle lane connecting the internal access road and Scarborough Park

cycleway;

- New turning area within the field access driveway at the southern termination of Production Lane;
- Removal of existing speed hump and construction of a raised threshold in Production Lane;
- Maintain existing access to sporting fields; and
- provision of two kerb ramps;

Note: The proposed New Road and driveway access to the basement parking for the RFB's in a loss of existing public parking spaces provided within Production Lane. The application therefore proposes works to Production Lane to ensure that adequate replacement public parking has been provided.

Subdivision & Land Dedication

Land subdivision to create five (5) parcels of land, and dedications as follows:

- Land subdivision and dedication of 1,000m² land parcel to Council for the future child care centre in accordance with the executed VPA for the land.
- Land subdivision and dedication of a 575m² land parcel to RMS for intersection widening purposes;
- Land subdivision and dedication of a 3,843m² land parcel to Council for the new public access road.
- The remaining land to form a two separate parcels within a single title (being the majority of the wider site zoned R4 High Density Residential and B6 Enterprise Corridor).

In addition to the above subdivision, a separate application (DA-2017/245) has been lodged for the subdivision of the site into three (3) allotments. The key objective of that proposal was to provide separate allotments for the R4 High Density Residential zone and the B6 Enterprise Corridor zone. This subdivision DA-2017/245 will need to be amended to reflect the final outcome of this DA-2017/224.

Landscape Provision

Landscaping works, including:

- ground level landscaping for communal open space, boundary setbacks and private courtyards;
- green rooftops and landscaped communal areas within the residential flat buildings;
- green roof to driveway basement entry;
- landscape planting of proposed easement with B6 zone;
- landscaping along the proposed internal access road; and
- landscaping along the western side of Production Lane.

The landscape plan includes planting of more than 164 trees.

Service Provision

Extension / augmentation of services and utilities to service the development.

The following services will be provided within the B6 zoned land:

- Underground electricity supply;
- Street lighting;
- Drainage pipes and pits;
- Underground telecommunications supply; and,
- Water supply.

Child Care Centre

Concept scheme for the child care centre, including parking layout and design, and maximum GFA. The detailed design will be submitted as a separate Stage 2 application.

STAGE 2

Stage 2 will consist of a detailed proposal for the child care centre within the envelope established as part of the concept proposal. In accordance with the executed VPA, the construction of the child care centre must be completed prior to issue of the Occupation Certificate for the 350th residential dwelling.

Detailed preliminary discussions have been held with the applicant regarding the proposed design and layout of the Child Care Centre, and draft plans have been prepared and submitted to Council for a formal Pre-DA Meeting.



Figure 1 - Perspective looking north



Figure 2 - Perspective looking north-west from New Road (near child care centre).



Figure 3 - Landscape Masterplan (Showing roof-top terraces and including possible built form in the B6 Zone)

Site location and context

Subject Site

The site is generally rectangular in shape. It is comprised of six (6) allotments with a total area of approximately 33,525m² (see **Table 1 & Figure 1**). The site has an approximately 204m frontage to Rocky Point Road (a Classified Road), an eastern frontage of approximately 142 metres to Production Avenue (Lane), a northern side boundary of 232.4m to the rear of properties with frontage to Production Avenue (located within the IN1 zone), and a southern side boundary length of 197.4m primarily to the rear of properties fronting Margate Street.

Table 1 - Legal description and Land area of lots comprising the site

Address	Lot	Deposited Plan	Land Area
152 Rocky Point Road	2	405531	1,929.7m ²
160 Rocky Point Road	2	838198	11,704.7m ²
168 Rocky Point Road	1	1144981	3,750.5m ²
200 Rocky Point Road	22	620329	12,376m ²
	11	599502	3,124.5m ²
206 Rocky Point Road	1	666138	639.6m ²
Total Land Area			33,525m²

The proposal only includes the two (2) lots at 152 and 206 Rocky Point Road in the subdivision portion of this proposal. No physical works, including tree removal, are proposed within these two lots.

The relevant site area for the purposes of calculating the Floor Space Ratio (FSR) associated with the

residential component is 22,374m². This is the area of land zoned R4 High Density Residential (see **Figure 5**). The remaining land is zoned B6 Enterprise Corridor. The only works proposed on the B6 zoned land is the construction of the new access road, service provision, landscaping along the eastern boundary of the zone directly abutting the R4 zone and car parking for No. 168 Rocky Point Road. This is discussed in further detail in the assessment.

Table 2 - Area of land associated with each of the R4 & B6 zones

Land Use Zone	Land Area
B6 Enterprise Corridor (including 152 and 206 Rocky Point Road)	11,151m ² (including the area to be dedicated for intersection and road widening purposes)
R4 High Density Residential	22,374m ²



Figure 4 - Site area



Legend
 [Red dashed line] Site Boundary
 [Blue solid line] Relevant Site Area

Figure 5 - 'Site Boundary' refers to areas subject to physical works. 'Relevant Site Area' refers to those parts of the site subject to the construction of residential dwellings & the child care centre under this Application (i.e. the 22,374m² part of the site zoned R4 High Density Residential)

The Land Area for the B6 Enterprise Corridor zone includes the area that is subject to future road widening for the proposed new intersection at Rocky Point Road.

The sites slope down from Rocky Point Road to the rear Production Lane. The difference in levels between Rocky Point Road and Production Lane varies between 6m-10m, with a maximum difference in levels between the sites highest point (152 Rocky point Road - RL 12.5) and its lowest point at the north-eastern corner of the site at Production Lane (RL 2.5). The site also contains a cross fall generally from south-west down to north-east. The rear south-eastern portion of the site is relatively level and elevated approximately 2m - 2.5m above the sites northern rear side. There is also a difference in levels between the Margate Street properties and the subject site. Toward the front southern boundary of the site adjacent to No. 2 Margate Street the site levels vary, however the land and floor level for the previous industrial building nearby was raised approximately 2m above these properties. Toward the rear southern boundary of the site, primarily at the rear south-eastern corner where the proposed child care centre is located, the subject site is approximately 2 metres lower than the Margate Street properties.

The site is also affected by existing Council and RMS stormwater easements, including an easement for drainage from Rocky Point Road that will be relocated into the new road, and a Deed that has been entered into with the adjoining owner of No. 20-28 Production Avenue. This 'Deed' provides that owner with the right to use a 3m strip of land located immediately to the south of their property for fire egress and building maintenance purposes. This area affected by the Deed is clearly shown in the plans.

The site was identified as potentially contaminated, is affected by Acid Sulfate Soils Class 3 and 5, and a very small part of the sites north-eastern fringe is affected by flooding.

Surrounding Context

The surrounding site context includes:

- North – the rear of an array of light industrial uses within the IN2 Light Industrial zone. These properties have frontage to Production Avenue and include car repair stations, warehouses and a range of other light industrial uses.
- South - the rear yard of detached dwellings within the R2 Low Density Residential zone. These properties have frontage to Margate Street and Rocky Point Road. Ramsgate town centre located approximately 300m further the south contains a range of small scale commercial and retail business, and some more recent four and five storey mixed use developments.
- East - Production Lane, Leo Smith Reserve / Scarborough Park which include a selection of sport fields used for baseball, soccer, rugby and cricket among other areas of the park for alternate active recreational uses. The park interconnects with broader Scarborough Park to the North and Rotary Park and Tornbridge Street Reserve to its south, forming a local grid of functional open spaces for residents and the community within the wider area. Part of the park is zoned SThe reserve takes a more natural vegetated parkland form to its south west. The part of Production Lane that immediately adjoins the site includes public car parking that is primarily utilised by the sporting fields. Access to Production Lane is via an existing one-way system from Rocky Point Road with access using Production Avenue and egress using Philips Road to gain access to Rocky Point Road (a one-way road located to the north of Production Avenue).
- West - a new Aged Care Facility, low density detached dwellings and a series of four (4) storey apartment buildings are located on the opposite side of Rock Point Road within the Georges River Council area.

The Kogarah town centre is located approximately 1.4km further north. Kogarah town centre contains a mix of local businesses and retail shops, St George Hospital and other health and medical-related facilities.

The site is also located within approximately 1.8 kilometres south east from Kogarah Railway Station and 1.5 kilometres east of Carlton Railway Station. These stations are serviced by the T4 Eastern Suburbs and Illawarra Rail line, which connects Bondi Junction to Wolli Creek, Kogarah, Sutherland and Cronulla via Central Sydney stops.

Local bus networks (Route 476 and Route 477) provide regular services in front of the site and connect the site to Kogarah and Carlton Station as well as service the local and surrounding suburbs of Rockdale, San Souci, Dolls Point, and Ramsgate.



Figure 6 - Local Context (Source: PTW Architects)



Figure 7 - Aerial view of site in broader context (Source: PTW Architects).



Figure 8 - Extract of RLEP 2011 Zoning Map.

Statutory Considerations

Environmental Planning and Assessment Act, 1979

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

S.91A - Development that is Integrated Development

The proposal includes excavation works for three (3) basement levels of car parking that will transect the water-table and require temporary dewatering during the construction phase. The proposal is therefore Integrated Development pursuant to Section 91 of the Environmental Planning and Assessment Act 1979, and requires approval from the Water NSW. Water NSW have deemed that the construction dewatering proposed for the project would be an 'aquifer interference activity' in accordance with the definition in the Water Management Act 2000, and will therefore require authorisation under water management legislation. NSW Water have issued their General Terms of Approval (GTA's) appropriate to this activity on 6 February 2017 which have been included in the Draft Notice of Determination.

S.93F - Planning Agreements

Council is required to detail any proposed Voluntary Planning Agreement (VPA) and its relationship to the application under assessment in accordance with Section 79C(1)(a)(iia) of the EP&A Act.

In accordance with the provisions of Section 93F of the EPA Act 1979 (as amended), the original developer entered into a Voluntary Planning Agreement (VPA) with Council on 9 May 2016 in connection with the Planning Proposal for the site resulting in increased FSR and Height. The VPA was novated to the new owner JQZ Nine Pty Ltd as trustee for the JQZ Nine Unit Trust on 15 December 2016.

The VPA includes the construction of a child care centre and dedication to Council of a parcel of land containing the new child care centre. A broad range of other works and monetary contributions are also proposed.

The VPA provides the following specific community benefits as detailed in clause 1, Schedule 3 of the VPA:

- Part A - Monetary Contributions:
 - \$100,000.00 towards a Local Area Traffic Management study;
 - \$50,000.00 towards improvement of the sporting facilities for the Arncliffe Scots Basement Club;
 - \$50,000.00 towards improvement of the sporting facilities for the Brighton Seagulls Junior Rugby League Football Club;
 - \$70,000.00 towards masterplanning of the shared regional footpaths and cycleways;
 - \$1,595,000.00 towards carrying out of works to create shared footpaths and cycleways in Scarborough Park, Leo Smith Reserve, Hawthorn St Reserve and Tonbridge Reserve with priority given to works on Scarborough Park South;
 - \$415,000.00 towards construction of a new playground in the northwest section of Tonbridge Reserve, or as otherwise agreed between the parties; and,

- Part B - Contribution Works
 - Embellishment and remodelling works to Production Lane north of the site (Contribution Value = \$370,000.00);
 - Construction and Fit-out of a Child Care Centre (Contribution value = \$1,500,000.00);
- Part C - Land Dedication
 - Dedication to Council of the land associated with the child care centre;

Timing for the delivery of the above community benefits are detailed in Column 4 of the tables provided in Clause 1 of Schedule 3.

Through entering the VPA, the developer will not be excluded from any requirements for S94 development contributions.

This application has been conditioned to ensure any consent operates in conjunction with the Voluntary Planning Agreement for the subject site. The proposal has been conditioned to ensure the works subject of this approval are undertaken in tandem and that the relevant occupation certificate for the residential development not be issued prior to the completion of works as detailed in the VPA.

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:

Greater Metropolitan REP No. 2 – Georges River Catchment

The proposal is consistent with Council's requirements for the disposal of stormwater in the catchment. Therefore, it is considered that the proposed development will not significantly impact upon the environment of the Georges River, either in a local or regional context, and that the development is not inconsistent with the general and specific aims, planning principles, planning considerations and policies and recommended strategies. The proposal is consistent with the aims and objectives of the Georges River Catchment Deemed (SEPP).

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

The applicant has submitted a BASIX Certificate for the proposed development. The commitments made include general water and energy saving measures, use of 1-phase zoned air-conditioning systems within all dwellings, the use of LED lighting in certain parts of the development and the inclusion of a central water tank to irrigate the 2,345m² of common landscaped area on the site and use for car washing.

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

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

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

State Environmental Planning Policy (Infrastructure) 2007

Clause 101 - Development with frontage to classified road

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

The proposal includes construction of a new signalised intersection and associated road works along Rocky Point Road and accordingly, the proposal has been sent to the Roads & Maritime Service (RMS). The authority has responded granting concurrence for the proposed intersection and associated works subject to recommended conditions of consent which have been imposed on the draft Notice of Determination. Council's Engineer's have considered swept path diagrams submitted with regards to the proposed new road. The proposed residential development is also setback from Rocky Point Road behind the B6 zone and impacts from road noise and emissions will therefore be minimised. The application is therefore considered to be consistent with the provisions of clause 101 of the SEPP and is acceptable in this regard.

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 requested that additional information be provided for their consideration. The issues raised by RMS have been resolved and RMS provided concurrence to the proposal by letter dated 12 September 2017 subject to recommended conditions of consent which have been included in the draft Notice of Determination.

Further, Clause 104(3)(b) requires that the consent authority, prior to determination, consider the following:

- (ii) the accessibility of the site concerned, including:
 - (A) the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and
 - (B) the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and
- (iii) any potential traffic safety, road congestion or parking implications of the development.

The applicant's traffic reports submitted with the proposal consider the implications of traffic movements into and through the site and the local road network. Consideration has been given to provision of one-way traffic flow for part of Production Lane to reduce heavy vehicle movements through the new residential road, however this was found to result in adverse impacts to the traffic flow along Rocky Point Road and was therefore not pursued. The application was referred to the Bayside Traffic Development Advisory Committee (BTDAC) on two (2) occasions and issues raised have been adequately resolved. Council's Engineer's have also assessed the proposal and provided recommended conditions of consent. Further consideration to traffic impacts has been provided in response to Section 79C(1)(b) 'Likely Impacts of Development' below. Therefore, it is considered that the proposed development is consistent with the SEPP.

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 Ausgrid, the electricity supply authority for the area, 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.

Ausgrid has responded granting approval for the development subject to imposition of several conditions of consent requiring the inclusion of substations within the development site, which have been imposed on the draft Notice of Determination.

The application is consistent with the provisions of the SEPP and is acceptable in this regard.

State Environmental Planning Policy (Major Development) 2005

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

State Environmental Planning Policy No 55—Remediation of Land

The property has been used for industrial purposes and is located next to land zoned for industrial purposes. The application was accompanied by a 'Targeted' Phase 2 Contamination Assessment prepared by Coffey dated 2 June 2015. The report was prepared for the Planning Proposal, however is considered relevant and satisfactory for consideration with this development application.

Based on the results of the targeted assessment, Coffey concludes that the current and former occupation of the site does not appear to have resulted in contamination of the subsurface which warrants further investigation or remediation. Furthermore, Coffey considers that the site is suitable for the proposed land uses permitted in the B6 - Enterprise Corridor - and R4 - High Density Residential zones without the need for further investigation or remediation.

Coffey recommends that the surrounding soils be investigated during the assessment process to identify the presence of any previously unidentified soil contamination. They consider that this can be achieved by inclusion of an Unexpected Finds Procedure to identify any localised area of contamination, or suspected contamination, in a Construction Environmental Management Plan (CEMP) so that it can be managed properly.

Council's Environmental Health Team have assessed the report and found it to be acceptable. Accordingly, the consent authority can be satisfied that, in accordance with Clause 7 of SEPP 55, the land is suitable for the proposed residential use subject to compliance with recommended conditions of consent requiring the CEMP as recommended by Coffey.

Further to the above, it is noted that demolition works and some earthworks have been carried out under Complying Development Certificate No. CD-2017/82 issued by Dix Gardener on 29 October 2016 for demolition of existing factory warehouses and dwelling and partial demolition of commercial building. Notwithstanding, relevant conditions associated with the submitted report are included in this consent in accordance with the submitted 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 has been referred to the Design Review Panel on three (3) occasions, including two (2) meetings at pre-DA stage (21 July 2016 and 14 September 2016) and one (1) meeting on 2 March 2017 following lodgement. The plans submitted at pre-DA stage included development across the entire site, however the Application as lodged only includes development within the land zoned R4 High Density Residential. Therefore, the SEPP 65 and DRP assessment only includes consideration of the residential component of the site. Development on the B6 zoned land will be dealt with under separate applications.

The DRP considers that the emerging character that will be created by this development is generally appropriate within the sites context, however a number of issues were raised. The issues raised are considered to have been satisfactorily addressed by the applicant. The key issues raised by the DRP are discussed below:

- Issue: Potential overshadowing at mid-winter of the central communal open space by the proposed southern parts of the individual building wings, combined with the visual dominance of the southern walls of the two central blocks when viewed from the central communal open space area.
Comment: The two central blocks have been pulled back further from the south by 6 metres which has resulted in a reduction of the shadow impacts on the central communal open space area between 11am and 1pm at mid-winter. The height and form of these buildings has also been substantially amended and the Panel found this to be satisfactorily resolved. Furthermore, the applicant deleted the proposed swimming pool and relocated the proposed internal access road further to the south to increase the area of communal open space that receives solar access, and they have also provided communal areas at roof top levels of all four residential flat buildings B, C, D & E which receive high levels of solar access and amenity. The amendments made are considered to satisfactorily resolve the solar access and amenity issues relating to the external communal open space areas identified by the Panel.
- Issue: Northern Boundary interface with adjoining IN2 zone. The Panel were concerned with the proximity of the development to the sites northern boundary, particularly at lower levels where there would be very adverse impacts in relation to overshadowing and visual bulk due to the closeness of the adjacent industrial properties. At higher levels the outlook would be over the unattractive roofs of the industrial properties. There would also very likely be inadequate separation distances to potential future redevelopment on the industrial sites, and proposed planting within private courtyards along the sites northern boundary may not permit certainty that tree planting proposed will be retained.
Comment: The Panel was satisfied that the setback issues have been resolved through deletion of the proposed access road along the sites northern boundary, the increased 9m setback above level 4, the provision of dual orientation townhouses, relocation of lobbies and drop off points, and provision of a full contiguous deep soil planting zone. However the Panel remained concerned about the continuity and efficacy of the northern boundary landscape buffer particularly as they are proposed to fall under individual private ownership. The applicant has provided a draft By-Law requiring the maintenance of the landscape buffer to an acceptable standard. The

draft By-law also requires that access be granted to the private open spaces of these ground level apartments for the purposes of maintenance should the residents fail to comply. This provision is not considered adequate to ensure the long term health of the proposed landscape and tree planting. A draft condition is therefore proposed requiring that the 6m northern boundary setback be dedicated as communal open space on any future subdivision plan and that this area be provided with access for maintenance purposes to ensure that trees and landscape planting are maintained for the benefit of all residents with a northern outlook. The townhouses will retain north facing courtyards with depths of between 3m and 6m which, combined with their south facing courtyards, will ensure a good level of amenity is provided to these dwellings. A gate could also be provided that would permit these residents to access the communal area to the north. Further modifications are proposed in the vicinity of the area affected by the Deed with the adjoining properties fronting Production Avenue to ensure adequate amenity is retained in line with the DRP comments. Subject to imposition of the conditions, this issue is considered to be satisfactorily resolved.

- Issue: Western side setback - The 3m western side setback with the adjoining B6 zone does not comply with the ADG and is inadequate to ensure that the environmental quality and amenity of the residential development is not compromised by future development within the B6 zone.
Comment: The applicant now proposes a 6m easement for landscape planting that will burden a portion of land within the B6 zoned land adjacent to the sites western boundary. Combined with the 3m side setback, the proposed easement will ensure that a minimum 9m setback is provided between the proposed building and what may be considered as the future site boundary. While a 12m setback should be provided between habitable rooms for buildings over 25m (9+ storeys) in accordance with the ADG, the proposed 9m setback is considered acceptable given the 9m deep soil landscape strip. In addition, an assessment will need to be undertaken of future development within the B6 zone when an application is lodged, and further consideration can be given to the amenity impacts at that time. Therefore, the western setback is acceptable subject to imposition of the recommended condition requiring provision of a landscape easement with Council as the authority permitted to vary or alter the easement.
- Issue: Lack of deep soil, particularly the lack of deep soil under the proposed central communal open space.
Comment: The basement car park has been reconfigured to ensure that a consolidated area of deep soil has been provided underneath the communal open space area, and deep soil has been provided along most of the northern, southern and western boundaries of the site. In addition, a 6m wide deep soil landscape zone will be provided within the adjoining B6 zone to the west to ensure that a satisfactory level of amenity is provided for future occupants. This deep soil may be attributed to this proposal. Furthermore, the basement has been fully removed from within the road reserve and this will permit planting of significant trees to create an 'avenue' as recommended by the Panel. Recommended conditions include a requirement for use of porous paving within the carparking spaces along the new internal road, thereby increasing rainwater absorption within this deep soil area.
- Issue: The indicative plans of the apartment floors should be developed to allow for daylight access to the lift lobby spaces on each level. Also there is opportunity to provide for direct access to the rooftop garden spaces which could be potentially attractive communal areas. Daylight could be provided to at least the upper level carpark by integrating small light shafts within the podium design.
Comment: The plans have been amended to provide a break in the building where the lifts are

located. Therefore, all lift lobbies have been provided with natural light and ventilation. In addition, the lobbies have been amended to including provision of seating, areas for casual social interaction, notice boards, and so on in accordance with the ADG.

- Issue: Deletion of the two storey townhouses in the northern sector of the site - The Panel recommended that the benefits of deletion of the two storey townhouses in the northern sector and provision of further communal landscape area be explored. This was in part to address the excess GFA issue and in part to enhance the amenity of the communal area by maximising the openness, access to sunlight, and access to the sites northern boundary landscape strip.
- Comment: The applicant considers that the proposed interconnecting terraces provide a variation in built form and diversity in housing typology within the development site and the wider area, that they contribute to the screening of the industrial properties to the north and are important from an urban design perspective as they provide a sense of enclosure to the communal space. While the deletion of the townhouses may provide an improved outcome for the communal area and improve the outlook of units at lower levels, the applicants position is supported and their deletion is not considered warranted in this case. As identified by the applicant, these dwellings contribute to the range of housing typologies within the site and the locality, and the dwellings themselves will have a good level of amenity with both north and south facing courtyards.
- Issue: Tree planting within the communal open space areas and the provision of an avenue of trees. The Panel identified the significance and importance of developing an avenue of tree planting, and they questioned the limited extent of large scale tree planting in the central park zone. The Panel discussed the significance and importance of developing the avenue planting. The Panel recommended that full advantage be taken of the deep soil potential associated with the shareway to develop a distinctive avenue streetscape which will add significantly to the overall character of the development.
Comment: The amended proposal includes tree planting as recommended by the DRP. Subject to compliance with recommended conditions, the proposal is considered to provide a high level of amenity for future occupants.
- Issue: The developments interface along the eastern boundary opposite Scarborough Park. Tree planting should be provided to the site boundary adjacent to Production Lane.
Comment: The amended proposal includes additional tree planting, however further recent modifications made to Production Lane to accommodate the design vehicle, combined with increasing the width of the cycleway to 3m will result in a reduction of landscape area within this street frontage. Therefore, a condition is proposed requiring that amended plans be submitted to, and approved by, Council prior to issue of the relevant Construction Certificate. Subject to this condition, the proposal is considered acceptable.
- Issue: The proposed fence to the “central park” should be relocated to align with the southern edge of Buildings C and D (away from the access street). This would allow unimpeded access to the larger part of the open space by residents in the new townhouses as well as other residents. The Panel felt that this issue regarding access to the central park was a critical issue.
Comment: This will be dealt with by way of condition of consent requiring relocation of the fence as recommended by the Panel.
- Issue: The building address points and access to the lobbies is convoluted and unclear and should be redesigned.

Comment: This has been addressed in amended plans. Lobbies have been more clearly identified.

- Issue: There is a shortfall in 3-bedroom apartments and it is important to ensure that there is an appropriate mix in the long term and the application when developed must comply with code requirements for 10% of 3-bedroom apartments/dwellings.
Comment: The proposal has been amended to include 10.9% three-bedroom apartments. The amended scheme satisfies the recommendations of the Panel.
- Issue: Conflicting landscape planting information provided in the 'Design Response' presentation documentation and the deliverable content within the landscape architectural DA documentation.
Comment: The inconsistencies have been resolved. The proposal includes a green roof above the driveway entrance which includes low lying landscaping with a 300mm soil depth, and all areas of planting are now shown in the landscape documentation.
- Issue: Sustainability - A development of this scale offers many opportunities for site wide initiatives such as water sensitive urban design, solar energy collection, water recycling and other sustainability opportunities. Deep soil should be provided in accordance with Council's minimum recommendations (15%). The Panel supports the recommendation that sustainability issues be explored and defined in further detail.
Comment: The revised scheme provides 15% deep soil and the amended proposal also includes some WSUD measures. The applicant advises that they comply with the BASIX requirements. In addition, screening of western facing windows has been requested and has been agreed to on key western facades to minimise afternoon heat within apartments. Screening will form a recommended condition of consent.
- Issue: Design and location of the proposed child care centre - the Panel was concerned that the location of the child care centre may cause traffic congestion issues at pick up and set down, and that the single storey design would not respect the surrounding built form.
Comment: The proposed location and design of car parking for the child care centre has been amended. Council's engineers and the Bayside Traffic Development Advisory Committee (BTDAC) did not raise any concerns with the proposed location of the child care centre from a traffic safety point of view. In addition, further details can be provided with the detailed application for the child care centre, including signage if required. With regards to the proposed building height, the draft scheme is now for a two-storey centre and design details will be assessed as part of Stage 2 to ensure that it provides an appropriate response to the sites location.

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

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

Principle 1 – Context and neighbourhood character

The R4 zoned portion of this former Darrel Lea Site is very large, however it is constrained by the industrial development to the north and the R2 Low Density Residential zone to the south. The proposal is also located to the west of Scarborough Park, a large area of parkland that includes sporting fields, and the B6 zoned land to the west. The site is the only property in the area to be redeveloped at this scale, however it is compliant with the building height plane established in RLEP 2000 to minimise impacts to low density residential sites to the south. The DRP have found that the emerging character that will be created by this development is appropriate, however that the close proximity of the development to the sites western and northern boundaries required further resolution. These issues have been addressed, and the proposal is found to minimise impacts to residential properties. Furthermore, impacts resulting from the adjoining industrial properties located to the north on future occupants of the development site are found to be minimised and satisfactory. The proposal is therefore acceptable in this regards.

Principle 2 – Built form and scale

The built form is different to the planning proposal scheme, however is fully compliant with the building height controls contained with Council's LEP. The reduced height and scale of development toward the sites southern boundary minimises impacts to the R2 zone and is an appropriate transition in scale compared to the planning proposal scheme. The proposed buildings have been amended to address the built form issues raised by the DRP and Council, specifically with regards to design and built form appearance when viewed from the public domain and central park area of the site. In addition, the building has been setback from the sites northern boundary at upper levels and adequate tree planting is proposed to screen and soften the scale of development. The amended proposal is satisfactory, with appropriate use of articulation of the facades via the incorporation of balconies, pedestrian entries at ground level, and the range materials which add visual interest to the facades.

Principle 3 - Density

The proposal complies with the maximum height provisions in RLEP 2011 and is generally compliant with the 2:1 FSR control for the site. Combined with landscape and tree planting that will screen and soften the development when viewed from surrounding properties, the proposed height, setbacks and density of the development are found to be acceptable in the context.

Principle 4 – Sustainability

The application complies with BASIX through use of some LED lighting, insulation, gas hot water and other energy savings measures. The proposal provides 16.3% of the area associated with the residential development as deep soil landscape planting, which significantly exceeds the minimum 7% deep soil requirements of the ADG, and the application includes generous replacement tree planting. The development complies with the ADG requirements for solar access and natural ventilation, and screening will be provided to key windows within west facing facades as per the ADG objectives. In addition, the development is proposing to utilise a number of WSUD methods to treat the stormwater runoff generated within the site to Bayside Council requirements, including but not limited to:

- Bioretention raingardens;
- Swales; and
- Proprietary stormwater treatment products e.g. Stormwater360 Stormfilters.

In order to improve the water quality of surrounding waterways, the development is also proposing to incorporate a Gross Pollutant Trap within the proposed stormwater network located in Production Lane, and recommended conditions require the landscape areas adjacent to the New Road be used for WSUD measures. The proposal is therefore acceptable in this regard.

Principle 5 - Landscape

The proposed landscape plans have been amended to address issues raised by the DRP and Council. The amended design includes deep soil to all site boundaries that will include tree planting to ensure privacy and amenity are provided for the future occupants and surrounding sites. The proposal also includes an avenue of trees along the new street which, combined with tree and landscape planting within the communal open space, will create an attractive development with a good level of amenity. The proposal will contribute to the landscape character of the streetscape and neighbourhood.

Principle 6 - Amenity

The proposal satisfies the cross ventilation and solar access requirements of the ADG. The applicant has amended the plans to address most of the amenity issues identified by the DRP and Council, and the built form has been reorganised to ensure a high level of amenity is afforded to the central communal open space area at ground level. Communal areas proposed at roof top level will enjoy quality views and high levels of solar access and amenity for the benefit of residents. The lobbies have been increased in size and legibility, and provide a high quality entrance to the development where residents can meet and interact. The units and rooms are of adequate size and dimensions, and storage has also been provided in accordance with ADG. Balcony provision adjacent to living areas is not ideal, however overall, a high level of amenity that will be afforded to future residents as well as to surrounding residents and the public domain.

Principle 7 - Safety

The proposal has been amended to resolve the convoluted and unclear building address and access points, as well as delete the rear access driveway to the northern boundary. The basement car park has been reconfigured to provide all Visitors Parking nearby the main entry and provide a boom gate to prevent unauthorised vehicular access to the residential parking areas. The proposed balconies and living room windows will maximise passive surveillance of the building lobbies, communal areas and public spaces, however the basement includes areas of storage that are not in view and can easily be broken into. A condition is proposed requiring the basement storage areas to be caged and provided with key access. In addition, access to the car park and loading bay are secure, and relevant conditions requiring lighting and CCTV are considered satisfactory to address this issue.

Principle 8 - Housing diversity and social interaction

The proposed unit mix satisfies the requirements of RDCP 2011, including 10.9% three-bedroom units. The proposal includes a variety of apartment sizes and layouts, and provides areas where residents can interact. Relevant conditions require the provision of accessible units and associated car spaces. The proposal is therefore satisfactory in this regard.

Principle 9 - Aesthetics

The amended proposal includes a range of materials, colours and finishes that will provide a satisfactory contemporary development in the context of the site. The DRP found the aesthetics to be acceptable in principle. 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										
2E - Building Depth	12-18m front glass line to glass line.	Building depth generally 22m.	NO (See Note 1)										
3J - Bicycle and car parking	As per Guide to Traffic Generating Developments, or per council requirement, whichever is less. Parking provided off street. A minimum of parking spaces are required as follows: · 1 bed units = 1 x 107 = 107 spaces · 2 bed units = 1 x 362 = 362 spaces · 3 bed dwellings = 2 x 64 = 128 spaces · Visitors = 1 / 5 units = 107 spaces TOTAL Car Spaces Required = 704 spaces · Motorcycle Parking = 1 / 15 units = 36 spaces · Bicycle Parking = 1 / 10 units = 53.3 spaces	<u>Car Parking</u> Total Provided = 704 spaces, including: · 664 spaces within the main basement · 40 spaces within the townhouse basement	Yes										
4D – Apartment size and layout	Minimum internal areas: <table><thead><tr><th>Apartment type</th><th>Minimum internal area</th></tr></thead><tbody><tr><td>Studio</td><td>35m²</td></tr><tr><td>1 bedroom</td><td>50M²</td></tr><tr><td>2 bedroom</td><td>70m²</td></tr><tr><td>3 bedroom</td><td>90m²</td></tr></tbody></table> Internal areas includes only one bathroom. Additional bathrooms increase area by 5m² each. Further bedrooms increase minimum internal area by 12m² each.	Apartment type	Minimum internal area	Studio	35m ²	1 bedroom	50M ²	2 bedroom	70m ²	3 bedroom	90m ²	All units comply with the minimum requirements: · 1 bed units = 50.03 - 66.6m² · 2 bed + 2 bath = 75 - 81.5m² · 3 bed + 2 bath = 95.2 - 100.8m² · 3 bed + 3 bath (townhouses) = 116.2 - 128.2m²	Yes
Apartment type	Minimum internal area												
Studio	35m ²												
1 bedroom	50M ²												
2 bedroom	70m ²												
3 bedroom	90m ²												
4C – Ceiling heights	<table><thead><tr><th colspan="2">Minimum ceiling heights:</th></tr></thead><tbody><tr><td>Habitable</td><td>2.7m</td></tr><tr><td>Non-habitable</td><td>2.4m</td></tr></tbody></table>	Minimum ceiling heights:		Habitable	2.7m	Non-habitable	2.4m	The minimum floor to floor height is 3.05m. Therefore, a minimum 2.7m ceiling heights for habitable rooms and 2.4m for non-habitable rooms can be achieved.	Yes				
Minimum ceiling heights:													
Habitable	2.7m												
Non-habitable	2.4m												

3B-2 - Overshadowing of neighbouring properties minimised during winter.	Living areas, private open space areas and communal areas on adjoining sites should receive solar access in accordance with sections 3D and 4A of the ADG.	The height plane requirement of RLEP has been designed to minimise solar access impacts to residents within the adjoining R2 zone to the south. The proposal has been designed so that it will have no impacts to these residents at mid- winter.	Yes
3C - Public Domain Interface.	Transition between private and public domain is achieved without compromising safety and security. Amenity of the public domain is retained and enhanced.	The proposed setbacks, landscape plans and tree planting have been amended to ensure that there is an appropriate transition and relationship between the existing and proposed public domain and private spaces.	Yes
3D-1 - Communal and Public Open Space	25% of site area = 5,593.5m ² required. (Site Area =22,374m ²) 50% direct sunlight to principal usable part of communal open space for min 2hrs between 9am and 3pm on 21 June.	· 6,176m ² provided at (27.6 %) · 42.5% of the principal usable part of communal open space receives more than 2 hours sun.	Yes. NO - Variation supported. (See Note 2).

3D-2 - Communal open space designed to provide for a range of activities and respond to site conditions.	Facilities are provided within communal open spaces and common spaces for a range of age groups.	The proposal has been amended to include generous outdoor communal areas that will provide a broad range of activities including children play areas, indoor and outdoor gym areas, a meeting room, and so on. The proposal also includes more private roof-top communal areas with seating.	Yes
3E - Deep Soil Zones	Deep soil zones are to have minimum dimensions of 6m and comprise a minimum 7% of the site area.	The proposed deep soil calculations are provided in Plan No. DA-612. The proposal provides 2.932m ² of ADG compliant Deep Soil (13.4%). Overall the site provides 16.3% deep soil. This exceeds the ADG and complies with RDCP 2011 as recommended by the DRP.	Yes

3F Visual Privacy	Min separation - side & rear boundaries:			Minor variations proposed at Levels 8 and 9 between Buildings B & C. Western setback of Building B increased to 9m by way of landscape easement in B6 zone. Proposed setbacks meet the objectives, but not 12m requirement for upper levels.	NO - however proposal satisfactory in context. (See Note 3).
	Building height	Habitable rooms and balconies	Non habitable rooms		
	Up to 12m (4 storeys)	6m	3m		
	Up to 25m (5-8 Storeys)	9m	4.5m		
	Over 25m (9+storeys)	12m	6m		
	Buildings on the same site combine required building separations. Gallery treated as habitable space				
3G - Pedestrian access and entries.	Building entries and pedestrian access connects to and addresses public domain. Access, entries and pathways accessible and easy to identify. Large sites provide pedestrian links for access to streets and connection to destinations.			The proposal has been amended to ensure that building entries are clearly identifiable and relate to adjoining public domain and communal areas. A signage plan is required by condition.	Yes.
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.			389 of 533 units achieve in excess of 2 hours sunlight at mid-winter (73%). Max 6.8% (36 units) receive no direct sunlight.	Yes Yes
4A-3 - Shading & Glare Control.	Design incorporates shading and glare control, particularly for warmer months.			A condition has been imposed requiring that screens be provided to key west facing units to provide shading and glare control.	Yes

4F – Common circulation and spaces	Max apartments off a circulation core on a single level is eight (8) 10 storeys and over, max apartments sharing a single lift is 40.	Between 3-17 units off a single circulation core, and up to 46.5 units per lift.	NO - however meets the objectives (see Note 4).															
4E – Private open space and balconies	Primary balconies as follows: <table><tr><th>Dwelling type</th><th>Minimum area</th><th>Minimum depth</th></tr><tr><td>Studio</td><td>4m²</td><td>-</td></tr><tr><td>1 bed</td><td>8m²</td><td>2m</td></tr><tr><td>2 bed</td><td>10m²</td><td>2m</td></tr><tr><td>3+ bed</td><td>12m²</td><td>2.4m</td></tr></table> Min balcony depth contributing to the balcony area is 1m. Ground level, podium or similar -POS provided instead of a balcony: min area 15m² and min depth of 3m.	Dwelling type	Minimum area	Minimum depth	Studio	4m ²	-	1 bed	8m ²	2m	2 bed	10m ²	2m	3+ bed	12m ²	2.4m	All balconies comply with the minimum requirements.	Yes
Dwelling type	Minimum area	Minimum depth																
Studio	4m ²	-																
1 bed	8m ²	2m																
2 bed	10m ²	2m																
3+ bed	12m ²	2.4m																
4B – Natural ventilation	Min 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Ten storeys or > 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. Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	287 of 473 units below level 10 (60.3%) are provided with cross ventilation. A total of 347 of the 533 dwellings achieve cross ventilation, including all units in Level 10 and above and the townhouses (65.1%).	Yes															
4G – Storage	In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided: <table><tr><th>Dwelling type</th><th>Storage size volume</th></tr><tr><td>Studio</td><td>4m²</td></tr><tr><td>1 bed</td><td>6M²</td></tr><tr><td>2 bed</td><td>8m²</td></tr><tr><td>3 bed</td><td>10m²</td></tr></table> At least 50% of the required storage is located within apartment	Dwelling type	Storage size volume	Studio	4m ²	1 bed	6M ²	2 bed	8m ²	3 bed	10m ²	The applicant has shown adequate storage areas within the units and at basement level, and relevant conditions are proposed to ensure that the CC plans include adequate storage in accordance with the ADG.	Yes					
Dwelling type	Storage size volume																	
Studio	4m ²																	
1 bed	6M ²																	
2 bed	8m ²																	
3 bed	10m ²																	

4W - Waste Management	4W-1 - Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents. 4W-2 - Domestic waste is minimised by providing safe and convenient source separation and recycling.	Garbage storage and collection is provided at basement level. A generous 'consolidated waste room' is provided adjacent to the loading bay, and the building has been designed to permit access to the basement by a Council waste collection vehicle. A separate chute has been provided at each level for waste and recycling.	Yes Yes
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Note 1 - Building Depth (Part 2E)

The ADG recommends that buildings have a maximum depth of between 12-18m from glass line to glass line to ensure that units obtain adequate amenity. The proposed buildings generally have a depth of 22m. The buildings have been designed to maximise units facing north, east or west, the buildings have been designed to capture sun from these aspects. The proposal has been designed to comply with the maximum unit depth requirements and to achieve the minimum solar access and cross-ventilation requirements. Therefore, the proposed building design meets the objectives of this requirement and the variation is acceptable in this case.

Note 2 - Sunlight provided to principal area of Communal Open Space (Part 3D-1)

The ADG Design Criteria requires that developments achieve direct sunlight to at least 50% of the principal usable part of the communal open space for a minimum of 2 hours between 9am and 3pm on 21 June (mid-winter). The ADG defines 'principal usable part of communal open space' as follows:

Principal Usable part of communal open space

"A consolidated part of the communal open space that is designed as the primary focus of recreational activity and social interaction"

The principal area of the communal open space is provided centrally within the development site. The application was amended on two occasions during the pre-DA process to increase the area of communal open space which benefited from sunlight at mid-winter. Key amendments made included increased setbacks for Buildings C & D, stepping the building heights, and relocating the townhouses and road further toward the south.

The amended proposal achieves a minimum of 2 hours solar access to 42.5% of the principal area of

communal open space and still does not achieve the 50% recommended by the ADG (see Figure 8 below).

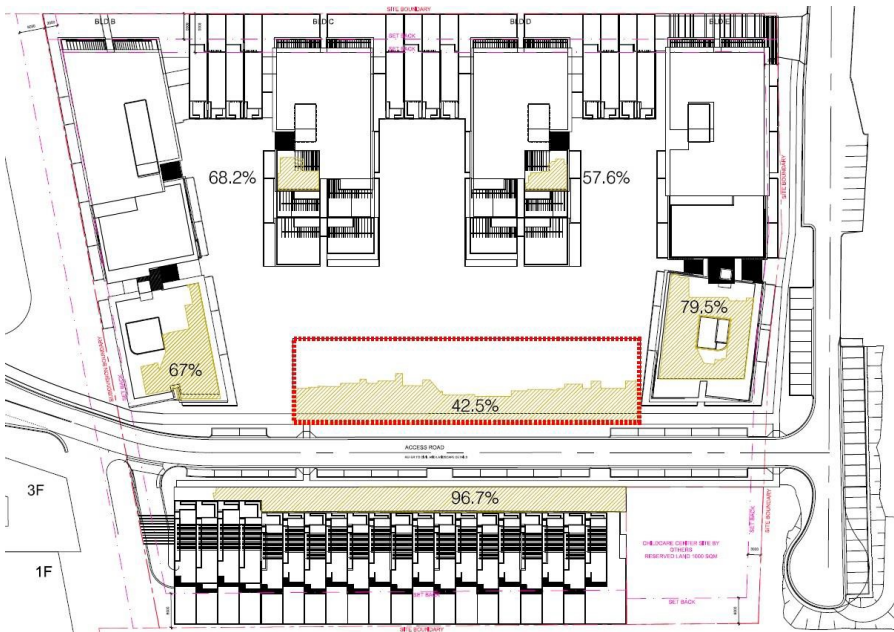


Figure 9 - Areas of communal open space receiving in excess of 2 hours sunlight at mid-winter (Note: modifications to the road width has resulted in a reduced communal open space area on the southern side of the new road. This figure is still relevant as the communal area to the north remains unchanged).

The applicant considers that the variation is acceptable in this case for the following reasons:

- "2 hours of direct sunlight is achieved for 695m² of communal open space area in mid-winter, which is considered a reasonable amount of space at ground level;
- The proposal achieves solar access for 2 hours to 50% of the principal usable component of the communal open space for 10 months of the year, between 24 July and 24 May the following year, as shown on the shadow diagrams in Appendix A;
- Four alternative generous rooftop communal open spaces achieve well in excess of the minimum 50% identified in the ADG throughout the year and therefore provide an additional area of communal open space which achieves direct sunlight in winter;
- The development as a whole provides a significant amount of communal open space well in excess of the minimum requirement. This communal open space is distributed across six separate areas providing people with a wide choice of spaces at any one time;
- The dimensions of the communal open space are much larger than the minimum;
- The amount of communal open space provided within the development will ensure that residents are afforded a high level of recreation and leisure amenity throughout the year; and
- The site is located in close proximity to a significant public open space corridor to the immediate east, with parks and reserves including Leo Smith Reserve and Scarborough Park.

On balance and given the difficulties in designing a development on the site which provides an internal access road / through site link and which achieves solar access in an arrangement where the building bulk and height is concentrated to the north (and hence the communal space to the south), it is considered that the proposed variation and alternative solution are acceptable and represent a good design solution. The figures below demonstrate the provision of solar access to 42.5% of the principal usable part of the communal open space

on 21 June".

The applicant's position is generally agreed with. The proposed area of communal open space is generous and will receive more than 2 hours to the principal area for most of the year. The plans were amended to provide roof top communal areas to each building to ensure that communal spaces were provided that receive well in excess of 2 hours sunlight at mid-winter. The site is also located nearby Scarborough Park which obtains sunlight for most of the day in mid-winter, and various parts of the communal space will be in sunlight throughout the day. Therefore, on balance, the variations to the proposal are acceptable in this case.

Note 3 - Visual Privacy / Building Separation (Part 3F-1)

Objective 3F-1 of the ADG recommends that building separation distances are shared equitably between neighbouring sites to achieve reasonable levels of external and internal visual privacy. The Design Criteria to the objective state as follows:

- *Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:*

Building Height	Habitable Rooms and Balconies	Non-habitable rooms
Up to 12m (4 storey)	6m	3m
Up to 25m (5-8 storey)	9m	4.5m
Over 25m (9+ storeys)	12m	6m

The proposed development has been designed to minimise visual privacy impacts to the Margate Street properties by provision of two storey townhouses with an 8m setback to the south of the site. The setbacks of the residential flat buildings significantly exceeds the recommendations of the ADG. Privacy impacts to neighbouring properties is discussed further in the assessment of RDCP 2011.

The buildings within the proposal comply with the above ADG separation distances with the exception of three (3) variations which have been discussed previously in response to the DRP issues above. The variations are supported for the reasons provided in the previous discussions, as well as for reasons detailed below:

1. Building separation to the Northern site boundary

The amended proposal includes a 6m setback to the sites northern boundary with the adjoining industrial properties for levels 1-4 and a 9m setback for all levels above. The proposed setbacks are consistent with the setbacks with the exception of the top three floors in Building C, D & E and the top five floors in Building B where a 12m setback is required to satisfy the ADG. The applicant considers that the variation is acceptable for the following key reasons:

- *The existing zoning to the north is industrial, with a maximum permissible height limit of 14.5m. These upper levels would therefore be well above any future industrial development to the north;*
- *In the event that the site to the north is rezoned to permit residential development, it is unlikely that the height along the boundary with the subject site would be equal to 33 metres (being the height limit for the northernmost portion of the site), on the basis that the site's to the north are much narrower, the height limit on the subject site is site specific, and the potential maximum height of any future residential development to the north is unlikely to be concentrated to south of those sites.*

The applicant's position is generally agreed with. The sites to the north are zoned industrial and have a maximum height of 14.5m, and if the sites are redeveloped then will need to consider impacts to this development. The applicant has also submitted acoustic assessment which considers the acoustic impacts and construction requirements for these units to minimise impacts, and relevant conditions are proposed to minimise acoustic impacts to future occupants. The variation to the separation distances is considered acceptable by the DRP, and strict compliance with the separation distance requirements is not considered necessary in this case.

2. Building separation to the Western site boundary

This matter has been previously discussed in the assessment of the DRP issues above and the setback was found to be acceptable subject to imposition of a condition requiring the provision of a 6m wide landscape easement within the adjoining B6 zoned land that can only be varied by Bayside Council. This easement will ensure that a 9m setback is provided between the proposed building and what may be considered as the future site boundary for all building levels. While a 12m setback should be provided between habitable rooms for buildings over 25m (9+ storeys) in accordance with the ADG, the proposed 9m setback is considered acceptable as discussed previously.

3. Building separation between Building B and Building C (Levels 9 & 10 only)

A 24m building separation is required between habitable rooms in Building B and Building C at Levels 8 and 9, however the separation distance between a total of four (4) units is between 20.9m and 24m and does not comply (i.e. between Units B0811 & C0807, and between Units B0911 & C0907) (See Figure 9 below).



Figure 10 - Non-compliant building separation between Building B & Building C and Levels 8 & 9 (non-compliant portion highlighted yellow).

The applicant has reorganised the unit layouts so that the living areas are generally orientated away from each other, and privacy screening has been provided to further minimise privacy and overlooking issues between units. The units all receive in excess of 2 hours sunlight at mid-winter and the separation distance is the same as for the levels below. The proposed variation is considered minimal and the proposal satisfies the objectives of the ADG. Therefore, the minor variation is supported in this case.

Note 4 - Common Circulation Spaces (Part 4F-1 and 4F-2)

Part 4F-1 of the ADG recommends that a maximum of eight (8) units be provided off a circulation core and that a maximum of 40 units share a single lift in buildings of 10 storeys or more. Part 4F-2 recommends that common circulation spaces promote safety and provide for social interaction between residents. The proposal does not comply with the recommended number of units off a single core, or the number of lifts for all buildings, however the amended proposal ensures that each building includes between 2 and 4 lifts, that each floor level is provided with access to a minimum of 2 lifts, and that a high level of amenity for common circulation spaces and lobbies that satisfy the objectives of the requirement are provided. 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. The applicant also advises that they will be providing high quality lifts to assist to achieve the objectives, and a relevant condition is proposed in this regard. In addition these spaces should promote safety and provide for social interaction between residents. The proposed development is considered to satisfy the objectives of the requirement and the variation is supported in this case, subject imposition of relevant conditions, as detailed below

- Lobbies at all levels are now provided with natural light, ventilation and areas for seating to ensure that a high level of amenity and the ability for social interaction between residents is afforded to these spaces.
- Building B proposes between 6 and 17 units located off a single corridor, however includes two (2) lift cores with a total of four (4) lifts providing access to 178 units. Therefore, the proposed provides approximately 8.5 units off each lift core and 1 lift per 44.5 units. The design will permit residents at all levels to share lifts if one lift fails. This could not be achieved if the corridors were split. Furthermore, the corridors have a minimum width of 1.6m and the applicant has also

committed to providing a high quality lift. A relevant condition is proposed in this regard.

Therefore, combined with the amended design, and number of shared lifts within the building, the proposed design of Building B is considered to satisfy the objectives of the control.

- Building E has between 4 and 16 units located off a single corridor, however similar to Building B the residents share two lift cores, and therefore a maximum average of 8 units share a lift core. This building includes three (3) lifts for 137 units, being 1 lift per 45.6 units. The applicant has committed to providing a high quality lifts, and similar to Building B, the corridors have a width of 1.6m and the lift lobbies have space for seating which promotes social interaction.
- Buildings C & D are identical buildings (in mirror image) and have between 3 and 10 units sharing a lift core. The lift core contains 2 lifts for the 93 units which is considered acceptable given that one lift will always remain operational and the quality of lift proposed. The maximum of 10 units off a lift core for the lower six levels is acceptable and meets the objectives of the control given the areas provided for seating, the provision of natural light and ventilation to all levels, and the 1.6m corridor widths.

Rockdale Local Environmental Plan 2011

Relevant clauses	Compliance with objectives	Compliance with standard/provision
2.3 Zone R4 High Density Residential	Yes	Yes - see discussion
2.3 Zone B6 Enterprise Corridor	Yes	Yes - see discussion
2.6 Subdivision - consent requirements	Yes	Yes - see discussion
4.3 Height of buildings	Yes	Yes - see discussion
4.4 Floor space ratio - Residential zones	Yes	No - see discussion
4.6 Exceptions to development standards	Yes	Yes - see discussion
5.9 Preservation of trees or vegetation	Yes	Yes - see discussion
5.9AA Trees or vegetation not prescribed by development control plan	Yes	Yes
6.1 Acid Sulfate Soil - Class 3	Yes	Yes - see discussion
6.2 Earthworks	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

2.3 Zone R4 High Density Residential

The main part of the site subject to construction works is zoned R4 - High Density Residential under the provisions of Rockdale Local Environmental Plan 2011 (RLEP 2011). The proposed development within the R4 zone is defined as 'residential flat buildings', 'multi dwelling housing', 'child care centre' and 'road'. The 'road' is permissible without consent and all other development constitutes permissible development in the R4 zone with development consent. The objectives of this zone are:

- To provide for the housing needs of the community within a high density residential environment.
- To provide a variety of housing types within a high density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

The proposal provides a variety of housing types within a high density residential environment that meets the needs of the community. The proposal also includes a child care centre that will provide a service for the local residents daily needs. The proposed development is consistent with the objectives of the zone.

2.3 Zone B6 Enterprise Corridor

Part of the subject site is zoned B6 - Enterprise Corridor under the provisions of Rockdale Local Environmental Plan 2011 (RLEP 2011). The proposed works within the B6 zone are limited in nature and do not include the construction of any new buildings. The proposal retains an existing 'commercial premises', which is a permissible development, and includes 'bulk earthworks' and 'road' construction works. The 'bulk earthworks' are permissible subject to compliance with the requirements of Clause 6.2 of RLEP 2011. The proposed 'road' works are permitted 'without consent' under RLEP.

The objectives of the B6 zone are:

- To promote businesses along main roads and to encourage a mix of compatible uses.
- To provide a range of employment uses (including business, office, retail and light industrial uses) and residential uses (but only as part of a mixed use development).
- To maintain the economic strength of centres by limiting retailing activity.
- To promote redevelopment which will contribute to the locality including improvement to its visual character, access and parking, reduction of land use conflicts and increase amenity for nearby residential development.

The existing commercial building will continue to provide a business use along the main road. The remainder of the proposal will not prevent future development within the zone from being able to comply with the objectives of the zone. Compliance with the zone objectives must be assessed separately in any future application. The proposal is therefore permissible and satisfactory with regards to the relevant objectives of the zone.

2.6 Subdivision - consent requirements

The application seeks approval for subdivision as described in the Proposal section of the report. The proposed subdivision will permit land dedication for road widening and the child care centre. The proposed subdivision is found to be acceptable and satisfies the requirement of this clause.

4.3 Height of buildings

The height of buildings is restricted by the building height plane defined in Clause 4.3A(4) - 'Exception to Height of Buildings' - of RLEP 2011. This building height plane permits a building height that, in some areas, may exceed the maximum height permitted on the Building Height Map as defined by Clause 4.3 of RLEP 2011. The proposed building height plane was established during the planning proposal process with the aim of minimising bulk, scale and solar access impacts to the R2 Low Density Residential zone to the south of the site.

Clause 4.3A(4) of RLEP 2011 reads as follows:

"building height plane means a continuous plane commencing at a height of 1.5 metres above ground level (existing) and at a distance of 13.6 metres south of the southern boundary of Lot 22, DP 620329 (Point A), projecting to a position at a height of 11.7 metres above ground level (existing) and at a distance of 31.6 metres north of Point A, and continuing at that projection over the land to which this clause applies".

The proposal complies with the building height plane and a condition has been proposed in the draft notice of determination requiring that a Registered Surveyor certify that the plans submitted with the relevant Construction Certificate comply with the above definition. Furthermore, the proposed building height is considered to permit a development that will provide a high quality urban form, maintain satisfactory sky exposure and daylight to buildings, key areas and public domain, and will provide an appropriate transition in built form and land use intensity. Accordingly, the proposed height of the building satisfies the objectives of Clause 4.3 and is acceptable.

4.4 Floor space ratio - Residential zones

A maximum FSR of 2:1 applies to the R4 High Density Residential zone portion of this site. Based on the area of the R4 zone, this equates to a maximum gross floor area (GFA) of 44,748m². The proposal has a GFA of 45,591m² and a corresponding FSR of 2.04:1, which exceeds the maximum FSR by 843m² (1.93%).

A recommended condition requires deletion of parts of six (6) units within Building D, as discussed previously in the SEPP 65 assessment, resulting in a 139.5m² reduction in GFA. Therefore, if the condition is retained then the variation to GFA is 703m², resulting in a total GFA of 45,451.5m² and a total FSR of 2.03:1 (1.53% variation).

The applicant has submitted a clause 4.6 variation to development standard in relation to the proposed variation to Clause 4.4 of RLEP 2011 which has been addressed in the consideration of Clause 4.6 in this report. The proposal subject to conditions is deemed to be consistent with the objectives of clause 4.4 - FSR

4.6 Exceptions to development standards

The objectives of Clause 4.6 are:

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development; and
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

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.

In accordance with clause 4.6(5) the consent authority must also consider:

- (a) whether contravention of the development standard raises any matter of significance for State or Regional environmental planning, and
- (b) the public benefit of maintaining the development standard.

- (c) any other matters required to be taken into consideration by the Secretary before granting concurrence.

The applicant has submitted a detailed justification to the proposed variations to the FSR development standard in accordance with Clause 4.6 of RLEP 2011. The proposed variation has been assessed below.

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 of the development.

Extent of Variations Proposed - FSR

As discussed in Clause 4.3 above, a maximum FSR of 2:1 applies to the R4 High Density Residential zone portion of this site. Based on the 22,374m² area of the R4 zone, this equates to a maximum gross floor area (GFA) of 44,748m². The proposal as submitted has a GFA of 45,591m² and a corresponding FSR of 2.04:1, which exceeds the maximum FSR by 843m² (1.93%). A recommended condition requires deletion of parts of six (6) units within Building D, as discussed previously in the SEPP 65 assessment, resulting in a 139.5m² reduction in GFA. Therefore, if the condition is retained then the variation to GFA is 703m², resulting in a total GFA of 45,451.5m² and a total FSR of 2.03:1 (1.53% variation).

Applicant's rationale

The applicant considers that the additional GFA is attributed to the following elements:

- additional child care centre floor space: 83.3m² GFA;
- additional residential floor space (Level 12, Building B) : 538m² GFA; and,
- additional floor space associated with the increased building lobby areas at all levels throughout the development: 221.7m² GFA.

A summary of the key rationale provided in the applicant's clause 4.6 in respect of the FSR development standard are as follows:

- the objectives of the maximum FSR standard in Clause 4.4 of RLEP 2011 are achieved notwithstanding the variation to the numerical control as the proposal results in a development:
 - with an appropriate density accounting for the availability of infrastructure and the generation of vehicular and pedestrian traffic, in order to achieve the desired future character;
 - which minimises adverse environmental effects on the use and enjoyment of adjoining properties; and
- the proposal is consistent with the first objective of Clause 4.6 of the LEP, the degree of flexibility required by the consent authority to support the minor increase in floor space in this instance is considered both appropriate, and particular to the circumstances of the development, as:
 - The proposed child care centre design reflects the preference of the Executive Committee of Council and can accommodate more children (65) than required in the VPA (60), providing an additional public benefit; and
 - The relationship of the LEP 2011 height limits and building height plane control across the site result in an opportunity to accommodate a minor increase in floor space and distribute this floor space between the statutory height controls as an additional level in

Building B, in a manner which does not alter the future character of the site as envisaged by the planning controls;

- the flexible application of the FSR control will facilitate the achievement of a better planning outcome than would be achievable by strict adherence to the controls across the development site as the additional floor space:
 - allows the delivery of a flagship two-storey child care centre that addresses the recommendations of Council's Design Review Panel and provides additional places for children; and;
 - additional well-designed residential floor space which will take advantage of the significant investment in infrastructure upgrades associated with the proposal;
 - results in increased building lobby areas throughout the development, providing generous circulation spaces and common lobbies with high levels of amenity and providing increased internal common areas, which encourage social interaction and recognition in accordance with ADG guidance;
- the proposal is in the public interest as it remains consistent with the applicable strategic planning documents, land use zones and development standards, and provides a child care centre with additional capacity when compared with the VPA;
- the proposal is compatible with the intended future scale and character of the area and will not have adverse amenity impacts on surrounding land;
- the non-compliance with the development standard does not raise any matters of State and regional planning significance;
- there is no public benefit in maintaining the floor space ratio development standard adopted by the environmental planning instrument for this site; and
- legal precedent has been taken into account and addressed as part of this clause 4.6 variation request.
- that the proposed development will deliver a superior planning outcome than could be achieved by strict adherence to the development standard for the existing and future community of Kogarah and Rockdale. Overall, the proposal results in the opportunity to establish a high quality development that positively contributes to the precinct. For the reasons set out in this written request the development should be approved with the variation as proposed in accordance with the flexibility allowed under clause 4.6 of Rockdale LEP 2011.

Discussion

While a variation to FSR would normally not be considered for a site that has recently been rezoned to permit a higher density of development, the applicant's justification is generally supported in this instance in the context of clause 4.6.

The proposal provides a better planning outcome by providing a two-storey child care centre in lieu of a single-storey centre, as recommended by the Council's Design Review Panel to achieve a better urban design outcome in this location on the opposite side of the new from from a large residential flat building. This recommendation was endorsed by Council's Executive Committee. The two-storey centre will also provide a public benefit as it will accommodate an additional 5 children when compared with the 60 children required in the VPA and it will accommodate an additional 14 children when compared with a single storey child care facility over a 1,200m² site, the area of land anticipated by the VPA. The additional child care spaces and two storey centre will be provided by the applicant and without any anticipated adverse impacts to neighbouring properties and the locality.

With regards to the excess GFA for the additional residential units in Building B, as discussed by the applicant, the site is subject to a unique set of controls that include the 'Building Height Plane' which

was established through the Planning Proposal process for the site. This building height plane aims to locate the building mass toward the north of the site, moving the building bulk away from adjoining residential properties, improving the amount of solar access provided to the central communal area and townhouses and providing apartments that have a very high level of amenity. The building height plane permits development above the maximum Building Height Controls in Clause 4.3 of RLEP 2011. The proposed floor level recognises this site specific planning circumstance and opportunity to provide a small increase in floor area with high amenity within the maximum height controls without adverse impacts. The proposed additional floor space also meets the objectives of the FSR standard and the zone.

Furthermore, with regards to the additional floor space for the lobbies, the proposal provides a better planning outcome by enhancing the amenity of the residential units through provision of more generous lobbies at all building levels. The lobbies at all levels now provide areas for residents to informally meet in accordance with the objectives of the ADG.

The proposal also satisfies the objectives of the FSR development standard and the R4 High Density Residential zone, notwithstanding the variations discussed above, by providing additional housing for the community in a manner that will have minimal impacts to adjoining properties and in an area located on the future regional bicycle network that has adequate infrastructure to accommodate additional floor space. Furthermore, the proposal includes 16.3% deep soil planting, increases the number of trees from 155 to approximately 237 to enhance the amenity of residents of the subject site and adjoining properties, retains an appropriate separation distance between buildings, and minimises impacts on adjoining low-density properties.

It is considered that the public benefit of the proposal outweighs strict adherence to the numeric standard presented by the FSR control in clause 4.3 of RLEP 2011. It is also considered that in this instance, there are sufficient site specific environmental planning grounds particular to the circumstances of this case in accordance with the principles established by the Land and Environment court judgement *Four2Five v Ashfield Council* [2015] NSWLEC 90 to justify the contravention of the FSR standard for the site as discussed above. The applicant's written request has also adequately addressed the matters required to be demonstrated by clause 4.6(3). Therefore, strict compliance with the FSR development standard is deemed unreasonable and unnecessary in this instance for the reasons noted above.

5.9 Preservation of trees or vegetation

The site, surrounding road reserves and adjoining properties contain 155 trees that are subject to approval by Council under clause 5.9 of RLEP 2011 conferred by:

- (a) development consent, or
- (b) a permit granted by Council.

An Arboricultural Impact Assessment (dated 7 December 2017) and Supplementary Report (dated 29 March 2017) prepared by a qualified Arborist have been submitted with the application. The reports provided recommendations for the removal and retention of trees, including tree protection measures for existing and retained trees.

Several trees were removed during demolition works associated with the Complying Development Certificate for safety reasons. In addition, excavation works associated with the installation of a Sydney Water pipeline near the sites southern boundary has been completed and these works were carried out in proximity to adjoining Margate Street properties and trees located within rear yards of these

properties. These trees were considered specifically in the Supplementary Report and the applicant has confirmed that the works have not resulted in impacts to trees in the rear yards of the Margate Street properties. Relevant conditions are proposed in the consent requiring that further works not result in impacts to these, and other specified trees.

The applicant has been provided with permission to remove some trees located on the Western side of Production Lane to ensure that replacement parking for use of the sporting fields is provided. Amended landscape plans are required by way of condition to ensure that adequate replacement planting is provided in this location.

Council's Tree Management Officer and Landscape Architect have recommended appropriate conditions that have been imposed in the draft Notice of Determination, regarding the protection and retention of existing trees. the removal of site trees and the provision of replacement planting.

The proposed development also includes the provision of substantial replacement tree planting in appropriate locations, including provision of significant street trees within the New Road as recommended by the DRP. The applicant considers that there will be an increase of 82 trees within the site following completion of the works development and proposed landscape works. Recommended conditions require consideration of additional planting in amended landscape plans.

In this regard, the amenity of the area will be preserved and accordingly, the proposed development satisfy's the requirements and meets the objectives of this Clause.

6.1 Acid Sulfate Soil - Class 3

Acid Sulfate Soils (ASS) – Class 3 and Class 5 affect the property. Development Consent is required as the proposal involves works below the natural ground level and the works may lower the watertable. In this regard, an Acid Sulfate Soils Management Plan prepared by Coffey (dated 26 May 2015) was prepared for the proposed development. Recommended conditions of consent require compliance with the Plan. Therefore, the proposal is consistent with the objectives and requirements of clause 6.1.

6.2 Earthworks

The proposal involves extensive excavation within the site to accommodate the basement parking levels. The impacts of the proposed earthworks have been considered in the assessment of this proposal. Conditions of consent have been imposed in the draft Notice of Determination to ensure minimal impacts on the amenity of surrounding properties, drainage patterns and soil stability, including General Terms of Agreement issued by NSW Water. Subject to compliance with conditions, the proposal meets the objectives of this clause.

6.4 Airspace operations

The proposed development is affected by the Obstacle Limitation Surface (OLS) which is set at 60m (AHD) for part of the site and 70m (AHD) for the remainder of the site. The maximum height of any building within the site is 48.05m (AHD), however the maximum height of the lightening rod above building B is 56.05m (AHD). Therefore the proposal will not penetrate the OLS and no impacts will result to the OLS.

6.6 Flood Planning Land

The existing site lies above the mainstream 1% AEP flood levels, with the exception of a fringe area toward the sites north-eastern corner. The Council has provided it's Flood Advice Letter dated 19 July

2016 which requires that the minimum habitable floor level for the area be 2.95m (to AHD) and notes that there are local overland flows through the site. The applicant has provided a Flood Report and the following key comments with regards to flooding:

- The proposed basement entry crest located at the north-east corner of the property near Production Lane is raised to the PMF level of 3.0m AHD so that it is flood free under all possible scenarios and therefore flood risk to vehicles and occupants of the basement is negligible; and
- The site lies above the mainstream PMF level the site has negligible flood risk therefore there is no need to prepare a flood management plan for the site.

Council's Engineer's have also included a recommended condition of consent to ensure that overland flows along the new access road (above the relocated stormwater pipe) will not cause flooding of private land or adverse impacts to users of the road reserve. Therefore, subject to inclusion of recommended conditions and compliance with the above, the proposal is acceptable with regards to flooding.

6.7 Stormwater

The proposal involves the construction of an on site detention system combined with rainwater tank, and WSUD measures to manage stormwater. In addition, stormwater from Rocky Point Road and the new road will be managed by a new stormwater pipe and associated infrastructure located within the New Road reserve, including use of permeable paving for the proposed on-street parking spaces and footpaths. The proposed stormwater system has been assessed by Council's development engineer, however some amendments are required and amended plans that comply with Rockdale Technical Specification for Stormwater Management must be approved prior to issue of the relevant Construction Certificate. Other standard conditions are also applicable to ensure that the system is constructed in accordance with Council requirements prior to issue of an Occupation Certificate.

6.12 Essential services

Services will generally be available on the site. Ausgrid have provided recommended conditions and the plans show the proposed location of their electricity substations and the provision of services within the new road reserve. Sydney Water have also completed the diversion of their infrastructure along the sites southern boundary as discussed previously, and additional conditions have been incorporated in the draft Notice of Determination requiring consultation with all relevant utility providers in regards to any specific requirements for the provision of services on the site.

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

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

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

The following Development Control Plan is relevant to this application:

Rockdale Development Control Plan 2011

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

Relevant clauses	Compliance with objectives	Compliance with standard/provision
4.1.3 Flood Risk Management	Yes	Yes

Relevant clauses	Compliance with objectives	Compliance with standard/provision
4.1.3 Groundwater Protection	Yes	Yes - see discussion
4.1.4 Soil Management	Yes	Yes - see discussion
4.1.7 Tree Preservation	Yes	Yes
4.1.9 Lot size and Site Consolidation - Residential flat buildings	Yes	Yes
4.1.9 Lot size and Site Consolidation - Child care centres	Yes	Yes
4.2 Streetscape and Site Context - General	Yes	Yes
4.4.2 Solar Access - General Controls	Yes	Yes - see discussion
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 - see discussion
4.4.7 Wind Impact	Yes	Yes - see discussion
4.5 Social Equity		
4.5.1 Social Equity - Housing Diversity and Choice	Yes	Yes - see discussion
4.5.2 Social Equity - Equitable Access	Yes	Yes - see discussion
4.6 Parking Rates Residential Flat Buildings	Yes	Yes - see discussion
4.6 Parking Rates - Child Care Centres	Yes	Yes - see discussion
4.6 Car Park Location and Design	Yes	Yes - see discussion
4.6 Vehicles Enter and Exit in a Forward Direction	Yes	Yes
4.6 Basement Parking - General	Yes	Yes - see discussion
4.6 Driveway Widths	Yes	Yes
4.6 Traffic - Classified Roads	Yes	Yes - see discussion
4.6 Basement Parking - Residential Flat Buildings	Yes	Yes
4.6 Access to Parking	Yes	Yes
4.6 Design of Loading Facilities	Yes	Yes - see discussion
4.6 Car Wash Facilities	Yes	Yes - see discussion
4.6 Pedestrian Access and Sustainable Transport	Yes	Yes - see discussion
4.7 Air Conditioning and Communication Structures	Yes	Yes
4.7 Waste Storage and Recycling Facilities	Yes	Yes
4.7 Service Lines/Cables	Yes	Yes
4.7 Laundry Facilities and Drying Areas	Yes	Yes
4.7 Letterboxes	Yes	Yes - see discussion
4.7 Hot Water Systems	Yes	Yes
5.1 Storey Height and Setbacks - Multi Dwelling Housing	Yes	Yes - see discussion
5.1 Building Design - General	Yes	Yes - see discussion
5.1 Building Design - Multi Dwelling Housing	Yes	Yes
5.1 Residential Subdivision	Yes	Yes
5.2 RFB - Site Coverage	Yes	Yes - see discussion

Relevant clauses	Compliance with objectives	Compliance with standard/provision
5.2 RFB Front Setback	Yes	Yes - see discussion
5.2 RFB - Side Setbacks	Yes	Yes - see discussion
5.2 RFB - Rear Setbacks	Yes	Yes - see discussion
5.2 RFB - Lift Size and Access	Yes	Yes - see discussion
6.1 Child Care Centre - Location	Yes	Yes - see discussion
6.1 Child Care Centre - Building Design	Yes	Yes - see discussion
6.1 Child Care Centre - Visual and Acoustic Impact	Yes	Yes - see discussion
6.1 Child Care Centre - Indoor and Outdoor Space	Yes	Yes - see discussion
6.1 Child Care Centre - Parking and Pedestrian Safety	Yes	Yes - see discussion

4.1.3 Groundwater Protection

The site is affected by the Groundwater Protection Zone 3, and proposed works transect the ground water table. The proposal has been referred to NSW Water who have issued their General Terms of Approval. In addition, relevant conditions of consent are proposed to ensure that excavation in relation to the proposed building will have minimal impacts on the groundwater zone.

4.1.4 Soil Management

Appropriate conditions are proposed to ensure that impacts from excavation and site works are minimised in accordance with RDCP 2011.

4.4.2 Solar Access - General Controls

The proposal does not create any adverse overshadowing impacts to adjoining residential properties. Solar access provision to proposed residential units and communal open space areas for this proposal have been considered in the assessment of the ADG. The proposal was found to be satisfactory.

4.4.5 Visual privacy

The proposal has been designed to minimise visual privacy impacts to the surrounding low density residential properties, specifically to the rear yards of properties fronting Margate Street, by provision of two storey terraces to the southern part of the site and orientation of living rooms within the proposed RFB's toward the east and west to reduce overlooking to the south from upper level units.

Notwithstanding, some conditions are proposed to ensure impacts are minimised and acceptable in accordance with RDCP 2011 requirements. In this regard, conditions are proposed requiring that modifications to the roof terraces of the townhouses (Building G) to minimise impacts by way of screening and terrace size. In addition first floor rear balconies to these terraces are not supported and are recommended to be deleted by condition. Recommended conditions also require the use of solid / obscure glaze balustrades to the southern elevations of Building B & E and to the southern elevations of the communal terraces at roof level. Subject to imposition of these conditions, proposed impacts are considered to be satisfactorily minimised.

4.4.5 Acoustic privacy

These clauses relate to the Acoustic Privacy between dwellings within the proposed development, as well as adverse impacts to adjoining properties.

With regards to impacts between dwellings within the development, the design and layout of the dwellings minimises the number of dwellings where bedrooms share a party wall with a living room. The application has been accompanied by an Acoustic Report and acoustic addendum reports. Subject to a recommended condition requiring compliance with the relevant AAAC acoustic requirements between floors, the proposal is considered to satisfy the requirements of these controls.

In terms of noise impacts to adjoining properties, potential noise impacts are considered to be minimised as follows:

- **Road Traffic Noise from New Intersection & Traffic -**
Significant concern has been raised with regards to potential acoustic impacts resulting from the road traffic noise at the new signalised intersection at Rocky Point Road and the New Road. The Applicant has provided amended / additional Acoustic Reports which include noise monitoring, including attended vehicle noise tests. The reports have been assessed by Council's Environmental Health Team who advise that the reports conclude that the predicted increase in traffic noise/ activity is less than the EPA 'Road Noise Policy' guideline limit of 2dB (where it is predicted to be an increase of 1.2dB). According to the submitted report this would be subjectively imperceptible to the average observer.

It is noted that RMS have recently completed some noise mitigation works to No. 147 Rocky Point Road as they had found that this residence met the criteria for consideration under the RMS 'Noise Abatement Program'. Council has been provided with advice and certification that the works included sealing of doors, replacing windows, blocking all external wall air vents and installing mechanical ventilation system in the roof cavity to allow for air circulation. The works did not include acoustic walls to Rocky Point Road or Weeney Street, replacement of tiled roofing, inclusion of insulation in the roof or replacement /insulation of the Colorbond roof to the rear of the home. The owner requests that these additional works be undertaken by the developer, however based on the assessment the proposal will not result in impacts that will warrant additional works.

In addition, concern has been raised with potential increase in noise impacts to residential properties in Margate Street resulting from traffic noise following demolition of the industrial buildings. Consideration has been given to provision of screening, and a condition is proposed requiring planting of shrubs in the Rocky Point Road frontage. Ultimately this issue will be generally minimised following redevelopment of these commercial properties.

- **Noise from mechanical plant / ventilation -** further acoustic assessment is required prior to issue of the relevant Construction Certificate to ensure that noise impacts from mechanical plant and equipment will be minimised in accordance with relevant legislative requirements. In addition, conditions are proposed requiring that noise impacts from mechanical plant and ventilation, including air-conditioning units, comply with relevant standards.
- **Residential noise -** the proposal proposes lower density townhouse development adjacent to the Margate Street residences to the south. This layout reduces impacts, however the application does include roof terraces for all townhouses as well as roof top level for the residential flat buildings (RFB's). A condition is proposed on the townhouses to ensure that the area of the terraces is reduced and that screening is provided to minimise privacy. Combined with the small nature of these dwellings, impacts from the townhouses is considered to be minimal. To minimise potential impacts from the RFB's, a condition is proposed restricting the hours of use

and prohibiting the use of amplified music. These roof terraces are located a significant distance from the adjoining low density residences to Margate Street and subject to conditions the impacts are anticipated to be minimal.

- Child Care Centre - the detailed design of the child care centre is subject to a further Stage 2 application, and the detailed acoustic assessment will be undertaken as part of that proposal. The design of the centre has, however, progressed and the primary play space for the centre will be located to the north and east of the future facility, not immediately adjacent to the rear yards of Margate Street residences. Furthermore, it is noted that the child care centre land is located approximately 1.5 - 2 metres below the existing level of the adjoining Margate Street properties and is separated from these sites by a 1.5m wide Council owned parcel of land for stormwater purposes. Therefore, the design and location of the centre will minimise impacts to adjoining residents and the detailed acoustic assessment will be carried out with Stage 2.

4.4.6 Noise Impact

The proposal is located adjacent to industrial properties located within the IN2 Light Industrial zone to the north, and consideration has been given to the acoustic environment of future occupants. In this regard, Control 8 of Part 4.4.6 of RDCP 2011 requires that *"Design landscaping of communal and private open space to create a buffer between new residential development and adjacent potential sources of noise"* and Control 9 requires that any residential building be setback a minimum of 5m from adjoining industrial properties and that single aspect apartments facing and within 10m of industrial uses be avoided. The objective of these controls is to ensure that an acceptable acoustic environment is achieved in habitable rooms without sealing openings and relying on air conditioning.

The proposed units are setback a minimum of 6m from the sites northern boundary adjacent to the industrial properties, and the area has been amended to include deep soil landscape planting. Furthermore, all of these northern units are dual aspect units. Therefore the proposal satisfies the design and location requirements of RDCP 2011.

Control 7 of Part 4.4.6 requires that *"where new windows face potential sources of noise, they are required to be fitted with noise attenuating glass to minimise the impact of background noise from non-compatible development"*. The applicant has undertaken noise monitoring and submitted Acoustic Reports that include recommended glazing, external walls and the roof/ceiling systems to all units. In addition they note that the neighbouring industrial occupants will be required to comply with the conditions of their current Development Applications or they may be subject to further enforcement action under the Environmental Planning and Assessment Act 1979 for breach of their development consents and/or Protection of the Environment Operations Act 1997 for offensive noise. A recommended condition requires that the acoustic report be updated to demonstrate that appropriate acoustic treatment is provided to ensure that the future residential dwellings will achieve a satisfactory internal noise environment in accordance with relevant standards.

4.4.7 Wind Impact

Detailed wind tunnel testing was conducted for the proposed development as detailed in the Pedestrian Wind Environment Study report prepared by Windtech (dated 16 December 2016). The results of the study indicated that some treatments were required to achieve the desired wind speed criteria for pedestrian comfort and safety. The recommendations have generally been complied with in the plans and are included as conditions of consent to ensure construction results in acceptable impacts to future occupants and the public domain. The key recommendations are:

- (i) Strategically placed densely foliating evergreen tree planting capable of growing to a height of

5m with a 5m wide canopy throughout the Central Park area, along Production Lane and along the western side of the residential component of the development.

- (ii) 2m high densely foliating shrub planting in the planter beds currently proposed for the Level 7 and Level 8 communal terraces located on Buildings E and B respectively.
- (iii) 1.5m to 2m high impermeable screening or hedge planting around the ground level southern corner private terraces of Buildings B, C, D and E.
- (iv) Densely foliating planting for the Level 9 and 11 southern private terraces located on Buildings E and B respectively, similar to the proposed planting on the Building B and E communal terraces.
- (v) Impermeable balustrades for all private balconies and terraces located at the corners of the various buildings of the development, and also the townhouse roof terraces.

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 complies with the requirements of RDCP 2011. In this case the proposal, following modification of units in Building D by way of condition, includes 123 x one-bedroom units (23.1%), 352 x two-bedroom units (66%) and 58 x three-bedroom units (10.9%).
- Minimum 10% of units being adaptable in accordance with AS 4299, and barrier free access to be provided to a minimum of 20% of apartments.
Part 4.5.1 requires that a minimum of 54 dwellings are to be provided as adaptable in accordance with AS 4299. The proposed development was accompanied by a DA Access Review Report prepared by Morris Goding Accessibility Consulting (dated 12 December 2016). The report confirms a mix of unit sizes is proposed for adaptable purposes, and that these units will be provided with associated adaptable car parking spaces. In addition, the report confirms that 20% of the total number of units are Livable Housing Design Provision (Silver Level) as required by the ADG.

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 DA Access Review Report prepared by Morris Goding Accessibility Consulting (dated 12 December 2016). The report confirms 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 subject to imposition of recommended conditions requiring compliance with the BCA.

4.6 Parking Rates Residential Flat Buildings

The proposal is not located within proximity to a railway station and the parking provisions of RDCP 2011 are therefore applicable. The assessment of parking provision has been addressed in the following three (3) parts, being for the residential flat buildings, the townhouse component and the child care centre:

1. Residential Development

In accordance with RDCP 2011, a total of 704 car spaces are required. In addition, a minimum of 53 bicycle spaces and a minimum of 48 motorcycle spaces are required as follows:

RDCP Requirement	No. of spaces required	Provided	Complies
1 car space / 1 or 2 bed unit	475 x 1 & 2 bed units = 475 car spaces	475 car spaces	Yes
2 car spaces / 3 bed unit	58 x 3 bed units = car spaces	116 car spaces	Yes - including 2 spaces per townhouse in the basement of Building G.
1 visitor space / 5 units	103 spaces	103	Yes
1 bicycle space / 10 units	52 bicycle spaces required	52+ spaces	Yes
1 motorcycle space / 15 units	48 motorcycle spaces required	48	Yes

The location of the bicycle parking spaces has been relocated as requested to ensure that they are provided in more visible locations that benefit from passive surveillance. In addition, these areas will be caged and provided with CCTV cameras for security purposes.

No visitors spaces are proposed in the townhouse basement. The applicant considers that the visitors spaces in the flat building will suffice. A condition is proposed requiring that the townhouses be provided with an intercom to permit visitors to access the residential basement car park and egress these buildings via the lift. In addition, 22 on-street parking spaces are proposed that can be used for visitors parking in front of the townhouses. This is acceptable in this case.

2. Child Care Centre

The proposed child care centre forms part of Stage 2, however the applicant has provided adequate information to demonstrate that the centre will be able to accommodate a minimum of 11 on-site parking spaces as required for a centre with 65 children and associated staff.

4.6 Parking Rates - Child Care Centres

The applicant has submitted plans which demonstrate that adequate parking will be available within the site for the proposed child care centre site. Full compliance will be demonstrated with the Stage 2 Application. A pre-DA meeting has been held for that proposal and parking appeared compliant.

4.6 Car Park Location and Design

The basement parking areas for both the residential flat buildings and townhouses will be at or below the finished ground surface levels. The entrance, design and layout is considered convenient for all users, including waste collection vehicles and visitors. All visitors parking is proposed to be provided in a single grouping at the upper basement level, with access provided via an intercom system for ease of

use and security reasons. visitors are also able to park within the 22 parking spaces within the New Street or in Production Lane.

A condition is proposed requiring that lighting in the basement comply with the relevant standards, and that the ceiling of this large basement be painted white to improve visibility and safety for future occupants and visitors. A signage / way finding plan for the basement is also required to be prepared and implemented prior to issue of the Occupation Certificate to ensure ease of access throughout the basement levels, and visitors spaces must be clearly signposted. Subject to recommended conditions the proposed car park location and design is found to be acceptable.

4.6 Basement Parking - General

Consideration has been given to basement ventilation and pedestrian movements through the basement levels. Natural ventilation is not possible, therefore mechanical ventilation has been provided and impacts considered. Accessible and visitor parking spaces are proposed near the lift cores. The basement levels are generally beneath the built form, and the proposal includes adequate deep soil provision as discussed in the assessment of the ADG. The basement levels are considered acceptable in this regard.

4.6 Traffic - Classified Roads

The proposal has been assessed by RMS and is found to be acceptable. Therefore, the proposal is acceptable with regards to this clause.

4.6 Design of Loading Facilities

The proposal includes three (3) service bays within the basement that can be used for waste collection and by removalist trucks. The proposed service bays are well located to avoid conflict with other vehicles and/or pedestrians. The proposal has been assessed by Council's Engineers and the basement has been provided with adequate clearance for the maximum size waste collection vehicle. Subject to compliance with recommended conditions, the proposed loading bays are supported.

4.6 Car Wash Facilities

The application has been amended to include five (5) shared visitors / car wash bays. The proposal must include dedicated car wash bays and a condition is proposed requiring the provision of three (3) dedicated car-wash bays. This falls short of the five (5) dedicated spaces required, however the car wash bays are grouped and the variation is considered acceptable in this case.

4.6 Pedestrian Access and Sustainable Transport

The proposal is located approximately 500-600m from the Ramsgate Centre and 1km from Kogarah Railway Station. Therefore the site is not ideally located to encourage alternative forms of transport, however the site has been rezoned for a residential development of this density. To maximise pedestrian and bicycle usage, the development has been amended to include footpaths on both sides of the new road as well as provision of a 3.0m wide shared bicycle / pedestrian path that will form part of the future regional bicycle network. The VPA includes a contribution toward construction of the shared path, and a condition requires provision of bicycle lights at the new intersection of Rocky Point Road and the new street. The proposal includes bicycle parking within the basement and communal open space areas, and a condition requires provision of signage. Therefore, the proposed development and new public domain infrastructure has been designed to improve the ease of pedestrian and bicycle usage and is acceptable in this regard.

4.7 Letterboxes

Amended plans include letter box provision within the lobby of each residential flat building, as well as at the entry to each townhouse. The amended plans satisfy the requirements of RDCP 2011.

5.1 Storey Height and Setbacks - Multi Dwelling Housing

The proposed townhouses are two storey in height, with roof terrace areas. The roof terraces have been amended to minimise privacy and overlooking to the rear Margate Street properties, as well as the first floor balconies. The townhouses are setback 8m from the rear boundary, which exceeds the minimum 6m required. The townhouses do not propose side setbacks, which is acceptable for the new development. The townhouses generally have been provided with front and rear courtyards to benefit from the northern sun. The proposed townhouses are therefore acceptable with regards to height and setback requirements in RDCP 2011.

5.1 Building Design - General

The proposed building design is modern and respect the proposed new context being established for this large development site. The dwellings have all been provided with basement car parking and therefore will not present a blank garage wall to the new street. The proposed design of the townhouse buildings will not adversely impact on the dwellings to the rear which have frontage to Margate Street and their design is supported by Council's Design Review Panel. The dwellings will be screened by landscape planting to their north, and their design satisfies the requirements of RDCP 2011.

5.2 RFB - Site Coverage

The combined footprints of the buildings is 7,611m² which results in a site coverage of 34%. This satisfies the maximum 35% permitted by RDCP 2011.

5.2 RFB Front Setback

RDCP 2011 - Front, Side & Rear Setback Requirements

The front building setback requirements in RDCP 2011 require that buildings are consistent with the prevailing setbacks along the street within the range of 3-9m. Setbacks to secondary streets and/or lanes shall be 3-5 metres, and side setbacks shall be a minimum of 3 metres for buildings up to 3 storeys and 4.5m for buildings more than 3 storeys. Rear setbacks are required to be 12m or 15% of the length of the site.

There are no established front building setbacks for this former industrial site, and the rear setbacks of the RFB's are to industrial sites. Building setbacks have been considered in the assessment of SEPP 65. In this regard, the Design Review Panel found the setbacks to be generally acceptable subject to compliance with recommendations, with the exception of the western side setback. As discussed previously, the applicant has provided a 6m landscape easement within the adjoining B6 zoned land that will ensure that the west facing units in Building B will be afforded an acceptable level of amenity.

The development has been amended to ensure that taller buildings have been moved further north, and the 8m rear setbacks to the 2 storey terraces exceeds the minimum 6m required for two-storey dwellings by RDCP 2011.

The proposed building setback to Production Lane is 3m, with the exception of proposed courtyards. The building setbacks are found to be acceptable subject to a recommended condition requiring the submission of an amended landscape plan for the Production Lane frontage (including Production Lane) to ensure that the Landscape Plans are consistent with the amendments made to street parking and the increased 3m width of the shared pedestrian / bicycle path. This will ensure that adequate tree

and landscape planting will be provided within this eastern setback area to satisfy the objectives of the setback controls.

5.2 RFB - Side Setbacks

Refer to discussion above under "Front Setbacks".

5.2 RFB - Rear Setbacks

Refer to discussion above under "Front Setbacks".

5.2 RFB - Lift Size and Access

All dwellings have been provided with access to a minimum of 2 lifts for all levels, including basement levels, and a condition is proposed requiring that a minimum lift size comply with RDCP 2011 requirements. Common corridors are straight and 1.5m wide, with more space provided around lift lobbies. The corridor widths are therefore found to be acceptable. The number of apartments off a single corridor exceeds the maximum 8 permitted, and this is addressed in the assessment of the ADG. The application has been amended to provide natural light and ventilation adjacent to all lift cores, and the proposal satisfies these lift and access requirements and/or objectives in RDCP 2011.

6.1 Child Care Centre - Location

Detailed assessment of the child care centre will be undertaken in Stage 2, however consideration has been given to its proposed location in this assessment. The Design Review Panel raised concerns with potential traffic safety issues, however no concerns have been raised by Council's Engineers based on the driveway entrance, parking location and road design. The centre is located at a level almost 2m below the rear yards of Margate Street properties which will assist to minimise acoustic, bulk and scale impacts. The site is also adjacent to the Scarborough Park public open space which can be utilised by the children without the need to cross any roads. The proposed location is considered acceptable.

6.1 Child Care Centre - Building Design

A concept scheme for a two storey centre that can accommodate 65 children has been prepared in consultation with a Council appointed expert. The design requires refinement and detailed assessment, including notification to neighbouring properties. This will be carried out as part of the Stage 2 Application.

6.1 Child Care Centre - Visual and Acoustic Impact

The acoustic and visual privacy issues associated with the centre will be assessed in detail in the Stage 2 application. It is, however, considered that the design and siting of the concept scheme will assist to minimise acoustic and visual privacy impacts to adjoining properties and to future residences within the site.

6.1 Child Care Centre - Indoor and Outdoor Space

The concept scheme demonstrates that the centre has adequate internal and external play space to accommodate 65 children. This will be assessed in detail in the Stage 2 application.

6.1 Child Care Centre - Parking and Pedestrian Safety

The concept scheme has been assessed by Council's Engineers and appears capable of accommodating adequate parking, including accessible parking spaces, behind the front building line and in accordance with the requirements within RDCP 2011. This will be assessed in detail in the Stage 2 application.

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

Clause 92 requires the consent authority to consider the provisions of AS 2601:1991 - Demolition of Structures when demolition of a building is involved. Demolition works have been completed and no longer form part of this application.

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:

Public Car parking for Scarborough Park & Sporting Fields

The proposed works propose a reconfiguration of existing public parking spaces along Production Lane due to impacts associated with the construction of the new intersection and the swept path movements of garbage trucks accessing and leaving the basement carpark. The applicant has demonstrated that there are 45 existing car parking spaces located within that part of Production Lane that may be impacted by the proposal. Significant effort has been made to ensure that 45 line marked spaces remain within this section of Production Lane, however it has only been possible to retain 40 spaces due to the significant works proposed. The applicant does, however, propose an additional 22 public parking spaces within the New Road, of which 8 are in very close proximity to the sporting fields, thereby providing 48 parking spaces in proximity to the sporting fields. Furthermore, 107 easily accessible visitors parking spaces are provided within the proposed basement and all parking required for the child care centre will be located within that site. The reconfigured parking spaces will require the removal of some of the planter beds located within Production Lane, however the trees are of poor quality and adequate replacement planting will be provided. The proposed parking provision is .

Traffic Impacts to surrounding road network

Public submissions have also raised significant concerns with the potential for increased traffic impacts to Margate and Weeney Streets which are already impacted by vehicles which use these streets as a short-cut to avoid traffic or access other destinations and Margate Street is also used by vehicles travelling to other turning right onto Rocky Point Road due to restrictions at Ramsgate Road. Consideration has been given to potential traffic impacts resulting from the proposed development on the existing road network. In this regard, Council's Traffic Team have advised that the VPA includes a requirement for a \$100,000.00 monetary contribution to be paid to Council to be used for the carrying out of a Local Area Traffic Management study on local traffic conditions, including Margate Street. Any residual funds following the completion of the study are to be applied towards the implementation of any traffic management scheme arising from the Study. The application was also considered by the Bayside Traffic Development Advisory Committee (BTDAC) on two (2) occasions and has been assessed by Council's Engineer's. The proposal was also referred to the adjoining Georges River Council specifically for consideration of potentially traffic impacts within Weeney Street. No response was received from Georges River Council. A load limit also currently applies to Margate Street, and subject to compliance with the VPA and recommended conditions, the traffic impacts to surrounding streets will be minimised.

Construction Works

The impacts associated with construction works under this DA will be minimised through use of conditions requiring submission of a Construction Management Plan and Construction Traffic

Management Plan. In addition, a broad range of conditions are proposed restricting the hours of construction and requiring appropriate measures be undertaken to minimise noise and vibration, dust, ensure adjoining properties are shored, that minimal impacts will result to existing parking in Production Lane and the like. Other conditions imposed by RMS and other authorities to minimise impacts on the adjacent classified road, railways, Telstra infrastructure and other infrastructure and the environment.

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 relevant areas of the development and substantial passive surveillance. 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. 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

A total of 14 objections were received, however 6 were from the same person. Therefore the proposal attracted a total of nine (9) submitters. In addition, one of the submissions raised concerns with traffic impacts resulting from the proposal, however the submission stated that they did not object to the proposed development. Furthermore, one of the submissions indicated their support for the proposed child care centre.

The key issues raised in the submissions are identified below and have been considered and addressed where required:

The key issues raised in the submissions include:

- (1) Traffic impacts - One of the main issues raised in the submissions was the traffic impacts resulting from the proposal, including during construction works. Residents noted that traffic on Rocky Point Road and within the area is already problematic, that there will be an increased impact on amenity and safety of surrounding streets due to people taking short-cuts to avoid Rocky Point Road and Ramsgate Road (specifically Margate and Weeney Streets),

Some relevant quotes from the submissions are provided below.

- i. *"The proposal is not located close enough to Kogarah Station, and existing buses and roads are crowded and unable to accommodate this increase in people. Kogarah Station has also been demoted from a hub station, so fewer trains stop there".*
- ii. *"Margate Street, Clarkes Road and Murants Lane are used as a short-cut in both directions to avoid Ramsgate Town Centre and the busy intersection of Rocky Point Road & Ramsgate Road, and because there is no right turn from Ramsgate Road onto Rocky Point Road.*

Margate Street is also used by vehicles travelling to certain destinations. Cars “speed down our street to beat the congestion and traffic”, and Margate Street is dangerous with all of its curves. This proposal will make these safety and amenity impacts worse”.

iii. “Significant additional traffic will use Weeney Street to avoid traffic on Rocky Point Road. This traffic will also increase noise, bright car lights and safety for people in Weeney Street and surrounding streets”.

iv. “The Traffic Impact Assessment does not include any consideration of this issue”.

v. “The new intersection will benefit no one but the development site. Cars trying to turn right out of Margate Street will still have difficulties”.

vi. “Construction Traffic impacts will be unreasonable”.

Comment: This matter has been addressed previously, primarily in response to Section 79C(1) (b) "Likely Impacts of the Development". The applicant is required to make a monetary contribution toward a Local Area Traffic Management Study and implementation of the findings. The proposed density and location of the site in relation to railway stations was determined in the assessment of the Planning Proposal and the proposal generally complies with the density arrived at through that process. As discussed, the proposal includes construction of a shared bicycle / footpath within the site that will connect to the regional bicycle network. The VPA includes a required contribution to planning and construction of this network. Relevant conditions are proposed regarding construction traffic. Furthermore, the proposed intersection has been approved by RMS and the development was considered by Council's Traffic Development Advisory Committee and Engineers. Subject to recommended conditions and compliance with the VPA, the proposal is considered to minimise traffic impacts.

- (2) Overdevelopment, non-compliance with FSR and excessive height - Several of the submissions considered that the proposal was an overdevelopment of the site, including the proposed 13 storey height which they consider is out of character with the area. Some submissions acknowledged that their strong objections to the proposed height had been previously ignored (i.e. during the planning proposal stage), however noted that it was a concern. One submission stated that the number of dwellings had increased substantially from the original proposal for 380, which they considered to be a significant overdevelopment, and that the current proposal for 513 dwellings is 'completely irresponsible'. Further, it is considered that there is 'no logical reason why they should be allowed such an increase' to the maximum 2:1 FSR.

Comment: The application complies with the maximum height provisions for the site as discussed in the assessment of Clause 4.3 of RLEP 2011. Council was also of the opinion that the excess FSR could not be supported, however following modifications made to the proposed child care centre and submission of an amended Clause 4.6 variation, it is considered that the minor variation is acceptable for the reasons detailed in the assessment of Clause 4.6 of RLEP 2011. The proposed unit sizes are compliant with the ADG, and the development is generally compliant with other amenity requirements and/or objectives of the ADG. The proposal was generally supported by the Design Review Panel. Consideration has been given to potential impacts from the development, including traffic impacts, and impacts have been found to be acceptable and within relevant standards. Therefore, based on the current planning controls, the proposed development is not considered to be an overdevelopment of the site.

- (3) Privacy and overlooking impacts - primarily to the rear yards of Margate Street properties as well as to from vehicles stopping at the new intersection which the objection considers will result in privacy impacts to existing dwellings located on the western (opposite) side of Rocky Point Road. Various suggestions are provided to minimise privacy impacts.

Comment: This matter has been discussed previously in the report (refer to assessment of Part 4.4.6 of RDCP 2011). The proposal has been designed to minimise privacy impacts and, subject to compliance with recommended conditions, the impacts are found to be minimal and acceptable.

- (4) Increased noise – resulting primarily from:
- i. Increased intensity of the use of the site, including residential noise (e.g. from roof top communal areas) and traffic noise.
 - ii. Lack of buffer to Rocky Point Road and traffic noise impacts;
 - iii. Terraces and roof top private open space for terraces will result in noise impacts.
 - iv. Privacy impacts from the new intersection.

Comment: This matter has generally been addressed previously in the report (refer to assessment of Part 4.4.6 of RDCP 2011) and subject to compliance with the recommended conditions the impacts were found to be minimised and acceptable. With regards to privacy impacts associated with vehicles waiting at the new intersection, the site at No. 147 Rocky Point Road currently experiences these issues from pedestrians and from moving vehicles. Existing landscape planting minimises impacts and it is considered that any additional issues do not warrant obligations as part of this application.

- (5) Loss of Security - Details of boundary fencing not provided and some properties will now be adjacent to public land

Comment: The proposal will provide fencing at boundaries where required. The applicant has already replaced one of the boundary fences with a neighbouring property to assist with resolving this issue.

- (6) Protection and Retention of Trees –
- i. Trees on adjoining sites to be protected from proposed works.
 - ii. Trees on No. 206 to be retained to minimise impacts on adjoining properties.

Comment: This issue has been considered in the assessment of Clause 5.9 of RLEP 2011. The applicant has undertaken further assessment with regards to trees on adjoining sites and has agreed not to remove trees from No. 206 as part of this proposal. Relevant conditions are proposed in this regard to ensure that trees on adjoining properties are not impacted.

- (7) Exhaust / Dust Pollution – impacts from vehicles stopping and starting at the new intersection.
- Comment: The proposal is generally compliant with the density of development anticipated for the site through the rezoning process. The sites nearby the proposed signalised intersection are currently impacted by road traffic noise and emissions. The RMS have provided concurrence for the proposed intersection and signalised intersections exist across the city and vehicle exhaust emissions are separately regulated by the NSW EPA to manage air quality impacts. Therefore impacts are considered to be minimised to the extent possible as part of this proposal and planning assessment.

- (8) B6 Zoned Land
- i. The application should not be approved without full details of the proposal on the B6 zoned land so that residents have a full understanding of the impacts.
 - ii. The land will remain vacant for an indefinite period of time. What will happen to it until developed?

Comment: It would be preferable for the application to include all parcels of land within the B6 zone, however Council cannot require the applicant to submit full details of what is proposed

within this part of the site. The Applicant has advised Council that they are preparing applications for some of the sites within the B6 area, however to date no application has been lodged.

- (9) Use of No. 206 – the Gateway plans included this site as a park leading to the residential estate, however the current proposal includes tree removal and appears to show commercial development on the land. The land should be retained as a park as originally proposed.
Comment: This parcel of land is zoned B6 Enterprise Corridor. Development of this parcel is restricted in height and however based on the land use zoning, Council cannot require that this be retained as a park, however any application will be assessed and impacts considered when a formal application is submitted.
- (10) Services & Infrastructure - Inadequate public services such as schools, facilities and infrastructure to accommodate the increased population. For example, Ramsgate School already has 500 students and is unlikely able to accommodate the additional children from the site.
Comment: The proposal is generally compliant with the density provisions within RLEP 2011. The assessment has found that services can be provided to the site and that site stormwater can be appropriately managed. Ausgrid have also provided their approval for the proposal subject to recommended works, and Sydney Water have already undertaken works to diversify their existing infrastructure. With regards to the capacity of schools, this is dealt with during the strategic planning stage and by the State Government.
- (11) Missing details - including insufficient context of the relationship between the proposal and the Margate Street properties, sewer pipe and existing / proposed levels.
Comment: Amended plans include additional details to ensure that development at the boundary interface can be properly understood.
- (12) Child Care Centre - One submission noted their support for the proposed Child care centre.
Comment: The proposed child care centre is retained and has been increased in size compared to the original scheme as discussed in the report.

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 new 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

As discussed in response to Clause 93F of the EP&A Act above, the developer is not excluded from making Section 94 Contributions. Therefore, a Section 94 Contribution Payment of \$4,776,189.65 is payable in accordance with Council's Policy as detailed in the draft Notice of Determination.

The amount payable is based on the final unit mix following modification six (6) x 3 bedroom units into six (6) x 1 bedroom units in Building D as required by recommended Conditions of consent. The calculations are therefore based on the following unit mix:

- 123 x 1 bedroom units

- 352 x 2 bedroom units
- 58 x 3 bedroom units / dwellings.

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 6 Prohibition of the construction of buildings of more than 150 feet in height in certain areas

The proposed development is affected by the 45.72m Building Height Civil Aviation Regulations. The proposed maximum building height of 42.05m does not exceed this height. Therefore, the proposal does not require referral to Sydney Airports and will have minimal impact upon the functioning of the airport and relevant regulations.

Schedule 1 - Draft Conditions of consent

General Conditions

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

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

Plan/Dwg No.	Issue No.	Dated	Received
ARCHITECTURAL PLANS—prepared by PTW			
DA-002 SITE ANALYSIS	6	13/11/2017	17/11/2017
DA-099 BASEMENT B3	2	13/11/2017	17/11/2017
DA-100 7BASEMENT B2	7	13/11/2017	17/11/2017
DA-101 BASEMENT B1	7	13/11/2017	17/11/2017
DA-110 LEVEL GROUND	7	13/11/2017	17/11/2017
DA-111 LEVEL 1	7	13/11/2017	17/11/2017
DA-112 LEVEL 2-3	7	13/11/2017	17/11/2017
DA-114 LEVEL 4-5	7	13/11/2017	17/11/2017
DA-116 LEVEL 6	7	13/11/2017	17/11/2017
DA-117 LEVEL 7	7	13/11/2017	17/11/2017

DA-118 LEVEL 8	7	13/11/2017	17/11/2017
DA-119 LEVEL 9	7	13/11/2017	17/11/2017
DA-120 LEVEL 10	7	13/11/2017	17/11/2017
DA-121 LEVEL 11-12	7	13/11/2017	17/11/2017
DA-123 ROOF PLAN	6	13/11/2017	17/11/2017
DA-200 STREET ELEVATIONS	5	13/11/2017	17/11/2017
DA-210 ELEVATIONS – BUILDING B	5	13/11/2017	17/11/2017
DA-211 ELEVATIONS – BUILDING C	5	13/11/2017	17/11/2017
DA-212 ELEVATIONS – BUILDING D	5	13/11/2017	17/11/2017
DA-213 ELEVATIONS – BUILDING E	6	13/11/2017	17/11/2017
DA-214 ELEVATIONS – BUILDING F&G	5	13/11/2017	17/11/2017
DA-300 SECTIONS – BUILDING B & C	5	13/11/2017	17/11/2017
DA-301 SECTIONS – BUILDING D & E	5	13/11/2017	17/11/2017
DA-302 SECTION PARK	5	13/11/2017	17/11/2017
DA-303 SECTIONS - ROCKY POINT ROAD TO PRODUCTION LANE	1	13/11/2017	17/11/2017
DA-304 SECTIONS – WESTERN & SOUTHERN BOUNDARY	1	13/11/2017	17/11/2017
DA-310 DRIVEWAY PROFILE RAMP 1	5	13/11/2017	17/11/2017
DA-311 DRIVEWAY PROFILE RAMP 3	6	13/11/2017	17/11/2017
DA-312 DRIVEWAY PROFILE RAMP 4	6	13/11/2017	17/11/2017
DA-400 DA ADAPTABLE APARTMENT	6	13/11/2017	17/11/2017
DA-401 DA LIVABLE SILVER TYPE PLAN	6	13/11/2017	17/11/2017
DA-511 LEVEL 1 STORAGE	2	13/11/2017	17/11/2017
DA-600 DA GFA DIAGRAM	6	13/11/2017	17/11/2017
DA-610 DA SOLAR DIAGRAM	6	13/11/2017	17/11/2017
DA-611 DA CROSS VENTILATION	6	13/11/2017	17/11/2017
DA-612 DA DEEP SOIL DIAGRAM	6	13/11/2017	17/11/2017
DA-710 FAÇADE ELEVATIONS (BLD B)	5	13/11/2017	17/11/2017

DA-711 FAÇADE ELEVATIONS (BLD C&D)	5	13/11/2017	17/11/2017
DA-712 FAÇADE ELEVATIONS (BLD E)	5	13/11/2017	17/11/2017
DA-713 FAÇADE ELEVATIONS (LINK BLD & BLD F&G)	5	13/11/2017	17/11/2017
PROJECT SCHEDULE	6	14/11/2017	17/11/2017
MATERIALS & FINISHES			
DA-700 DA COLOUR SAMPLE BOARD	5	13/11/2017	17/11/2017
LANDSCAPE PLANS – prepared by Arcadia Landscape Architecture			
Pages 1 – 34 Masterplan, Plant Schedule, Softscape Plans No.'s 401 – 406 Landscape Details (2 pages)	Issue S	November 2017	16 Nov 2017
CIVIL & STORMWATER PLANS – Prepared by AT&L with Project No. 16-380			
SKC25_ACCESS ROAD LAYOUT OPTION 2	B	13-11-17	13/11/2017
SKC26_ACCESS ROAD CROSS SECTION OPTION 2	B	14-11-17	13/11/2017
SKC27_TOWNHOUSES RAMP	B	14-11-17	13/11/2017
SKC28_ACCESS ROAD AND PRODUCTION INTERSECTION	B	14-11-17	13/11/2017
DAC011 - SITEWORKS AND STORMWATER DRIANAGE PLAN SHEET 1	C	14-07-17	
DAC012 - SITEWORKS AND STORMWATER DRIANAGE PLAN SHEET 2	D	14-07-17	
DAC013 - SITEWORKS AND STORMWATER DRIANAGE PLAN SHEET 3	D	14-07-17	

DAC015 - STORMWATER DETAILS SHEET 1	B	19-12-16	
DAC016 - STORMWATER DETAILS SHEET 2	A	14-07-17	
DAC050 – STORMWATER DRAINAGE CATCHMENT PLAN	E	14-07-17	
DAC051 - OSD TANK 1 DETAILS	C	14-07-17	
DAC052 - OSD TANK 2 DETAILS	C	14-07-17	
DAC053 - OSD TANK 3 DETAILS	D	14-07-17	
DAC080 – EROSION AND SEDIMENTATION CONTROL PLAN	D	14-07-17	
DAC081 – EROSION AND SEDIMENTATION CONTROL DETAILS	B	19-12-16	

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.

3. Voluntary Planning Agreement

A voluntary planning agreement (VPA) was entered into between Council, the Developer (Land and Portfolio Pty Ltd) and the Lot Owner (D.L.N. Pty Limited) on 9 May 2016 in connection with the making of the amendment to the Rockdale LEP to permit the carrying out of the development which is the subject of this consent.

The VPA was novated to the Developer (Land & Portfolio Pty Ltd) and Purchaser (JQZ Nine Pty Ltd as trustee for the JQZ Nine Unit Trust) on 15 December 2016.

The VPA requires that Development Contributions with Item No. A, B, C, D, E, F, G and H referred to in Column 1 of the Table provided in clause 1.1 of Schedule 3 of the VPA be made at a time referred to in Column 4 of the Table provided in clause 1.1 of Schedule 3 (Timing).

No occupation certificate or construction certificate as referred to in Column 4 of the table provided in clause 1.1. of Schedule 3 (Timing) can be issued until the corresponding Development Contributions referred to in Schedule 3 have been made.

For the purposes of the VPA, the approved Floor Space Ratio of the Development is 2:1 or higher (for Land within the 'R4 - High Density Residential' zone) and the maximum building height is in accordance with the building height plane defined by clause 4.3(3) of Rockdale LEP 2011.

4. Staged DA

This development consent relates to Stage 1 of the development only. A separate development application shall be submitted to Council for Stage 2 of the development - i.e. the Child Care Centre.

The Child Care centre shall be of two (2) storey construction and with a GFA and external play areas that will enable the centre to accommodate 65 children, generally in accordance with the plans submitted with pre-DA application No. PDA-2017/25. The centre must also accommodate all car parking within the site as required by the Bayside Traffic Development Advisory Committee and RDCP 2011.

5. All new building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA).
6. **A Construction Certificate must be obtained from Council or an Accredited Certifier prior to any building work commencing.**
7. The development must be implemented and all BASIX commitments thereafter maintained in accordance with BASIX Certificate Number (766743M) 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>.

8. Further alterations and/or additions to the subject building shall not be undertaken without first obtaining approval. This includes modifications to the extent of the basement car parking areas (other than required by other conditions of consent), the fitting of any form of doors and/or walls, location of fire booster valves and proposed substations, etc.
9. A separate development application shall be submitted for the strata subdivision of the development. The entire residential development must be within a single Strata Plan unless separate approval is provided that will ensure access can be provided for all residents to and within all relevant parts of the site.
10. The pergolas and balconies shall not be enclosed at any future time without prior development consent.
11. 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.
12. 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.
13. 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.

14. **Roads and Maritime Services**

The following conditions imposed by Roads and Maritime Services (RMS) in their letter dated 12 September 2017 must be complied with:

- (i) The proposed Traffic Control Signals (TCS) at the intersection of Rocky Point Road/Weeney Street and the "*site access road*" shall be designed to meet Roads and Maritime requirements. The TCS plan shall be drawn by a suitably qualified person and endorsed by a suitably qualified practitioner.

The submitted design shall be in accordance with Austroads Guide to Road Design in association with relevant Roads and Maritime supplements (available on www.rms.nsw.gov.au). The certified copies of the civil design plans shall be submitted to Roads and Maritime for consideration and approval prior to the release of a Construction Certificate and commencement of road works.

Roads and Maritime fees for administration, plan checking, civil works inspections and project management shall be paid by the developer prior to the commencement of works. The developer will be required to enter into a Works Authorisation Deed (WAD) for the abovementioned works. Please note that the WAD will need to be executed prior to Roads and Maritime assessment of the detailed civil design plans.

- (ii) Roads and Maritime is prepared to extinguish the existing easement upon completion of the development and provision of the replacement drainage system as per the attached draft "Plan of Easement Affecting Lot 1 in DP 599502 and Lot 22 in DP 620329" referred to Roads and Maritime on 28 July 2017. The new system is to be protected by a new easement in favour of Roads and Maritime providing overland flow and not solely subsurface drainage.

Roads and Maritime will require a suitable notation on title, acceptable to Roads and Maritime, in relation to Roads and Maritime ongoing right to discharge stormwater into the development drainage system. All works and fees associated with the relocation of the easement and infrastructure are to be at no cost to Roads and Maritime. Furthermore, detailed design plans and hydraulic calculations of the proposed changes to Roads and Maritime's stormwater drainage system are to be submitted to Roads and Maritime for approval, prior to the commencement of any works.

Details should be submitted to Suppiah Thillai: suppiah.thillairms.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 these requirements please contact the Roads and Maritime Engineer, External Works Ph: 8849 2114 or Fax: 8849 2766.

- (iii) The developer will be responsible for undertaking any community consultation required in relation to the impacts of proposed road works, including the impacts any loss of on street parking required to facilitate the works.

- (iv) Any realignment boundary/dedication of land to facilitate the works must be dedicated as road at no cost to Roads and Maritime.
- (v) 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.
- (vi) 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.
- (vii) 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.

Details should be submitted to Suppiah Thillai: suppiah.thillairms.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.

- (viii) All demolition and construction vehicles are to be wholly within the site as construction zone will not be permitted on Rocky Point Road.
- (ix) Road Occupancy Licence must be obtained from Transport Management Centre for any works that may impact on traffic flows on Rocky Point Road during construction activities.
- (x) All works and signposting associated with the subject development, including any public utility adjustment/relocation works, shall be at no cost to Roads and Maritime.

15. Ausgrid

The following conditions imposed by Ausgrid by letter dated 31 January 2017 must be complied with:

- (a) Method of Electricity
The method of connection will be in line with Ausgrid's Electrical Standard (ES)1 - 'Premise Connection Requirements'.
- (b) Supply of Electricity
It is recommended for the nominated electrical consultant/contractor to provide a preliminary enquiry to Ausgrid to obtain advice for the connection of the proposed development to the adjacent electricity network infrastructure. An assessment will be carried out based on the enquiry which may include whether or not:

- * The existing network can support the expected electrical load of the development
 - * A substation may be required on-site, either a pad mount kiosk or chamber style and;
 - * Site conditions or other issues that may on the method of supply.
- Please direct the developer to Ausgrid's website, www.ausgrid.com.au about how to connect to Ausgrid's network.

(c) Conduit Installation

The need for additional electricity in the footway adjacent to the development will be assessed and documented in Ausgrid's Design Information, used to prepare the connection project design.

(d) Proximity to Existing Network Assets

(i) Overhead powerlines

There are existing overhead electricity network assets in Rocky Point Road, Production Avenue, and Production Lane.

Safework NSW Document - Work Near Overhead Powerlines: Code of Practice, outlines the minimum safety separation requirements between these mains/pols to structures within the development throughout the construction. Special consideration should be given the locating and operations of cranes and the location of any scaffolding. The 'as constructed' minimum clearances to the mains should also be considered. These distances are outlined in the Ausgrid Network Standard, NS220 Overhead Design Manual. This document can be sourced from Ausgrid's website, www.ausgrid.com.au.

Based on the design of the development provided, it is expected that the 'as constructed' minimum clearances will not be encroached by the building development. However it remains the responsibility of the developer and relevant contractors to verify and maintain these clearances onsite.

Should the existing overhead mains require relocating due to the minimum safety clearances being compromised in either of the above scenarios, this relocation work is generally at the developers cost.

It is also the responsibility of the developer to ensure that the existing overhead mains have sufficient clearance from all types of vehicles that are expected to be entering and leaving the site.

(ii) Underground Cables

There are existing underground electricity network assets in Rocky Point Road, and also within an existing easement on the subject property.

Special care should be taken to ensure that driveways and any other construction activities within the footpath area do not interfere with the existing cables in the footpath. Ausgrid cannot guarantee the depth of cables due to possible changes in ground levels from previous activities after the cables were installed. Hence it is recommended that the developer locate and record the depth of all known underground services prior to any excavation in the area.

Safework Australia - Excavation Code of Practice, and Ausgrid's Network Standard NS156 outlines the minimum requirements for working around Ausgrid's underground cables.

(iii) Substation

There are existing electricity substation assets in the subject property.

There have been preliminary investigations with Ausgrid to decommission the existing substations and install new substations onsite to suit load requirements. The proposed building structures are not to encroach on the existing substations easements until the substation decommissioning works have been completed and arrangement have been made for the easement to be relinquished.

The substation ventilation openings, including substation duct openings and louvered panels, must be separated from building air intake and exhaust openings, natural ventilation openings and boundaries of adjacent allotments, by separation distances which meet the requirements of all relevant authorities, building regulations, BCA and Australian Standards including AS 1668.2: The use of ventilation and air-conditioning in buildings - Mechanical ventilation in buildings.

In addition to above, Ausgrid requires the substation ventilation openings, including duct openings and louvered panels, to be separated from building ventilation system air intake and exhaust openings, including those on buildings on adjacent allotments, by not less than 6 metres.

Exterior parts of buildings within 3 metres in any direction from substation ventilation openings, including duct openings and louvered panels, must have a fire rating level (FRL) of not less than 180/180/180 where the substation contains oil-filled equipment.

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 further details on fire segregation requirements refer to Ausgrid's Network Standard 113. Existing Ausgrid easements, leases and/or right of ways must be maintained at all times to ensure 24 hour access. No temporary or permanent alterations to this property tenure can occur without written approval from Ausgrid.

Further details refer to Ausgrid's Network Standard 143.

(e) For Activities within or near to the Electricity Easement:

(i) Purpose of Easement

This easement was acquired for the 11,000 volt distribution assets currently owned and operated by Ausgrid. The purpose of the easement is to protect the distribution assets and to provide adequate working space along the route of the cables for construction and maintenance work. The easement also assists Ausgrid in controlling works or other activities under or near the distribution cables which could either by accident or otherwise create an unsafe situation for workers on the public, or reduce the security and reliability of Ausgrid's network.

(ii) The Following Conditions Apply for any Activities Within the Electricity Easement:

1. Safework Australia - Excavation Code of Practice, and Ausgrid's Network Standard NS156 outlines the minimum

requirements for working around Ausgrid's underground cables.

2. Ausgrid is not responsible for the reinstatement of any finished surface within the easement site.
3. Ausgrid requires 24 hour access along the easement for plant and personnel. For the purpose of exercising its rights under the easement, Ausgrid may cut fences and/or wall and install gates in them. Where the easements on a site do not provide practical access to all of Ausgrid's infrastructure, a suitable right of access at least 5m wide must be provided to each asset.
4. Driveways and other vehicle access must be capable of supporting the heaviest vehicle likely to traverse the driveway without damaging Ausgrid's assets.
5. No buildings/structures or parts thereof constructed may encroach the easement.
6. No machine excavation is permitted within the easement without Ausgrid's express permission.
7. During building construction, adequate controls must be put in place to prevent vehicles and machinery from damaging the Ausgrid assets.
8. Bulk solids (eg. sand and gravels) are not to be stored within the easement area.
9. Any change to ground levels must be submitted to Ausgrid for approval.
10. Trees, shrubs, or plants which have root systems likely to grow greater than 250mm below ground level are not permitted within the easement or close to the cable infrastructure. The planting of other vegetation is to ensure Ausgrid's access and maintenance requirements are maintained.
11. Ausgrid is to be indemnified from all actions, suits, claims and demands of whatsoever nature, which Ausgrid may incur as a result of the encroachment/s.
12. Ausgrid reserves the right, by written notice, to require the owner of the property, at the owner's expense, to implement further safety measures, removal or modification of any encroachments not specifically approved by Ausgrid should this be necessary in the future for the safe and continued operation or upgrade of the network asset.

16. NSW Water

The following Integrated Development Conditions issued by NSW Water by letter dated 6 February 2017 must be complied with:

(A) General

- (a) 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.
- (b) 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 fully 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

- (c) 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:
 - (i) 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
 - (ii) 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
 - (iii) where the habitable part of the structure (not being footings or foundations) is founded in bedrock or impermeable natural soil then the requirement to maintain groundwater flows beneath the structure is not applicable.
- (d) 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.
- (e) Documentation (referred to as a 'report') comprising measurements, maps, bore logs, calculations, results, discussion and justification for various matters related to the dewatering process must be provided. 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 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

- (a) The following shall be included in the initial report:
 - (i) 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.
 - (ii) 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.
 - (iii) 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.

- (iv) 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. [Note that groundwater level measurements should be undertaken on a continuous basis using automatic loggers in monitoring bores.]
- (b) 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.
- (c) 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.
- (d) Groundwater quality testing generally in accordance with Clause 8, shall be undertaken on any anniversary or other renewal or alteration of any dewatering authorisation.
- (e) 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 determined by slug-testing, pump-testing or other means).
- (f) A copy of a valid consent for the development shall be provided in the initial report.
- (g) 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.
- (h) 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

- (a) 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.
- (b) 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.
- (c) Measurement and monitoring arrangements to the satisfaction of the approval body 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.
- (d) 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.
- (e) 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.
- (f) 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.
- (g) Access to groundwater management works used in the activity is to be provided to permit inspection when required by the approval body under appropriate safety procedures.

(D) Following excavation

- (a) Following cessation of the dewatering operations, the applicant shall submit the completion report which shall include:
 - (i) 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
 - (ii) a water table map depicting the aquifer's settled groundwater condition and a comparison to the baseline conditions; and
 - (iii) 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.
- (b) The completion report is to be assessed by the approval body prior to any certifying agency's approval for occupation or use of the

completed construction.

17. Telstra Requirements

Prior to issue of the Construction Certificate and before commencement of any works, the Applicant must contact Telstra's Network Integrity Unit on 1800 810 443 regarding the development. Written confirmation from the service provider 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. The arrangements and costs associated with any adjustment to telecommunications infrastructure shall be borne in full by the applicant/ developer.

18. Compliance with Building Height Plane

Prior to issue of the relevant Construction Certificate a Registered Surveyor must certify that the height of the building shown in the plans submitted with the Construction Certificate do not exceed the height permitted by the 'building height plane' as defined in Clause 4.3A(4) of Rockdale Local Environmental Plan 2011, which reads as follows:

"building height plane means a continuous plane commencing at a height of 1.5 metres above ground level (existing) and at a distance of 13.6 metres south of the southern boundary of Lot 22, DP 620329 (Point A), projecting to a position at a height of 11.7 metres above ground level (existing) and at a distance of 31.6 metres north of Point A, and continuing at that projection over the land to which this clause applies".

19. Plans to include the following matters prior to issue of the Construction Certificate

The following matters must be complied with in the plans submitted with the Construction Certificate, and must be satisfied prior to issue of the Occupation Certificate and during ongoing use of the site where relevant:

(a) Setback of Building D to be increased:

- (i) The northern setback for the three (3) lower levels of Building D (i.e. Ground Floor, Level 1 and Level 2) must be amended to have a minimum 9m setback from the sites northern boundary to ensure that a 6m deep soil setback is provided to the north of Building D. This condition is required to ensure that adequate amenity is afforded to future occupants. The condition is imposed due to the loss of 3m of deep soil planting due to the 3m wide 'Licenced Area' defined in the Deed of licence between JQZ Nine Pty Ltd as trustee for the JQZ Nine Unit Trust and Keven Manson Pty Limited.

- (ii) The affected units shall be converted to one (1) bedroom units.

(b) Northern landscape setback to be 'Common Property'

- (i) the northern landscape setback shall be shown as 'common property' on all relevant plans for the following areas:

- (1) 6m landscape deep soil zone located to to the north of Building B, Building C, Building D & Units L0001 - L0005.
- (2) 3m landscape deep soil zone to the north of Dwellings L0006, L0007, L0008, L0009, L0010, L0011 and L0012.

- (ii) Maintenance access must be provided to this space. This landscape area must be identified as 'Common Property' on any future Strata Subdivision of the site.

(c) Western landscape Easement within B6 zone - A 6m wide deep soil

landscape strip shall be provided within the B6 zoned land immediately adjacent to the R4 zone boundary for that section that is located between the internal access road and the northern site boundary. The 6m wide deep soil landscape strip must continue up to the proposed internal access road and must be shown on all plans submitted with the Construction Certificate. This must be reflected in any future Strata Subdivision of the site, and shall be covered by a Section 88B Instrument that must be signed by Council prior to issue of the Occupation Certificate. Council must be the only authority empowered to release, vary or modify the proposed easement.

- (d) Provision of a green roof above the driveway entrance which includes low lying landscaping with a 300mm soil depth as detailed in the amended landscape plans.
- (e) The proposed fence to the southern boundary of the “central park” must be deleted to allow unimpeded access to this principal area of communal open space. If access gates and fencing are proposed for Buildings B, C, D & E, they may be provided no further south than the southern edge of Buildings C and D (away from the access street).
- (f) Building G (Terraces) shall be amended as follows:
 - (i) Proposed screening to the southern end of the roof top level for all 20 townhouses shall be relocated 2m further north. The screening shall be 1.8m in height for the full width of the roof terrace, shall be constructed of high quality materials, and shall be horizontal louvres facing in an upward or downward direction that will prevent any overlooking toward the rear yards of Margate Street residences.
 - (ii) A maximum size pergola structure of 24m² shall be provided to the roof terraces. Solid walls / elements shall not be permitted to the side elevations.
 - (iii) The first floor rear balconies shall be deleted from all 20 townhouses.
- (g) Wind Report - Compliance with the recommendations in the Pedestrian Wind Environment Study report prepared by Windtech (dated 16 December 2016), including:
 - (i) Strategically placed densely foliating evergreen tree planting capable of growing to a height of 5m with a 5m wide canopy throughout the Central Park area, along Production Lane and along the western side of the residential component of the development.
 - (ii) 2m high densely foliating shrub planting in the planter beds currently proposed for the Level 7 and Level 8 communal terraces located on Buildings E and B respectively.
 - (iii) 1.5m to 2m high impermeable screening or hedge planting around the ground level southern corner private terraces of Buildings B, C, D and E.
 - (iv) Densely foliating planting for the Level 9 and 11 southern private terraces located on Buildings E and B respectively, similar to the proposed planting on the Building B and E communal terraces.
 - (v) Impermeable balustrades for all private balconies and terraces located at the corners of the various buildings of the development, and also the townhouse roof terraces.
- (h) Shading and Glare Control to Western Facades - Sliding and operable vertical louvre screens shall be provided to the western facades of all units

- within Building B and Building E to provide shading from summer sun to living areas of units but that will permit winter sun to penetrate living areas in accordance with the Apartment Design Guide Part 4A.
- (i) 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.
 - (j) Ceiling Heights
 - (i) Ceiling heights for all habitable areas shall be a minimum of 2.7 metres and ceiling heights 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.
 - (k) Natural light to be provided to the basement car parking levels as shown in the approved landscape plans.
 - (l) Elevator size and requirements -
 - (i) All passenger lift cars are to have minimal internal dimensions of 2.1m x 1.5m, must be capable of carrying stretchers and have lift door openings wide enough to enable bulky goods (white goods, furniture etc) to be easily transported.
 - (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 20% of the population and provide an Interval of 80 seconds or less. The population of the building must be established using CIBSE (Chartered Institute of Building Services) population data.
 - (m) 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.
 - (n) Mechanical ventilation for commercial / retail tenancies - all ground floor level commercial tenancies shall be provided with mechanical ventilation which complies with the relevant Australian Standards to permit future uses for food and drink premises. The systems must vent above the roof top level.
 - (o) Basement & Lift Access - Each unit shall be provided with a buzzer / button that will allow them to open the door(s) to the residential lobby and to the basement levels. The residential townhouses (Building G) must be provided with buzzer access to the main basement to allow visitors to access these spaces. Visitors must be provided with lift access from the basement to Ground Floor Level.
 - (p) 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.
 - (q) The proposal shall include the use of rainwater harvesting for all landscape planting at roof top level, podium level and for the green gateway planting in accordance with the requirements of Part 7.5 of RDCP 2011.
 - (r) All plumbing, shall be concealed within the brickwork / facade of the building.
 - (s) Garbage Rooms - Hot and cold water hose cocks shall be installed to the garbage room. Services or utility systems shall not be located in the garbage

room.

- (t) The stormwater detention tank(s), basement parking, and all other structures associated with the residential development must be located outside of the boundary of the New Road and any public domain areas

20. Parking Provision & Allocation - Residential Units

A total of 704 residential car parking spaces, a minimum of 48 motorcycle parking spaces, a minimum of 53 bicycle parking spaces and 3 dedicated car wash bays, must be provided within the development. The parking must be allocated in accordance with the Rockdale Development Control Plan (RDCP) 2011 requirements in accordance with the minimum rates provided in the table below. This parking must be reflected in any subsequent strata subdivision of the development.

Dwelling Size (Proposed No. of units)	Required
Studio / 1 / 2 bed dwellings (475units)	1 space / dwelling = 475 spaces
3 bedroom dwellings (58 units)	2 spaces / dwelling = 116 spaces
Total Car Parking Spaces for Residential Units	591 spaces (min.) (including 54 accessible spaces)
Visitor	1 space / 5 dwellings = 107 spaces (including 3 accessible space)
Bicycle (Res. + Com.)	1/10 units = 53 spaces (Min.)
Motorcycle (Res + Com.)	1/15 units = 48 spaces (Min.)
Carwash Bay	3 spaces (dedicated).
Commercial Premises (No. 168 Rocky Point Road)	1 space / 40m ² = 30 spaces (min)

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 bays 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.*

21. Protection of Council Land & Retaining Wall along Southern Boundary

Proposed works shall not result in any adverse impacts to the existing retaining wall(s) located within / adjacent to the small parcel of land with Lot 72 in DP 6120 which adjoins part of the sites southern boundary. This lot is owned by Council. The existing retaining walls be secured / under-pinned prior to excavation and removal of the adjoining concrete slab, and that the structure be certified by a qualified civil engineer prior to issue of the Occupation Certificate.

22. Minimise Impacts to Public Parking for the Sporting Fields

- Prior to commencing any Public Domain Works, a Staging and Management Plan of the proposed public domain works must be submitted to, and approved by, Council to ensure the impacts to the Community are minimised specifically with regard to public parking for the sports fields along Production Lane and the Commercial Businesses along Production Avenue and Phillips Road.
- No works zones will be permitted within Production Lane.
- Truck parking, parking of machines and/or employees vehicles may be parked within that section of Production Lane. Vehicles, machinery and equipment must be parked within the development site.

23. Construction Environment Management Plan

Prior to issue of the Construction Certificate, a Construction Environmental Management Plan (CEMP) must be submitted to, and approved by, Council's Director of City Futures. The CEMP shall include an Unexpected Finds Procedure to identify any localised area of contamination, or suspected contamination, as recommended in the "Targeted Phase 2 Contamination Assessment" report prepared by Coffey, dated 2 June 2015 and submitted with this application.

24. Safer by Design

- a) 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:
- b)
 - (i) 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.
 - (ii) A lighting maintenance policy shall be established for the development, including the basement car park. 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.
 - (iii) Security mirrors shall be installed within corridors and on blind corners to enable users to see around blind corners.
 - (iv) Graffiti resistant materials shall be used to ground level external surfaces.
 - (v) 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.
 - (vi) Basement ceilings shall be painted white.
 - (vii) Visitors parking spaces shall be separated from residential parking spaces. Access to residential spaces must be restricted to residents only.
 - (viii) Storage areas within the basement must be of caged metal construction and be provided within lock and key.

25. Use of Communal Terraces

- (i) Design and use of the upper level communal terraces must comply with the following:
 - (a) Use of the outdoor terraces is restricted to between the hours of 6am and 11pm Mondays to Sundays.
 - (b) The use of amplified music, speakers, etc. is not permitted on the roof top terraces of the residential flat buildings.
 - (c) Balustrades for the communal terraces must be a minimum of 1.2m in height and be of solid construction, obscure glazing or other treatment to minimise overlooking toward adjoining properties.
- (ii) Prior to issue of the relevant Occupation Certificate, legible signs located in a prominent position at the main entrance and within the communal areas must be erected that clearly communicate the above restrictions;

26. Street Numbering & Letterbox Provision

- (a) The buildings / units shall be provided with the following street numbers:
 - (a) Building B
 - (i) Main (northern) Residential Lobby - No. 15 'New Road'
 - (ii) Secondary (southern) Residential Lobby - No. 17 'New Road'
 - (iii) Ground Level Units - B0001 (G02/15), B0002 (G01/15), B0003 (G10/15), B0004 (G09/15), B0005 (G08/15), B0006 (G07/15), B0007 (G06/15), B0008 (G05/15), B0009 (G04/17), B0010 (G03/17), B0011 (G2/17), B0012 (G01/17), B0013 (G04/15), B0014 (G03/15).
 - (iv) Upper level units - to reflect numbering of relevant unit on ground level.
 - (b) Building C
 - (i) Residential Lobby - No. 11 'New Road'
 - (ii) Ground Level Units - Ground Level Units - C0001 (G09/11), C0002 (G10/11), C0003 (G01/11), C0004 (G02/11), C0005 (G03/11), C0006 (G04/11), C0007 (G05/11), C0008 (G06/11), C0009 (G07/11), C0010 (G08/11).
 - (iii) Upper level units - to reflect numbering of relevant unit on ground level.
 - (c) Building D
 - (i) Residential Lobby - No. 7 'New Road'
 - (ii) Ground Level Units - D0001 (G02/7), D0002 (G01/7), D0003 (G10/7), D0004 (G09/7), D0005 (G08/7), D0006 (G07/7), D0007 (G06/7), D0008 (G05/7), D0009 (G04/7), D0010 (G03/7).
 - (d) Building E
 - (i) Main (northern) Residential Lobby - No. 3 'New Road'
 - (ii) Secondary (southern) Residential Lobby - No. 1 'New Road'
 - (iii) Ground Level Units
 - (A) E0001 - E0007: Street Numbering to 'Production Lane' (Note Production Lane to be renamed):
E0001 (No.14), E0002 (No.12), E0003 (No.10), E0004

(No.8), E0005 (No.6), E0006 (No.4), E0007 (No.2)

- (B) E0008 - E0013: Street numbering to 'New Road' lobbies:
E0008 (G03/1), E0009 (G02/1), E00010 (G01/1),
E00011 (G03/3), E00012 (G02/3), E00013 (G01/3)

- (iv) Upper level units - to reflect numbering of relevant unit on ground level.

- (e) Building G (Townhouses fronting New Road) - No. 4 - 42 'New Road'.

- (f) L Units (located between RFB's)

- (i) L0001 - L0004: No. 13A - 13D.

- (ii) L0005 - L0008: No's 9A - 9D.

- (iii) L0009 - L0012: No's 5A - 5D.

- (g) Child Care Centre - No. 2 'New Road'.

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

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

27. 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.

28. 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.
29. 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.
30. The overland flow path shall not be obstructed, restricted or altered without the approval of Bayside Council.
31. 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.
32. Proposed Drainage Pipe (along the New Road and the Production Lane, Kogarah)
A full Hydrologic+Hydraulic (H+H) assessment is required to be undertaken prior to issue of the Construction Certificate for the relevant stage to determine the required pipe size for the proposed pipe extension along the section of the New Road and Production Lane.

- Assumptions
H+H analysis is to be carried out for all combinations of the following design components:
 1. Design Events (AEP): 10% and 20%
 2. Catchment Development: Existing and Ultimate (contributing catchment fully developed up to the level allowed by current zoning)
 3. Downstream Boundary Conditions: Downstream pipe is flowing full at a nominated pipe friction slope.

Following factors are to be taken into account as well:

- location of any services along and on the proposed/realignment route,
- upstream and downstream pipe sizes,
- location of existing ("to remain") entry pits and junctions,
- cover to ground,
- overland flow path,
- final route selection.

Pipes size is to be determined on the basis that the pipe full velocity is approximately:

- 2.5 m/s.

Lower pipe velocity is to be avoided to prevent sedimentation in the pipes. Higher pipe velocity is to be avoided to prevent large energy losses (at pits and/or junctions).

- Construction of twin/several smaller pipes rather than single large pipe is allowed subject to site/construction/services constraints.

- New pits and junctions are to be designed to minimise head loss and allow for maximum entry/inlet capacity.
- A pipe slope of greater than 0.5% is required to prevent siltation. If/where physical restraints prevented this requirement being met slope under 0.5% is acceptable.
- The existing pipe/pits (“to remove”) are to be decommissioned/removed at a developer's expense.

33. Noise Impacts & Acoustic Attenuation

The plans and documentation prior to issue of the Construction Certificate and/or Occupation Certificate for the relevant stage of works compliance with the following requirements must be demonstrated:

- (i) **Noise from Mechanical Plant / Ventilation**
An Acoustic Report, prepared by a suitably qualified and experienced Acoustic Consultant, shall be submitted to the Accredited Certifier (AC), detailing any necessary modifications to any proposed mechanical plant/s (or any other noise producing equipment) to reduce the intrusion of noise and/ or vibration into occupied rooms within the subject site and within the surrounding residential properties (including Margate Street properties) to meet the relevant standards and guidelines identified in the submitted Acoustic DA Assessment report prepared by Acouras Consultancy (Ref: SYD2016-1079-R0001F, dated 7 July 2017).
- (ii) **Acoustic treatment of Units - The construction plans must demonstrate compliance with the following:**
 - (a) The recommendations contained within Section 3 of the submitted Acoustic DA Assessment report prepared by Acouras Consultancy (Ref: SYD2016-1079-R0001F, dated 7 July 2017). This includes sealing of windows (air tight) when closed with good acoustic seals around the top and bottom sliders (Mohair seals are not considered to be acoustic seals).
 - (b) An updated acoustic report that confirms that appropriate measures including glazing, wall construction, window seals and other measures, are included within the development to ensure that the internal noise environment of units comply with:
 - (i) the Project Specific Limit identified in Table 8 of the DA Assessment report prepared by Acouras Consultancy (Ref: SYD2016-1079-R0001F, dated 7 July 2017); and,
 - (ii) the LAeq levels in SEPP (Infrastructure) 2007, being:
 - (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.
- (iii) **Noise Impacts between units:**
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:

- (i) 3 Star for tiled areas within kitchens, balconies, bathrooms and laundries. Tiled flooring within corridors, living areas and bedrooms is not permitted.
- (ii) 4 Star for timber flooring in any area.
- (iii) 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.
- (c) 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.

34. Noise Impacts from Use / Occupation

The use of the any plant, equipment and/or residential occupation of the site shall comply with the following:

- (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.
- (d) Residential air conditioners must be designed so as not to operate:
 - (i) during peak time—at a noise level that exceeds 5 dB(A) above the ambient background noise level measured at any property boundary, or
 - (ii) during off peak time—at a noise level that is audible in habitable rooms of adjoining residences.
 - (iii) Note - peak time means:
 - A. the time between 8:00 am and 10:00 pm on any Saturday, Sunday or public holiday, or
 - B. the time between 7:00 am and 10:00 pm on any other day.

35. Parking, Loading & Vehicular Access

The design, construction and operation of the off-street car, motorcycle, bicycle and loading facilities (including waste collection) shall comply with the following requirements:

- (a) Three (3) loading bays shall be provided at Basement B1 to accommodate Garbage collection vehicle - RCV and removalist trucks as shown in the approved plans. The RCV space shall be in accordance with Council DCP, Rockdale Technical specification – Traffic, Parking and Access and AS 2890.2 and the swept path analysis for the RCV entering the loading bay shall

be provided using a recognised computer software package such as Autoturn, complying with Section B3 of AS/NZS2890.1:2004.

- (b) Any vehicular path of travel to or from loading bay for RCV shall have minimum headroom clearance of 4.5m.
- (c) One (1) van loading bay in close proximity to the lifts for Building B, and one (1) van loading bay in close proximity to the lifts for Building E shall be provided at Basement levels to accommodate Furniture removal vans. These space shall be in accordance with Council DCP, Rockdale Technical specification – Traffic, Parking and Access and AS 2890.2. The plans submitted with the relevant Construction Certificate shall comply with this requirement.
- (d) Bicycle parking facilities shall be designed in accordance with AS2890.3:1993.
- (e) The off-street parking areas associated with the subject development shall be designed strictly in accordance with AS2890.1 and AS2890.6.
- (f) Internal height clearance shall be designed throughout the car park and access driveway in accordance with AS2890.1 and AS2890.6.
- (g) Commercial vehicle facilities shall be designed strictly in accordance with AS2890.2:2002.
- (h) All waste collection and deliveries to / from the site (including removalist trucks) must take place from within the approved loading bay.
- (i) A buzzer providing access to the basement car park must be provided to Council's Waste Education & Contract Supervisor prior to issue of the Occupation Certificate.
- (j) The loading bay must be allocated as 'common property' on any future strata plan of subdivision under the Strata (Freehold) Schemes Act.
- (k) The car parking spaces shall not be enclosed at any time.
- (l) For parking with people with disabilities, the clearance above the parking bay shall be 2.5 minimum.
- (m) Allocate all off-street visitor parking, loading bays and car wash bays as 'common property' on any future strata plan of subdivision under the Strata (Freehold) Schemes Act.

36. 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.

37. Design Quality

- (a) In order to ensure the design quality excellence of the development is retained:
 - i. A Registered Architect is to have direct involvement in the design documentation, contract documentation and construction stages of the project;
 - ii. The design architect is to have full access to the site and is to be authorised by the applicant to respond directly to the consent authority where information or clarification is required in the resolution of design issues throughout the life of the project;
 - iii. Evidence of the design architect's commission is to be provided to the Council prior to release of the Construction Certificate.

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

38. All playground structures and softfall treatments shall satisfy the relevant AS/NZS standards (AS/NZS 4486.1:1997, AS/NZS 4422:1996), and must be certified prior to initial use.

39. All pavements shall comply with AS/NZ 4586:1999 standards Class W (low) for slip resistance on both private and Council property.

40. Waste Management - On-going Use

On-going waste and recycling from the residential dwellings shall be managed in accordance with the submitted Waste Management Plan. Waste and recycling shall be collected from within the basement level for the Residential Flat Buildings. Council's Waste Management Officer / Team shall be provided with a buzzer to access the basement for waste collection purposes prior to issue of the Occupation Certificate for the first residential unit.

41. Storage

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

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

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

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

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

42. External Cladding

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

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

43. Plan of Management for Pedestrian & Bicycle access within the development

Pedestrian and bicycle access within the development must be legible and separated from vehicular access wherever possible.

A Plan of Management is required to address the following:

- Provide safe and convenient pedestrian access from car parking and other public areas, with well co-ordinated signage, lighting, security, direct paths of travel with stairs and disabled access ramps.
- Provide legible bicycle access between the cycle network and bicycle parking areas, which does not create conflict with pedestrian traffic.
- All bicycle parking is to be secure and in the form of individual bicycle lockers or within a caged or gated secure areas;
- Design of bicycle parking is to cater to the various users of the development and their differing modes of bicycle parking required, such as:

44. **Permeable Paving**

The plans submitted with the Construction Certificate for the relevant stage of works shall show that all public car parking spaces and pedestrian pathways within the New Road and within Production Lane carriageway utilise permeable paving. The permeable paving for pedestrian pathways shall have a minimum thickness of 50mm and the permeable paving for the public car parking spaces shall have a minimum thickness of 80mm to satisfy WSUD measures. Paving shall comply with the following:

- Permeable Paving in accordance with AS 4456.9:2003
- Unsealed slip resistance compliant with AS/NZS 4586: App.A
- Breaking Load compliant with AS/NZS 4456.5: 2003
- Height of 50mm for Pedestrian pathways
- Height of 80mm for Car Park/bay areas
- Finish: Natural
- SubBase: 25mm washed river sand over 150mm DGB20 over consolidated sub base material
- Supplier: approved equivalent by Council
- Location: As identified on Landscape Plans

45. **Landscape Plans / Planting**

The following must be complied with:

- (a) Prior to issue of any Construction Certificate for above ground works, amended Landscape Plans must be submitted to, and approved by, Council's Director of City Futures. The amended plans must comply with the following:
 - (i) The amended plans must correspond with the approved architectural drawings listed in Condition 2 and comply with all other relevant conditions of this consent.
Key amendments include:
 - (A) Deletion of all planting within the 3m wide area located along the rear southern wall of the existing building erected on Lots 20-26 in DP 29275 that is affected by the Signed Deed of Licence between parties JQZ Nine Pty Ltd as trustee for the JQZ Nine Unit Trust and Kevin Manson Pty Limited.
 - (B) Modifications to comply with the amended 20.1m road width for all Plans and Sections (except adjacent to the child care centre where the road width is 18.2m);
 - (C) Modifications to the width of the bicycle path and planting within Production Lane. (Note: the plans must show existing and proposed planting within Production Lane. No trees are to be removed from within the planter bed located on the eastern side of Production Lane opposite Building E).

- (D) Deletion of the palisade fencing to the southern perimeter of the main communal open space area. Fencing and access gates may be located in positions recommended by the Design Review Panel.
- (ii) Plant selection to comply with the following:
 - (A) The plant selection to be adjusted on updated landscape plan, with *Raphiolepis* (to be changed to *Leionema* 'Green Screen' and *Westringia*'s changed on west side to be a screen planting which is staggered to form a thicker hedge, using *Syzigium* 'Cascade' or equivalent.
 - (B) The Western boundary plantings should be a staggering planting of *Syzigium paniculatum* and *Acmena smithii*.
 - (C) The planting density needs to be increased to produce an effective buffer from future development.
 - (D) The Northern Boundary requires further tree planting, which should be at approximately 10m centres. The use of *Lophostemon confertus* should be replaced with *Eucalyptus botryoides* interplanted with *Eucalyptus scoparia*.
 - (E) Northern and Western boundaries can accommodate greater plant densities and especially medium and large trees to achieve a buffer with the adjoining industrial & commercial zones. *Leptospermum petersonii* can tolerate the strong heat, which should be supplemented with *Elaeocarpus reticulatus* plantings.
 - (F) Planting should be provided within the B6 zone to accommodate an additional buffer with screen tree species to provide a wind break.
 - (G) *Russelia equisetiformis*, *Trachelospermum jasminoides* and especially *Syngonium podophyllum* should be replaced with native groundcovers such as; *Grevillea* 'Royal mantle', *Banksia* 'Roller Coaster', *Bauera rubioides*, *Brachycome multifida* and *Zieria* 'Carpet Star'. There is a large planting of *Stretlitzia nicolai*, which should be minimized and interspersed amongst other tropical plants including *Helmholtzia glaberrima*, *Cordyline petiolaris*, *Thelionema grande* and *Dietes robinsoniana*.
 - (H) *Syzigium cascades* to the north, west and south boundary are suitable broken up with larger trees such as *Celtis paniculata*, but the west boundary cannot be broken up with smaller plantings such as *Philodendron* 'Xanadu' it will be better to maintain a 3m height to provide the necessary privacy to the townhouses considering their position to the road. Ideally a double planting would work better, especially staggered plantings to help reduce noise. *Doryanthes palmeri* will be better used on the north boundary and *Stretlitzia Nicolai* can look untidy and requires a lot of maintenance and should be reconsidered.
 - (I) *Magnolia* 'Little Gem' can also be interplanted with small trees such as *Glochidion ferdinandi*, *Melaleuca quinquenervia*, *Casuarina glauca*, *Acronychia imperforata* or *Xanthostemon corynanthus* 'Fairhill Gold'. There should be a larger variety and

amount of trees on site and updated on Plant Schedule.

- (J) Ferns and cycads should be increased in selection to include *Doodia aspera*, *Livistona australis* and *macrozamia communis*, fern areas should be underplanted with *zieria* 'Carpet Star' and *Lobelia alata*.
 - (K) *Alpinia zerumbet* can be replaced with *Dicksonia Antarctica* or *Alocasia brisbanensis*, *Strelitzia nicolai* with *Doryanthes excelsa*.
 - (L) *Pandanus tectorius* may not work well on this site and should be replaced with *Livistona australis*.
 - (M) *Lomandra hystrix* should not be used and should be replaced with *Hardenbergia violacea*, *Lomandra* 'Little Con', 'Lime Tuff', 'Savanna Blue', *Dianella caerulea* and varieties.
 - (N) Other grasses/reeds should also be used to break up *Pennisetum alopecuroides*, including *Baloskion tetraphyllum*, *Juncus kraussii*, *Baumea juncea* and *Phragmites australis*.
 - (O) The central courtyard turf area requires further development with additional plantings of native shrubs and groundcovers. Taller tree species should also be included to provide privacy, including *Banksia* 'Giant Candles', and *Sterculia quadrifida*.
 - (P) 7982 of 10735 plants (74%) are native which complies with the Council guidelines (DCP), however it is recommended that proposed *Syzigium* 'Winter Lights' and *Callistemon* 'Great Balls of Fire' be interplanted with other native species (e.g. *Lomandra* 'Lime Tuff').
 - (Q) More centre plantings within other mounds and varying seating with planters near building B and E.
- (iii) Kickabout development
- (A) This consolidated area has been provided in the on grade communal zone (referred to as the central park), along the northern boundary and along the site access road (providing opportunity for significant avenue planting). However the design is not cohesive and does not provide the opportunity to produce an optimal landscape with amenity.
 - (B) It is recommended that Deep soil area with mature trees should be accompanied by further range of trees, shrub and groundcover underplantings.
 - (C) All raised/mounded areas to have steel edging to eliminate potential of mulch washing on pedestrian walkways.
 - (D) Increase plantings should be included along play areas in the 'kickabout' central park, where at least a further 400 small trees and shrubs, along with a further 1000 groundcovers should be included, especially in the deep soil zone. The BBQ area should be provided with vegetable beds. Raised terraces should also be landscaped further. Ideally better amenities including sporting fitness zone areas and review of both mounded zones and BBQ area i.e. bubblers and seating and shade options should be incorporated into the design.

- (E) Turfing under trees is not recommended for long term tree health and vigour. Planting areas can extend to or additional planting near both landscape mound next to playground and seating sections.
 - (F) Within the mounded areas there may be enough room to provide a basketball shooting rink with three point line, and free throw lane markings to provide further amenity for the residents.
 - (G) Remove/amend the sandstone wall so that it allows access points to the 'kickabout space'.
- (iv) **Townhouse area**
The Deep Soil zone in front of the proposed Town Houses should accommodate as many native species to maximise this zone. Proposed planting must be amended to reflect the widened 20.1m road reserve and WSUD measures required within the road reserve.
- (v) **Fence, Irrigation and Lighting Details**
All fence heights and materials should be provided on the plan, along with irrigation and Lighting details, especially to the 'kickabout space'.
- (vi) **Landscape planting to Production Lane frontage**
- (A) The Production Lane setback must be deep soil for a minimum width of 3m as measured perpendicular from the sites eastern side boundary as shown in the plans. The planting, fence locations and built form within these front setback areas must be reviewed and must include a greater density and height of plantings. Preference should be given to locally indigenous and Australian native plant species whenever possible (TS Landscape). Proposed front fences for Building E may need to be setback further than proposed in the approved plans to ensure adequate scale landscape / tree and screen planting can be provided to this eastern boundary.
 - (B) There is a significant potential for avenue planting within the site or within the streetscape verge should be amended with further range and increased density of trees, shrubs and groundcovers that is developing the avenue planting, with plantings both in front and behind the sandstone wall.
 - (C) Townhouse treatment it is recommended to remove some car spots and incorporate the cyclepath access to the townhouse development. A Pedestrian crossing should be provided in at least two positions to integrate the townhouses with the public park areas.
- (vii) **Garden beds edges**
Install steel edging material that stops mulch movement onto paved walkways (from garden beds only and not on Council strips) edging range should be considered, especially on mounded areas and beds on slopes.
- (viii) **Other Matters to be included in amended Landscape Plans**
- (A) All setbacks, and other areas of the property shall be landscaped to a greater level with a larger variety of plants and species noted in 'Planting plan to be reviewed prior to determination'. Amended road design & public parking to be updated on Landscape Plan. Landscaping shall be installed in

accordance with the approved landscape plan only stamped by Council's Landscape Architect and dated, prior to the issue of an Occupation Certificate. (This amended plan supercedes the original landscape plan issue Q). Amendments include The landscaped areas on the property shall be installed and maintained in accordance with the approved landscape documentation, the conditions of consent and Council's Landscape DCP at all times.

- (B) The private domain landscape areas shown on the plan by Arcadia (Issue Q, dated July 2017) shall comprise detailed landscape construction documentation (plans and specifications) to be submitted to and approved by the Bayside Council Landscape Architect prior to issue of the onstruction certificate for above ground works. The landscape documentation is to be prepared by Arcadia Landscape Architects and shall include, but not be limited to:
- (C) Canopy trees are to be used extensively within the North, South and West boundaries. Planters are required to be of adequate depth and soil volume to accommodate both large and medium size canopy trees in accordance with DCP Part 4 Part 4.4.
- (D) Elevated planter box sectional details and drainage details. All planter box depths and dimensions shall be in accordance with Council's DCP and capable of supporting medium and large canopy trees. Planting within the communal areas is to have a minimum depth 1500mm of soil, particularly where tree planting is proposed. Construction detailing is required.
- (E) 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.
- (F) A minimum soil depth of 800mm is required for planted areas (other than turf) on podiums or roof-tops or any other concrete slab. This also applies to proposed green roof above the driveway entrance which includes low lying landscaping with a 300mm soil depth which must be amended prior to determination.
- (G) 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.
- (H) 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).
- (I) All deep soil areas to include canopy trees where feasible to mitigate the loss of existing mature trees on site and to provide a level of amelioration to the development that is appropriate to the scale of the building heights.
- (J) Indicate the location of all basement structures relative to the landscape areas.
- (K) A planting plan at 1:100

- (L) Barbeque facilities to be incorporated within the Roof Terraces and pergola details to be provided along with turf selection, sky lights and pavement details.
- (M) Roof terraces to provide further deciduous trees such as Brachychiton discolour and planters around seating areas.
- (N) Within the New Road, areas of paving, schedule of materials, edge treatments, tactiles and sectional construction details. Paving to Council Draft Public Domain schedule/specification. Drainage details in specific locations such as the public parks, use of WSUD initiatives or materials.
- (O) The car park vent, which protrudes at the podium level, to be adequately screened from the view of surrounding apartments.
- (P) Public Domain Landscape Works - A detailed public domain landscape plan shall be submitted to and approved by the Bayside Council Landscape Architect prior to the issue of any the Construction Certificate for above ground works. The applicant shall meet with Council prior to any submission to discuss Council's requirements. Following this, detailed landscape construction documentation (plans and specifications) must be submitted to and approved by the Bayside Council Landscape Architect. The landscape documentation is to be prepared by Arcadia Landscape Architects and shall include, but not be limited to:
 - a. The clear delineation of all public domain areas as follows:
 - b. New Road footpath areas and streetscape design for Production Lane of the eastern side of the site.
 - c. A planting plan at 1:100 showing all plant locations/groupings and plant centres/species. There is to be a dense layered planting scheme consisting of trees, shrubs and groundcovers in all of these areas.
 - d. Street trees are required along New Road, and Production Lane to Council standards.
 - e. All street trees are to be in tree pits that are at grade with the footpath, finished mulch levels should be a minimum of 50mm below edge.
 - f. All deep soil areas are to include evergreen canopy trees noted in Planting plan to be reviewed prior to determination where feasible to mitigate the loss of existing mature trees on site and to provide a level of amelioration comparable to the scale of the buildings.
 - g. Canopy trees are to be used extensively within the north of the North and South boundaries. Planters are required to be of adequate depth and soil volume to accommodate both large and medium size canopy trees in accordance with Councils DCP (Part 4 Part 4.4).
 - h. A plant schedule listing all plants by botanical name, total plant numbers, plant spacings, pot sizes and staking. Canopy trees are to be a minimum litreage of 100 litres and street trees 200 litre.

- i. Specifications detailing soil and mulch finishes, root barriers, irrigation, edging and other landscape hardworks such as retaining walls, steps, planter walls, feature walls, skateboard restrictors, tree pits, tree grates, tree guards, tree pit treatments and so on in accordance with Council's Draft Public Domain specifications.
- j. New pavement treatment to connect townhouse area to 'Kickabout space'. Full detailing is required.
- k. Areas of paving, schedule of materials, edge treatments, tactiles and sectional construction details. Paving to Council Draft Public Domain schedule/specification. This includes areas within the 'kickabout space.' Drainage details in specific locations such as the public parks, use of WSUD initiatives or materials.
- l. Details of all fencing, privacy screening, arborists and the like – elevations and materials, impacting or visible to public domain areas.
- m. Details of all other hardscape landscape elements such as street furniture, pedestrian amenity lighting, playground and recreational equipment, water features and water stations, bins, bollards, signage suite. Locations to be clearly identified on plan. Provide sectional construction details and elevations.
- n. Rigid polyethylene sheet type tree root barriers are to be specified as required to protect structural elements.
- o. A detailed irrigation and materials/finish schedule.
- p. Bicycle parking -
- q. Elevated planter box sectional details and drainage details. All planter box depths and dimensions shall be in accordance with Council's DCP (Part 4 Part 4.4) and capable of supporting medium and large canopy trees.
- r. Trees are to be used extensively throughout the site and shall be of an appropriate scale to complement and ameliorate buildings and for appropriate scaling within pedestrian areas – footpaths and open spaces. Deep soil zones must include larger trees. Trees are to be predominantly native, evergreen species using open canopy evergreens or selected deciduous for solar penetration.
- s. Indicate the location of all basement structures relative to the landscape areas.
- t. Existing retained trees shall be shown on all plans.

(b) **Conditions which must be satisfied prior to the issue of the relevant Occupation Certificate**

- (a) Prior to issue of the relevant Occupation Certificate, Landscaping within the property and within the public domain shall be installed in accordance with the approved landscape plans as amended in accordance with (a) above and as approved by Council's Landscape Architect. The landscaped areas on the property shall be maintained in

accordance with the Council stamped and approved landscape documentation, the conditions of development consent and Council's DCP all times.

- (b) At the completion of landscaping on the site, the Applicant is required to obtain a Certificate of Compliance from the Landscape Consultant to certify that the landscaping has been installed in accordance with the Council approved landscape plan. The Certificate is to be submitted to Bayside Council prior to the Issue of an Occupation Certificate.
- (c) New street trees shall be maintained by the Applicant/Owner/Strata Corporation for a period of 24 months after final inspection by Council. Maintenance includes twice weekly watering within the first 6 months then weekly thereafter to sustain adequate growth and health, bi-annual feeding, weed removal round the base, mulch replenishment at 3 monthly intervals (to 75mm depth) and adjusting of stakes and ties. Maintenance but does not include trimming or pruning of the trees under any circumstances.

46. **Tree Protection, Installation & Maintenance**

- (A) Prior to issue of any Construction Certificate, the following must be satisfied to ensure that trees on site and adjoining properties proposed to be retained are protected:
 - (i) The existing trees located within properties adjoining the southern boundary of the site shall not be removed or damaged.
 - (ii) Prior to issue of any Construction Certificate, the construction plans must be submitted to, and approved by, Council's Director of City Futures, showing the following:
 - (1) All trees identified in the submitted Arborists Report to be retained shall be clearly shown and marked on the plans being retained. The Vegetation Management Plan prepared by Arcadia must also be updated in order to ensure that the trees to be retained within the site boundaries are retained and protected during excavation, and construction, and that their health and structural stability is ensured.

Note: The following 22 trees are high quality trees that must not be impacted by construction works:

- (a) *Syzigium paniculatum* (Brush Cherry) noted on Arborist report but on the adjoining property to the south boundary 22A Margate Street
- (b) *Araucaria columnaris* (Cook's Pine) (30) south boundary 2 Margate
- (c) *Fraxinus griffithii* (Evergreen Ash) (31)
- (d) 8 x *Livistona australis* (palms) on Rocky Point Road to remain (T3 – T10)
- (e) T63- T65 - *Melaleuca quinquenervia*, T50 - *Eucalyptus scoparia*,
- (f) T32 - *Fraxinus griffithii*, T72 –T75 *Fraxinus griffithii*, T76 - *Acmena smithii* (Lilly Pilly), T77 – T-79 *Waterhousea floribunda*, T27 - *Glochidion ferdinandi*

(g) All trees within No. 206 Rocky Point Rd (north of Margate Street). No trees have been approved to be removed within No. 206 Rocky Point Road.

- (2) Trees to be removed and retained within Production Lane;
- (iii) A Consultant Arborist AQF Level 5 shall be engaged from site establishment to the post-construction period to erect tree protection zones and signage, inspect and advise on all works during the entire construction period, monitor tree health and to authorize and undertake tree canopy and root pruning where necessary only and to the minimum only so that the health or structural stability of the trees is not impacted.
- (iv) All tree works and tree management shall be undertaken in accordance with the Arborist report by Landscape Matrix (dated 16th July 2017). For all tree root and canopy work to trees, comply with the recommendations and requirements and management plan contained within this report.
- (v) Trees to be retained are to be tagged with clearly visible marking tape at a height of approx. 2 metres from ground and numbered with the corresponding number in the Tree Report.
- (vi) Prior to commencing demolition/any works the tree/s is/are to be physically protected by fencing underneath the canopy dripline using 1.8 metre high chainwire fence to form the Tree Protection Zone (TPZ). The area within the fencing is to be mulched with leaf mulch to a depth of 100mm and a weekly deep watering program undertaken during construction. The fence shall remain in place until construction is complete.
- (vii) If there is insufficient space to erect fencing in a particular area, wrap the trunk with hessian or carpet underlay to a height of 2.5 metres or to the tree's first lateral branch, whichever is greater, and affix timber palings around the tree with strapping or wire (not nails).
- (viii) Before any works commence on site, the Applicant is required to contact Council for an inspection and/or provide photographic evidence of the fenced TPZ's. Council approval is required prior commencement of any work.
- (ix) All detailed Construction Certificate plans shall show trees to be protected and the TPZ.
- (x) The TPZ's are "No-Go" zones. There shall be no access to the property excluding the existing crossover, no stockpiling, storage or sorting of waste or building materials, no construction work, no concrete mixing, strictly no washing down of concrete mixers or tools, no chemicals mixed/disposed of, no excavation or filling, no service trenching. Any unavoidable work within the fenced zone shall be under the direction of Council's Tree Officer or Consultant Arborist.
- (xi) Where unavoidable foot access is required in the TPZ, provide temporary access with timber sheets to minimise soil compaction, spillage or root damage.
- (xii) Excavation within the TPZ and within a nominated radial dimension from the tree trunk as determined by the consultant Arborist in accordance with AS 4970 : 2009 – Protection of Trees on Development Sites shall be carried out manually using hand tools or light machinery to minimise root damage or disturbance.

- (xiii) No tree roots greater than 30mm in diameter shall be pruned without further assessment by Council's Tree Officer and the consulting Arborist and only following the submission of further Arborists reports to Council so as not to unduly impact or stress the tree.
- (xiv) Ensure no damage to the canopy, trunk or root system (including the surrounding soil) of any tree to be retained. There shall be no canopy pruning unless approval has been granted by Council's Tree Officer under application from the consultant Arborist. Approved pruning shall be undertaken by a qualified Arborist in accordance with AS 4373.
- (xv) For retained trees on the private property adjoining, the developer is required to consult with Council and advise prior to any tree works taking place.
- (xvi) Care shall be taken with construction work in the primary root zone of all existing neighbouring trees to be retained. These trees must be retained and construction works are to accommodate tree roots, branches and canopy without damage or impact. Trees are not to be pruned back to the boundary fence line under any circumstances. The canopy may otherwise overhang the property.
- (xvii) The Applicant will be required to undertake any tree maintenance or remedial pruning works required by Council or the Consultant Arborist at the completion of construction.
- (xviii) If there is any contravention of these tree preservation conditions, or a tree was found to be damaged (including roots), in decline, dead or pruned without permission, then Council may claim all or part of the lodged security bond prior to its release as well as require remedial pruning work. Epicormic growth is evidence of root damage.
- (xix) Tree numbers T62 to T69 have been retained within the site and the trees T3 – T19 within 206 Rocky Point Road have been retained. Trees 30 and 31 are to be retained near Margate Street.
- (xx) Arborist Report letter dated 16 July 2017 from Landscape Matrix noted 15 trees located in the adjoining properties to the south of the site (within the rear gardens of properties in Margate Street) to be protected during construction.
- (xxi) The applicant is to submit payment of a Street Tree Maintenance Bond of \$44,000.00. The duration of the Bond shall be limited to a period of 24 months after final inspection of new street trees by Council. At the completion of the 24 month period the Bond shall be refunded pending a satisfactory inspection of the trees by Council. If any tree is found to be dead or dying then Council will forfeit all or part of the bond to replace or maintain the tree, unless the Applicant undertakes this work.
- (xxii) Playground Indicated on the master plan by Arcadia Landscape Architects, requires detail design including material and finish specifications along with spot levels and manufacturing specifications.

(B) **Certificate of Compliance - Tree Protection**

Prior to issue of the final Occupation Certificate, the Applicant is required to obtain a Certificate of Compliance from the Arborist to certify that the trees proposed to be retained as detailed in the approved Arborists Report prepared by Matrix Landscape have been retained. The report must confirm that all trees within adjoining properties have been retained and are in good health.

Prior to issue of the construction certificate

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

47. Voluntary Planning Agreement matters

- (i) Contribution towards Masterplanning for Shared Footpaths and Cycleways – Item D in the Voluntary Planning Agreement
Prior to issue of any Construction Certificate on the Land a monetary contribution of \$70,000.00* must be provided to Council for Masterplanning with the purposes of resolving the location, concept design and scope of infrastructure for shared footpaths and cycleways in accordance with Item D of the Table in clause 1.1, Schedule 3 of the VPA.

* The contribution is subject to annual indexation in accordance with the VPA and at the commencement of each financial year to reflect any increase in the CPI, from the date the VPA is registered on the title of the Land until the contribution is paid.

- (ii) Contribution towards a Local Area Traffic Management Study – Item A of the Voluntary Planning Agreement
Prior to issue of any Construction Certificate in relation to the first residential accommodation on the Development Site, a monetary contribution of \$100,000.00* must be provided to Council for the purposes of Local Area Traffic Management study on local roads in accordance with Item A of the Table in clause 1.1, Schedule 3 of the VPA.

* The contribution is subject to annual indexation in accordance with the VPA and at the commencement of each financial year to reflect any increase in the CPI, from the date the VPA is registered on the title of the Land until the contribution is paid.

- 48. 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 \$150,000.00. 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 \$18.00.

- 49. 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.

- 50. An application for Frontage Works shall be made to Council's Customer Service Centre prior to issue of the Construction Certificate. All public domain, boundary

works, egress paths, driveways and fences shall comply with the requirements. A fee is payable to Council in accordance with Council's adopted fees and charges.

51. A Section 94 contribution of \$4,776,189.65 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	\$3,919,509.95
Community Services & Facilities	\$281,994.69
Town Centre & Streetscape Improvements	\$128,697.71
Pollution Control	\$418,186.85
Plan Administration & Management	\$27,800.45

Copies of Council's Section 94 Contribution Plans may be inspected at Council's Customer Service Centre, Administration Building, 444-446 Princes Highway, Rockdale.

52. Engineering Modifications - New Road

Prior to the issue of the relevant Construction Certificate, engineering plans must be submitted to, and approved by, Council's Director City Futures, that comply with the following:

- (a) Provide a 20.1m road reserve width, in accordance with Council's 'Road Widths' Policy, for the internal access road except for that portion of the road to the immediate north of the approved Child Care Centre lot, which is required to have a road reserve width of 18.2 metres, consistent with the approved engineering sketch titled SKC25 listed in Condition 2.
- (b) All parking spaces along the New Road must be constructed of porous paving.
- (c) The design of the relocated stormwater pipe within the New Road must include a gutter flow analysis in both Rocky Point Road and the New Road to ensure that the flows are fully contained within the gutter and that there will be no overflows into the development site.
- (d) Include Street lighting in accordance with Council's standards (Note: all footings to be provided within the future road reserve – i.e. within proposed Lot 3 in the approved subdivision plan);
- (e) All landscaping along the New Road to incorporate WSUD treatment of stormwater from the road and parking area pavements.
- (f) With the design of the New Road all footpaths to be a minimum 1.5m wide and the shared cycleway / footpath must be a minimum of 3m wide.
- (g) Underground power supply and servicing.

53. Basement Certification

An engineering design certificate is required to be submitted for the design of the Basement system including shoring wall.

54. 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 within 54 residential unit, 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 those identified in the *DA Access Review Report prepared by Morris Goding Accessibility Consulting (dated 12 December 2016)*.

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.

This condition must be satisfied in the plans submitted with the relevant construction certificate.

55. Consultation / Approval from Utility Providers

(a) Prior to the issue of the construction certificate approval from all relevant utility providers is required to be obtained for the works with the road reserve fronting your property boundary. You are required to consult with and/or obtain approval from your utility providers (i.e. Ausgrid, Telstra etc) in order to fully understand their requirements before commencement of any work.

(b) Telstra
Prior to issue of the relevant Construction Certificate, Telstra has advised that the developer must contact their Network Integrity on 1800 810 443 regarding the development.

(c) Sydney Water

(a) Prior to the issue of the Construction Certificate, the approved plans must be submitted to Sydney Water Tap inTM 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 inTM online service is available at:
<https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>

(b) Any building proposed to be erected over or near the existing Sydney Water pipeline is to be approved by Sydney Water. A copy of Sydney Water's approval and requirements are to be submitted to Council prior to issuing a Construction Certificate.

56. Prior to issue of any Construction Certificate, details shall be submitted to Council for assessment and approval pursuant to Section 138 of the Roads Act 1993 in relation to the works detailed in the Roads Act section of this consent.

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. 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.

Note:

- 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. 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.

60. Adjoining buildings founded on loose foundation materials

As the basement floors including shoring walls 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 report prepared by Coffey Service Australia Pty Ltd. Ref: STDGE203337-AC_Rev1, dated 17 May 2017.

(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. The report must be submitted with the application for a Construction Certificate for the relevant stage of works.

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

(e) 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. Traffic Signs / Boom Gate - On-site Carparking

- (a) The design of parking areas shall be in accordance with DCP Part 4 Sec 4.6 and Rockdale Technical Specification – Traffic, Parking and Access. Where additional design criteria are required the design shall be in accordance with AS/NZS2890.1:2004.
- (b) A traffic signs and boom gates are to be designed and installed to manage vehicular movement in all basement carparks that provides safe vehicle access to the basements. The arrangement shall control traffic to ensure safe movement of vehicles within basement car park at all times.
- (c) Prior to issue of the relevant Construction Certificate, a suitably qualified and experienced engineer shall design traffic management facilities within the site to the requirements of AS2890.1:2004 and relevant Austroads Guidelines.

The facilities designed by the engineer shall include signs (including vehicular guide signs, regulatory signs and warning signs), line marking and pavement markers, and other controls such as passing bays, traffic islands, median or separator and convex mirror to ensure safe movement of vehicles within the site at all times

63. The low level driveway must be designed to prevent inflow of water from the road reserve. The assessment of flows and design of prevention measures shall be in accordance with the requirements of Rockdale Technical Specification Stormwater Management. Details shall be included in the documentation presented with the Construction Certificate application.
64. Any part of the proposed building located in the vicinity of the existing pipeline shall be constructed on a pier and beam type foundation, piers shall be located outside the boundary of the drainage easement and to extend to a depth of no less than 300mm below the pipeline invert. This requirement shall be reflected on the Construction Certificate plans and supporting documentation.
65. Any part of the proposed building within 3m of the proposed detention tank or absorption trench shall be constructed on a pier and beam foundation with piers extending no less than 300mm below the bottom of the tank or trench base. This requirement shall be reflected on the Construction Certificate plans and supporting documentation.
66. Car Wash Bays
A minimum of three (3) dedicated car wash bays are required. They must be shown in the Construction Plans and may not be shared with visitors spaces. A tap and power point shall be provided adjacent to the spaces. 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.
67. All basement surface runoff 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 relevant construction certificate.

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

68. Prior to the issue of the relevant Construction Certificate, excavation shall be undertaken to confirm the location of the Council pipeline that traverses the property.
69. Stormwater Drainage Plans
Prior to the issue of the Construction Certificate for the relevant stage of works, amended detailed drainage design plans for the management of stormwater are to be submitted to Principal Certifying Authority for assessment and approval.

The amended plans must correspond with the approved architectural drawings listed in Condition 2 and comply with all other relevant conditions of this consent (including this condition).

Key amendments required include:

- a. DCP requires the provision of on-site detention. Detailed drainage design plans, supporting calculations and design certification will be required to be submitted in accordance with the design, documentation and certification requirements of DCP

and Rockdale Technical Specification – Stormwater Management

- b. The basement pump storage shall be sized to contain the total volume of runoff generated by the two hour 1 in 50 year storm assuming the pumps are not operating. This is equivalent to 10.6 m³ per 100 m² of area being drained anticipated groundwater seepage capacity. All the pump storage volume is to be underground and to have minimum dual pumps.
- c. The proposed basement ramps to have a crest level to prevent inundation from gutter flows.
- d. The openings (grated covers) to the proposed OSD tank shall be kept away from overland flow paths to prevent inundation from flooding.
- e. The detailed plans are required to incorporate an oil interceptor for the driveway and carpark stormwater run-off in accordance with Rockdale Technical Specification Stormwater Management, section 7.5.4
- g. The detailed plans are required to show the basement levels as tanked system. The design shall take into consideration of geotechnical recommendations.

To implement any required drainage measures on the base of geotechnical Engineer's advice on the drainage under the floor slab and basement walls.

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

- h. The design shall identify, and discuss generally WSUD measures put in place to re-use water, maintain groundwater quality, minimise at source generation of water pollutants, and convey stormwater flows through the site.

Prior to commencement of works

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

- 70. 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 \$20 million.
- 71. 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.

72. 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.
73. 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.
74. Where it is necessary to import landfill material onto the site to fill the land to levels shown on the plans forming part of the consent, a certificate, prepared by a suitably qualified and experienced Contaminated Land Consultant, shall be submitted to Council being the Regulatory Authority prior to the commencement of works, certifying that the imported fill is suitable for the land use.
75. 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.
76. 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.
77. (a) 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,
 - (b) 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.
 - (c) 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.

(d) 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.

78. 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.

79. 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.
80. 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.
81. Upon inspection of each stage of construction, the Principal Certifying Authority (or other suitably qualified person on behalf of the Principal Certifying Authority) is also required to ensure that adequate provisions are made for the following measures (as applicable), to ensure compliance with the terms of Council's approval:
- Sediment control measures
 - Provision of perimeter fences or hoardings for public safety and restricted access to building sites.
 - Maintenance of the public place free from unauthorised materials, waste containers or other obstructions.
82. 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.

83. 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.
84. All waste generated on site shall be disposed of in accordance with the submitted Waste Management Plan.
85. 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.
86. 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.

87. 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.
- 88. Any new information discovered during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination, shall be notified to Council being the Regulatory Authority for the management of contaminated land.
- 89. Work Activities on Council Sites - Application Requirements
 All contractors shall obtain permits for, and comply with permit conditions during all stages of demolition and construction. Refer to Council "Work Activities on Council Sites Application Form" to obtain permits for the following activities listed below. Contractors must have a valid permit prior to undertaking any work or activity within the public domain. Fines apply if an activity commences without a valid permit being issued.
 - (a) Road, Footpath and Road Related Area Closure (EP05)
 This permit will allow the applicant to close a road or part of, footpath or car park to vehicle or pedestrian traffic.
 - (b) Stand and Operate Registered Vehicle or Plant (EP03)
 This permit is used when construction activities involve working from a vehicle parked on the street including mobile crane, concrete truck, concrete pump or other similar vehicles.
 - (c) Occupy Road with Unregistered Item (EP02)
 This permit will allow the applicant to place unregistered items within the roadway including waste containers and skip bins.
 - (d) Works Zone (EP01)
 This permit is used when a statutory work zone is required to conduct construction activities adjacent to the work site. These applications are assessed by Council officers and are referred to the Traffic Committee for approval.
 - (e) Scaffolding, Hoarding and Fencing (EP04)
 This permit applies to all temporary structures to enclose a work area within the public domain. These include site fencing, types A & B hoarding, type A & B hoarding with scaffolding and type B hoarding plus site sheds.
 - (f) Temporary Shoring/Support (EP09)
 This permit will allow the applicant to install temporary support system in or under a public road to support excavation below the existing road surface level. The support systems include ground anchors and shoring.
 - (g) Tower Crane (EP06)
 This permit is used when tower crane(s) are used inside the work site and will swing, slew or hoist over Council property or asset.
 - (h) Public Land Access (EP08)
 This permit is used by applicants to access or occupy Council land including access over plus access over and occupy any part of Council land.
 - (i) Temporary Dewatering (EP07)
 This permit is used when temporary dewatering is required to pump out water from the construction site into Council stormwater drainage system including gutter, pits and pipes. Dewatering management plan and water quality plan are required for this application.

90. 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.
91. 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, unless otherwise agreed to in writing by Council. 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.
- 92. 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.
- 93. Protection of Existing Trees
Existing site and/or street trees proposed to be retained as detailed in the submitted Arborists Reports, and all trees within adjoining sites, shall be adequately protected from damage during demolition, excavation and construction operations.
- 94. Acid Sulfate Soils Management Plan
All works shall be carried out in accordance with the Acid Sulfate Soils Management Plan prepared by Coffey (dated 26 May 2015) and submitted with the application.

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.

- 95. An Occupation Certificate shall be obtained in relation to the approved works prior to any use or occupation of any of the buildings.
- 96. Voluntary Planning Agreement matters
 - (i) Contribution towards Sporting Facilities – Item B in the Voluntary Planning Agreement
Prior to issue of any Occupation Certificate in relation to the first residential accommodation constructed on the site, a monetary contribution of \$50,000.00* must be provided to Council to be used towards improvement or enhancement of sporting facilities for the Arncliffe Scots Baseball Club in accordance with Item B of the Table in clause 1.1, Schedule 3 of the VPA.

* The contribution is subject to annual indexation in accordance with the VPA and at the commencement of each financial year to reflect any increase in the CPI, from the date the VPA is registered on the title of the Land until the contribution is paid.
 - (ii) Contribution towards Sporting Facilities – Item C in the Voluntary Planning Agreement
Prior to issue of any Occupation Certificate in relation to the first residential accommodation constructed on the site, a monetary contribution of \$50,000.00* must be provided to Council to be used towards the improvement or enhancement of sporting facilities for the Brighton Seagulls Junior Rugby League Football Club in accordance with Item C of the Table in clause 1.1, Schedule 3 of the VPA.

* The contribution is subject to annual indexation in accordance with the VPA and at the commencement of each financial year to reflect any increase in the CPI, from the date the VPA is registered on the title of the Land until the contribution is paid.

(iii) Contribution towards Playground Construction – Item E of the Voluntary Planning Agreement

Prior to issue of any Occupation Certificate in relation to the 150th residential dwelling on the Development Site a monetary contribution of \$415,000.00* must be provided to Council for construction of a new playground in the northwest section of Tonbridge Reserve, or as otherwise agreed between the parties, in accordance with Item E of the Table in clause 1.1, Schedule 3 of the VPA.

* The contribution is subject to annual indexation in accordance with the VPA and at the commencement of each financial year to reflect any increase in the CPI, from the date the VPA is registered on the title of the Land until the contribution is paid.

(iv) Shared footpaths and cycleway Construction – Item D of the Voluntary Planning Agreement

Prior to issue of any Occupation Certificate in relation to the 300th residential dwelling on the Development Site a monetary contribution of \$1,595,000.00* must be provided to Council to be used for carrying out works to create shared footpaths and cycleways in accordance with Item D of the Table in clause 1.1, Schedule 3 of the VPA.

* The contribution is subject to annual indexation in accordance with the VPA and at the commencement of each financial year to reflect any increase in the CPI, from the date the VPA is registered on the title of the Land until the contribution is paid.

(v) Child Care Centre – Item G of the Voluntary Planning Agreement

(a) Construction of the child care centre required under Item G of the VPA (Note: Item G is the subject of a future Stage 2 DA) must be commenced prior to issue of an Occupation Certificate for the 250th residential dwelling on the site.

(b) Construction of the child care centre and dedication to Council of the 1,000m² parcel of land for child care centre purposes in accordance with the approved plans and Item G and Item H in the Table in clause 1.1, Schedule 3 of the VPA.

(c) Council requires proof of lodgement of the signed Subdivision Certificate and 88B Instrument with the Land Titles Office, prior to the issue of any Occupation Certificate in relation to the 350th dwelling of the Development (as defined in the VPA).

(vi) Production Lane Embellishment / Upgrade Works – Item F of the Voluntary Planning Agreement (VPA)

Prior to issue of the last Occupation Certificate for residential accommodation on the Development Site, but no earlier than issue of the Occupation Certificate for the 300th residential dwelling on the Development Site (unless otherwise agreed in writing to an earlier date in accordance with the VPA), the Development must construct road embellishment and remodelling works to upgrade Production Lane in accordance with Item F of the Table in clause 1.1, Schedule 3 of the VPA.

Alternatively, in accordance with the VPA, Council may direct the Developer in writing to provide a monetary contribution equivalent to the Contribution Value. Any Production Lane Direction must be issued within 30 days of the issue of

an Occupation Certificate for the 300th residential unit on the Development Site (as per the VPA).

This contribution is to be subject to annual indexation at the commencement of each financial year to reflect any increase in the CPI, from the date the VPAs are registered on the title of the Land until the contribution is paid.

97. Prior to issue of the relevant Occupation Certificate:
- Tactile differentiation on floor surfaces indicating change of gradient shall be provided to those buildings where access and facilities for people with disabilities has been provided. This includes the external parts of the building, eg. access walkways and ramps. Such differentiation shall have regard to the provisions of AS1428.4.
 - 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.
98. 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.
99. A by-law shall be registered and maintained for the life of the development, which requires that :
- (a) balconies are not to be used as clothes drying areas, storage of household goods and air-conditioning units that would be visible from the public domain;
 - (b) an owner of a lot must ensure that all floor space within the lot complies with the acoustic conditions for floors specified in this consent;
 - (c) Notwithstanding subclause (b), in the event that a floor covering in the lot is removed, the newly installed floor covering shall have a weighted standardized impact sound pressure level not greater than L'nT,w 45 measured in accordance with AS ISO 140.7 and AS ISO 717.2, A test report from a qualified acoustic engineer employed by a firm eligible to membership of the Association of Australian Acoustical Consultants shall be submitted to the Owners Corporation within 14 days of the installation of the new floor covering demonstrating compliance with that standard. In the event that the standard is not complied with, the floor covering shall be removed and replaced with a floor covering that conforms to that standard in accordance with any directions given by the Owners Corporation.

Proof of registration of the By Law shall be submitted to Council prior to the issue of the Occupation Certificate.

100. Landscape Completion / Certification

- (a) Prior to issue of the relevant Occupation Certificate, Landscaping within the property and within the public domain shall be installed in accordance with the approved landscape plans as amended in accordance with Condition 46 above and as approved by Council's Landscape Architect. The landscaped areas on the property shall be maintained in accordance with the Council stamped and approved landscape documentation, the conditions of development consent and Council's DCP all times.
- (b) At the completion of landscaping on the site, the Applicant is required to obtain a Certificate of Compliance from the Landscape Consultant to certify that the landscaping has been installed in accordance with the Council

approved landscape plan. The Certificate is to be submitted to Bayside Council prior to the Issue of an Occupation Certificate.

- (c) New street trees shall be maintained by the Applicant/Owner/Strata Corporation for a period of 24 months after final inspection by Council. Maintenance includes twice weekly watering within the first 6 months then weekly thereafter to sustain adequate growth and health, bi-annual feeding, weed removal round the base, mulch replenishment at 3 monthly intervals (to 75mm depth) and adjusting of stakes and ties. Maintenance but does not include trimming or pruning of the trees under any circumstances.

- 101. 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.
- 102. 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.
- 103. Vehicles shall enter and exit the site in a forward direction at all times. A plaque with minimum dimensions 300mm x 200mm shall be permanently fixed to the inside skin of the front fence, or where there is no front fence a prominent place approved by the Principal Certifying Authority, stating the following: "Vehicle shall enter and exit the site in a forward direction at all times".
- 104. 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.
- 105. Landscape Easement - B6 Zone
Prior to issue of any Occupation Certificate for Building B,
 - (a) A landscape easement shall be created on the title of the land. The landscape easement shall have a minimum width of 6m, shall be deep soil and shall extend into the B6 zoned land immediately adjacent to the R4 zone boundary for that section that is located between the New Road and the sites northern boundary (refer to Figure 2 in the Applicant's Response to Council's RFI Letter prepared by JBA, dated 21 July 2017).
 - (b) The landscape easement required by (a) is to be covered by a Section 88B Instrument, which may only be varied or extinguished with the consent of Bayside Council.
 - (c) Council requires proof of lodgement of the signed Subdivision Certificate and 88B Instrument with the Land & Property Information.
- 106. Dedication to Council / RMS for Road Widening / New Road Access
Prior to issue of the Occupation Certificate for the 350th dwelling and dedication of the child care centre to Council, the following shall be dedicated to Council or the RMS for road widening and/or public road access purposes to ensure that access is available to the child care centre:
 - (a) The dedication to RMS of the proposed intersection at Rocky Point Road and the New Road identified as Lot 3 in the approved Subdivision Plan listed in Condition 2.
 - (b) The dedication to Council of the proposed new access road identified as Lot 2 on the approved Subdivision Plan listed in Condition 2.

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

107. Suitable vehicular bollards shall be provided within all adaptable shared areas prior to issue of the relevant Occupation Certificate.

108. Car Parking & Loading Provision

(a) Prior to issue of the final Occupation Certificate, the following parking spaces and loading bays shall be provided:

(i) Residential Parking

(i) 704 residential off-street parking spaces (including 664 parking spaces within the main basement and 40 spaces within the basement for the townhouse development, and 54 accessible residential spaces), in accordance with the approved plans listed in Condition 2 except where modified by Condition 20.

(ii) A minimum of 48 motorcycle parking spaces;

(iii) A minimum of 53 bicycle parking spaces;

(ii) Residential Loading Bays

(i) 3 loading bays for RCV trucks and 2 loading bays for vans in proximity to the lifts for Building B & E within the main basement in accordance with Development Specific Condition 35.

(iii) On-street parking

(i) 22 on-street parking spaces within the new access road, including one (1) accessible parking space that complies with the relevant Australian Standards / BCA, in accordance with the approved plans listed in Condition 2.

(ii) A minimum of 40 on-street parking spaces within that part of Production Lane between the access driveway to the main basement and the southern termination of Production Lane (note: Production Lane is that section of road to the eastern side of the development site), including one (1) accessible parking space (refer to Roads Act conditions).

(b) All parking spaces shall be sealed and linemarked to Council's satisfaction. The pavement of all car parking spaces, manoeuvring areas and internal driveways shall comply with the relevant Australian Standard AS3727 – Guide to Residential Pavements and/or other relevant conditions of this consent (i.e. the on-street parking spaces shall be constructed of porous paving in accordance with previous conditions).

109. 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 > Plumbing, building and developing > Developing > Land development or telephone 13 20 92.

110. 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.
111. Where the installation of electricity conduits is required in the footway, the builder shall install the conduits within the footway across the frontage/s of the development site, to Ausgrid's specifications. Ausgrid will supply the conduits at no charge. A Road Opening Permit must be obtained from Council prior to the installation of the conduits. The builder is responsible for compaction of the trench and restoration of the footway in accordance with Council direction. A Compliance Certificate from Ausgrid shall be obtained prior to the issue of the Occupation Certificate.
112. 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 reports submitted with the application, including any updated and/or supplementary acoustic reports prepared to satisfy the requirements of Condition 33.
- (ii) The internal noise environment within all units complies with all relevant legislation and all other requirements contained in Conditions 34 of this consent, including any updated and/or supplementary acoustic reports prepared to satisfy the requirements of Condition 33.
- (iii) The noise reduction measures specified in the noise report prepared by Acouras Consultancy dated 19 December 2016 Ref No. SYD2016-1079-R001F (and all addendum reports accompanying this including the report dated 7 July 2017), and any updated and/or supplementary acoustic reports prepared to satisfy the requirements of Condition 33, shall be validated by a Certificate of Compliance prepared by the acoustic consultant and submitted to the Principal Certifying Authority (PCA) prior to the issue of the relevant Occupation Certificate. If Council is not the PCA, a copy shall be submitted to Council concurrently.
- (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.
113. Prior to use of any mechanical ventilation and / or air-conditioning systems, and prior to issue of any relevant Occupation Certificate, a qualified mechanical engineer shall certify that the mechanical ventilation and air conditioning systems comply in all respects with the requirements of Australian Standard 1668, Part 1 & 2.
114. 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.
115. 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.

116. The underground garage shall be floodproofed to a minimum of 100mm 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.
117. Prior to issue of the relevant Occupation Certificate, positive covenants pursuant to the Conveyancing Act 1919 shall be created on the title of the lots that contain:
 - (a) The stormwater OSD facility and WSUD measures to provide for the maintenance of the system;
 - (b) Visitors parking arrangement for Townhouses; and
 - (c) The boom gates and traffic signs.
118. The pump system, including all associated electrical and control systems, shall be tested and inspected by a suitably qualified and experienced person. Records of testing shall be retained and provided to the certifying hydraulic engineer and/or PCA upon request.
119. The drainage system shall be constructed in accordance with the approved drainage plans and any amendments in red. All stormwater drainage plumbing work shall comply with the NSW Code of Practice: Plumbing and Drainage and Australian Standard AS3500.

Drainage grates shall be provided at the boundary, ramps and external stairs. Width of the drainage grates shall be in accordance with Rockdale Technical Specification Stormwater Management.

Water quality chambers with filter cartridges similar to SW360 in onsite private drainage and a Gross Pollutant Trap similar to CDS Unit in the main drainage pipeline shall be provided in accordance with Rockdale Technical Specification Stormwater Management.

120. Access Road Inspection
Prior to issue of the final Occupation Certificate, the access road must be inspected by Council's Director of City Futures and all defects must be rectified by the developer at the developer's cost.

The defects liability period will commence from the date of completion of the defects repair work, and not from the date when the Access Road was dedicated to Council.

121. Signage / Way Finding Plans
A signage / way finding plan must be prepared and implemented prior to issue of each Occupation Certificate for the residential dwellings. The plan must include consideration of all parts of the development, including the basement car park, communal open space areas, building numbers / street addresses, directions to residential lobbies. The signage provided must be clear and of suitable size and number.

122. Road Naming
Prior to issue of the Occupation Certificate for the 350th dwelling and prior to dedication of the road to Council, the applicant must ensure that the New Road and the rear lane (commonly known as Production Lane) have been named in accordance with the Road Naming requirements of the NSW Geographical Names Board of NSW.
123. Prior to issue of the relevant Occupation Certificate, all relevant conditions of this consent must be complied with. This includes the requirements of Conditions 19 and 42 amongst other matters.

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.

124. Dedication to Council for Road Widening –Rocky Point to RMS & New access road to Council as follows:
- (a) The dedication to RMS for road widening purposes that parcel of land identified as Lot 3 in the approved subdivision plan; and
 - (b) The dedication to Council for new public road that parcel of land identified as Lot 2 in the approved subdivision plan.

These provisions are to be put into effect prior to release of the Subdivision Certificate.

125. The subdivision is to occur in accordance with all relevant conditions of this consent.
126. 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. If applicable, an original and four (4) copies of the 88B Instrument are to be submitted.
127. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Coordinator. Please refer to the Building Developing and Plumbing section of the web site www.sydneywater.com.au then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.

Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to release of the Subdivision/Strata Certificate.

128. Visitor Parking - Townhouse Access
A positive covenant shall be created over the visitor parking spaces within the main basement to ensure that visitors to the Townhouses are provided with vehicular and pedestrian access to/from the visitors parking spaces within the main basement at all times.

A suggested wording for the covenant is indicated below:

“The Registered Proprietors covenant as follows with Council in respect to the area of common property identified as ‘Visitor Parking’ spaces on the Strata Plan (herein called ‘The Burdened Land’).

The Registered Proprietor will:

- i) permit the registered proprietors and/or invitees of the registered proprietors of the Townhouse lots # inclusive to enter upon The Burdened Land with a vehicle or vehicles whether motorized or not and to park, leave or place such a vehicle upon The Burdened Land at all times that the registered proprietor or invitee enters upon The Burdened Land.*
- ii) not obstruct or inhibit in any manner whatsoever access to or exclusive use of The Burdened Land in accordance with the prior cause.*
- iii) comply with the terms of any written notice issued by Council in respect to the requirements of this clause within the time stated in the notice. ”*

Roads Act

129. The following works will be required to be undertaken in the road reserve at the applicant's expense:
- (i) All parking spaces along Production Lane to be linemarked including a center line, directional arrows and signage as approved by Council's Traffic Committee.
 - (ii) All parking spaces along the New Road and Production Lane to be constructed of porous paving.
 - (iii) Production Lane to be designed to maintain a minimum 6m wide 2 way traffic lanes between the Northern Driveway of the Development and the southern termination end of Production Lane. To facilitate this requirement introduce rear to kerb parking bays with overhangs into the landscape areas.
 - (iv) The main northern driveway into the development off Production Lane to be merged into the existing driveway of 24 – 26 Production Avenue to form a combined driveway to facilitate trucks turning left towards Production Avenue.
 - (v) The design of the public on-street parking layout along the section of Production Lane as shown in Plan No. SKC25 (issue B), Project No. 16-380, Titled "Access Road Layout Option 2" to maintain a minimum of 40 parking spaces as shown in that plan. The proposal must not result in the loss of more than the first three (3) perpendicular on-street parking spaces located immediately to the north of the driveway entrance. The remaining perpendicular parking spaces within Production Lane to the north of the driveway entrance for the main basement car park must not be retained. Linemarking of these spaces should be carried out in accordance with the VPA.
 - (vi) The design of the relocated stormwater drainage system from Rocky Point Road along the New Road to Production Lane must include a gutter flow analysis in Rocky Point Road and the New Road that will ensure that the flows are fully contained within the gutter and that there are no overflows into the development site.

- (vii) The New Access Road to Council's required specifications and in accordance with Condition 53;
 - (viii) With the design of the public domain and the New Road all footpaths to be a minimum 1.5m wide and the shared cycleway/footpath is to be a minimum 3m wide.
 - (ix) With the new traffic signals on Rocky Point Road include a Bike Lantern on the northern side pedestrian crossing to facilitate a proposed east / west cycleway into the Georges River Council Area.
 - (x) Removal of the redundant hardstand / paved surfaces. This includes areas that were previously fenced and utilised by the former Darrell Lea operations. The key area referred to is located within the public domain (including RE1 zoned land) immediately to the east of the proposed Child Care Centre allotment.
 - (xi) Stormwater drainage including a Gross Pollutant Trap (GPT) similar to CDS Unit on the main drainage pipeline.
 - (xii) Street lighting;
 - (xiii) Line marking and signs in accordance with Bayside Traffic Committee requirements;
 - (xiv) Removal of existing speed hump and replacement with a new raised threshold in Production Lane;
 - (xv) Construction of new fully constructed concrete vehicular entrance/s;
 - (xvi) Construction of the reinforced concrete turning area at the southern termination of Production Lane shared with the access to the sporting fields. This area must be suitably line-marked to prevent use of the area for on-street parking.
 - (xvii) Removal of the existing concrete vehicular entrance/s, and/or kerb laybacks which will no longer be required;
 - (xviii) Reconstruction of selected areas of the existing concrete Footpath/vehicular entrances and/or kerb and gutter;
 - (xix) Construction of paving between the boundary and the kerb, where required; and,
 - (xx) Construction of kerb and gutter.
130. 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.
131. 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.
132. Following completion of concrete works in the footpath reserve area, the balance of the area between the fence and the kerb over the full frontage of the proposed development shall be turfed with either buffalo or couch (not kikuyu).
133. All works associated with the proposed development shall be at no cost to the Council or RMS.

Development consent advice

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

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

- c. *Telstra Advice - Telecommunications Act 1997 (Commonwealth)*

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Commonwealth) and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on phone number 1800810443.

- d. In order for the final Subdivision/Strata Certificate to be signed and released by Council, the following must occur:

- i) all of the above conditions of consent must be complied with;
- ii) a Section 73 certificate from Sydney Water must be supplied. If it is for a Torrens Title subdivision, the certificate must clearly state subdivision into the relevant number of lots;
- iii) a Section 88B Instrument which contains a positive covenant written in accordance with Council's standard wording for on site detention systems must be submitted. The 88B Instrument should also provide a space for Council's authorized person to sign on each page;
- iv) If Council is the PCA, Council's Building Surveyor, Engineer and Landscape Officer must conduct satisfactory final inspections of the development, or if a Private Certifier is the PCA, Council must receive a copy of the final Occupation Certificate including a note that the landscaping and drainage works have been completed in accordance with the approved plans.

- e. 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.
- f. Demolition and construction shall minimise the emission of excessive noise and prevent "offensive noise" as defined in the Protection of the Environment Operations Act 1997. Noise reduction measures shall include, but are not limited to the following strategies:

- choosing quiet equipment
 - choosing alternatives to noisy activities
 - relocating noise sources away from affected neighbours
 - educating staff and contractors about quiet work practices
 - informing neighbours of potentially noise activities in advance
 - equipment, such as de-watering pumps, that are needed to operate on any evening or night between the hours of 8 p.m. and 7 a.m. or on any Sunday or Public Holiday, shall not cause a noise nuisance to neighbours of adjoining or nearby residences. Where the emitted noise exceeds 5 dB(A) [LAeq(15m)] above the background sound level [LA90] at the most affected point on the nearest residential boundary at any time previously stated, the equipment shall be acoustically insulated, isolated or otherwise enclosed so as to achieve the sound level objective.
- g. All site works shall comply with the occupational health and safety requirements of the NSW WorkCover Authority.
- h. 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.