

## COUNCIL ASSESSMENT REPORT

<b>Panel Reference</b>	2017SCL004
<b>DA Number</b>	DA-2017/225
<b>LGA</b>	BAYSIDE
<b>Proposed Development</b>	Demolition of existing structures and erection of a RSL club over one level of basement parking
<b>Street Address</b>	Nos. 41-45 Bay Street and 4 Chapel Street, ROCKDALE NSW 2216
<b>Applicant/Owner</b>	Applicant: Statewide Construction & Development Pty Ltd Owner: Owner 45 Bay Street Pty Ltd, Bay Chapel Pty Ltd, Bay On The Chapel Pty Ltd and Rockdale RSL Sub-Branch Club Ltd
<b>Number of Submissions</b>	One (1) submission
<b>Regional Development Criteria (Schedule 4A of the Act)</b>	Cost of proposal \$5,974,653
<b>List of all relevant s79C(1)(a) matters</b>	<ul style="list-style-type: none"> <li>• SEPP (Infrastructure)</li> <li>• SEPP 55</li> <li>• SEPP 64</li> <li>• SREP No. 2</li> <li>• Rockdale LEP 2011</li> <li>• Rockdale DCP 2011</li> </ul>
<b>Is a Clause 4.6 variation request required?</b>	No
<b>Does the DA require Special Infrastructure Contributions conditions (S94EF)?</b>	No
<b>Have draft conditions been provided to the applicant for comment? Have any comments been considered by council in the assessment report?</b>	No
<b>List all documents submitted with this report for the Panel's consideration</b>	Conditions Plans
<b>Recommendation</b>	Consent
<b>Report prepared by</b>	Kerry Gordon - Town Planning Consultant
<b>Report date</b>	9 July 2018

## **Precis**

The proposal involves the demolition of all structures and the erection of a single storey RSL Club over one storey of basement parking.

The provisions of SEPP 55, SEPP 64 and SEPP (Infrastructure) have been considered in the assessment of the application and the proposal is consistent with these SEPPs.

The site is zoned B4 Mixed Use under RLEP 2011. The proposal is defined as a registered club which is a permissible use with consent in the B4 zone. The proposal is compliant with all relevant controls under the provisions of RLEP 2011.

The application has been assessed against the provisions of RDCP 2011 and is consistent with the objectives and controls.

One submission has been received raising concern with the impact upon pedestrian safety of the two driveways to Bay Street. The RMS has supported the provision of the driveways subject to being for drop off/pick up only and subject to them being left/in and left/out only.

The proposal has a Capital Investment Value greater than \$5 million (i.e. \$5,974,653) and is for a community facility and as such the development application is referred to the Joint Regional Planning Panel (JRPP) for determination.

The recommendation is for consent.

## **Officer Recommendation**

1. That development application DA-2017/225 for demolition of existing structures and construction of a RSL Club over one level of basement parking at 41-45 Bay Street and 4 Chapel Street, ROCKDALE be APPROVED subject to the attached conditions.

## **Proposal**

The application seeks approval for demolition of existing structures and construction of a RSL Club over one level of basement parking as described following.

### Demolition

The proposal involves the demolition of all existing structures and removal of all vegetation from the subject site.

### Construction

It is proposed to construct a RSL Club over one level of basement parking.

The basement is to have vehicular access from a driveway off Chapel Street adjacent to the eastern boundary. The basement is to contain parking for 57 cars, with 4 accessible parking spaces. The basement also contains the OSD, waste collection area, plant room and storage area, with a loading dock provided for deliveries and waste collection. The basement has a nil setback from the western boundary, a 3m setback from Bay Street (after the road widening), a 1.5m setback from the eastern boundary and a variable 2m-approximately 9.5m setback from Chapel Street. At the Chapel Street frontage the basement is almost fully above ground level near the eastern boundary, but at the Bay Street frontage is almost totally below ground level.

The RSL Club is proposed at ground level at the Bay Street frontage but is partially elevated at the Chapel Street frontage. The club has a nil – 2m setback from the western boundary, 1.5m – 4m from the eastern boundary, 9m from the Bay Street frontage (after the road widening) and a variable setback of approximately 8m-19.6m from Chapel Street. The Club is proposed to have a pedestrian entrance centrally from Bay Street and contains two large gaming rooms (Gaming Room 2 is a smoker's area), a dining room, kitchen, bar, three function rooms and back-of-house areas. To the Chapel Street frontage are two large terraces, one off the dining room and the other off the gaming room. and there are emergency exit stairs from the outdoor terraces to Chapel Street.

The RSL Club is proposed to operate the following hours:

10.00am – 10.00pm	Sunday & Monday
10.00am – 10.30pm	Tuesday
10.00am – 11.00pm	Wednesday & Thursday
10.00am – 12.00am	Friday & Saturday

The dining area is proposed to be open the following hours:

Lunch	12.00pm – 3.00pm	seven days a week
Dinner	6.00pm – 9.00pm	seven days a week

The RSL Club will also operate a courtesy bus service using either a 12 or 14 seater bus picking up and dropping off from the covered driveway at the front of the club.



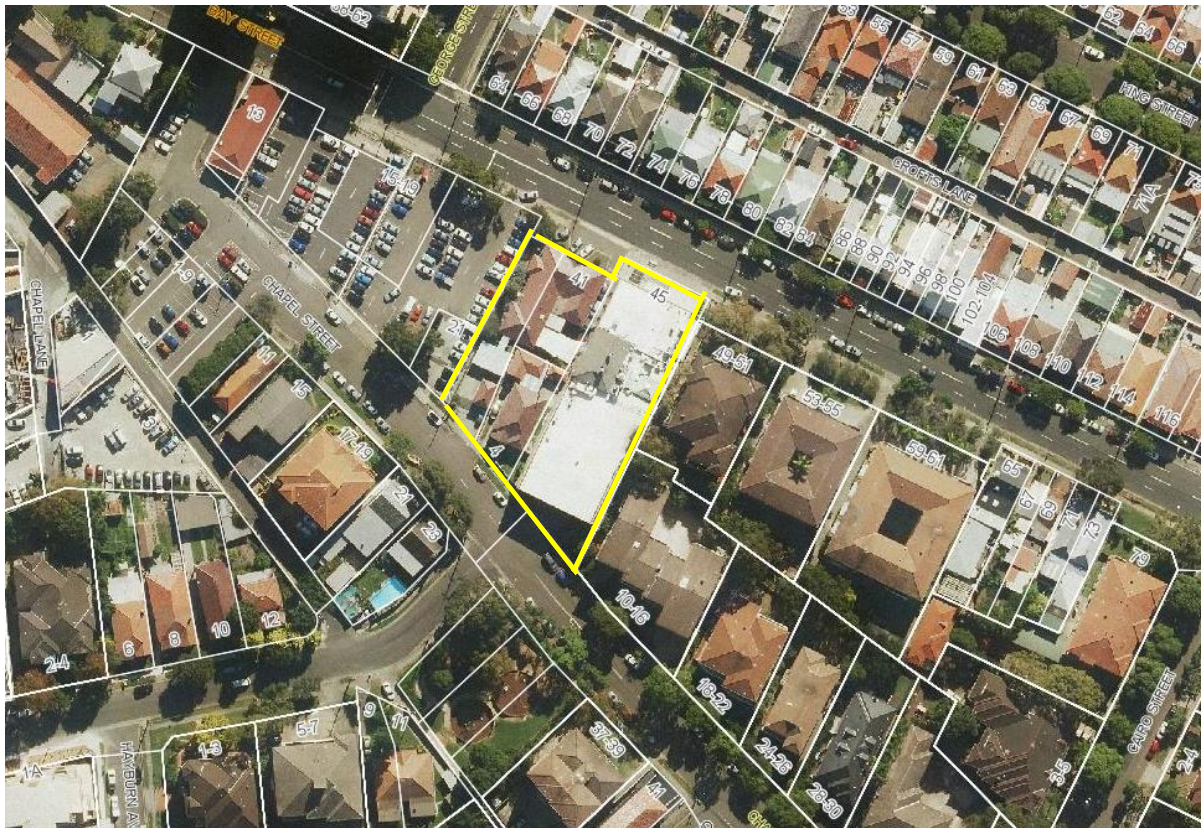
Proposed treatment of front façade viewed from dropoff area to Bay Street frontage

## EXISTING AND SURROUNDING DEVELOPMENT

The site is known as 41-45 Bay Street and 4 Chapel Street, Rockdale and is legally described as Lots 1-2 in DP 101949, Lot 1 in DP 628851 and Lot 2 in DP 326854. A lot, known as Lot 1 in DP 183921, is located between the subject site and Bay Street and has been excised from the subject site in the past for road widening, being owned by RMS. Whilst this lot does not form part of the site, owner's consent has been provided by RMS for access across the allotment to the site.



The site is an irregular shaped property located on the southern side of Bay Street, between Chapel Street and Cairo Street (see following aerial photograph). The site has a frontage of 48.775m to the lot for the proposed widened Bay Street, an angled frontage of 54.01m to Chapel Street, a western side boundary of 54.52m and an eastern side boundary of 77.315m, with a total area of 2,942m<sup>2</sup>. The site falls from Bay Street to Chapel Street by approximately 2.88m along the eastern boundary, with a lessor slope along the western boundary.



Aerial photograph with site outlined in yellow

The site is currently developed with the existing Rockdale RSL Club on the eastern half and a former fire station building and dwelling on the western half, with ancillary outbuildings. The site contains an existing substation (partially on the site and partially on the road reserve) at the southern corner, along with an easement for electricity.

The site is located at the boundary of the B4 Mixed Used zone, which extends to the west and south-west, with the adjoining site to the east zoned R4 High Density Residential. The properties on the opposite side of Bay Street are zoned R2 Low Density Residential.

A series of residential flat buildings are constructed to the east of the site, with the immediately adjoining property at 49-51 Bay Street containing a four story building and at 10-16 Chapel Street also containing a four storey building. Both buildings are setback approximately 3m from the common boundary with the subject site and have windows and balconies facing the subject site. The building at 49-51 Bay Street has a front setback from the proposed widened Bay Street of approximately 9m, with balconies projecting into the front setback.

To the immediate west of the site is a property which has recently been granted consent for a multi storey mixed use development. The approved development has a 3m setback from the proposed widened Bay Street, with commercial suites at the ground floor fronting Bay Street and residential apartments above. This development continues on the opposite side of Chapel Street to the south-west of the site.

Opposite the site, to the south-east, on the other side of Chapel Street is a local park which is zoned RE1 Public Recreation.

Development on the opposite side of Bay Street is one and two storey detached housing.

## **PLANNING CONSIDERATION**

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

### **Section 4.15(1) Matters for Consideration – General**

#### **Provisions of Environmental Planning Instruments (S.4.15(1)(a)(i))**

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

The subject site has a history of use for non-residential purposes, and in particular a fire station, and as such has the potential for soil contaminants. A Preliminary Site Investigation has been prepared for the site by EI Australia, dated 16 December 2016. The report has determined that the site has the potential for soil contamination due to its previous uses.

The report makes the following recommendations:

- *Conduct a Detailed Site Investigation (DSI) to characterise site soils and groundwater to provide baseline data for evaluation of any remedial and management requirements that may be necessary to allow the site to be made suitable for the proposed development. Due to current access restrictions on the site, a DSI should be completed following demolition of existing structures, with requirements for the execution of the DSI incorporated into DA consent conditions.*
- *The findings of the DSI should be reported in accordance with EPA (2001) to provide the data to confirm that the site is suitable for its proposed land uses, or (should contamination be identified) to inform a remedial action plan to make the site suitable for the proposed development; and*
- *Conduct a Hazardous Materials Survey (HMS) of current structures present at the site, if not previously undertaken. EI recommend that a HMS is conducted prior to the demolition of site structures.*

*EI consider that any potential contamination can be managed and the site can be made suitable for the proposed development, subject to the appropriate implementation of the above recommendations in accordance with the State Environmental Planning Policy 55 (SEPP55).*

As the Preliminary Site Investigation concludes that the potential contamination can be managed and the site be made suitable for the proposed development, the proposal is considered to be acceptable when considered against the requirements of SEPP 55, subject to a condition requiring compliance with the recommendations and provision of a site clearance certificate prior to the issue of a construction certificate.

### **State Environmental Planning Policy 64 – Advertising and Signage**

SEPP 64 is applicable to the proposed signage. The application includes one proposed sign, located on the front façade of the building, being a business identification sign facing Bay Street. The business identification signage is to be approximately 2.5m long by 1m high and to contain the name "Rockdale RSL" in cut out letters. The sign is not to be separately illuminated, rather is up-lit by lighting illuminating the façade of the building.

The following provisions of SEPP 64 are applicable to the assessment of the sign.

Prior to granting consent for signage it must be consistent with the objectives of SEPP 65 as follows:

- (a) *to ensure that signage (including advertising):*
  - (i) *is compatible with the desired amenity and visual character of an area, and*
  - (ii) *provides effective communication in suitable locations, and*
  - (iii) *is of high quality design and finish, and*

The signage is simple, of appropriate size and design and is appropriately located on the facade, being of a size that will not be intrusive in the streetscape

- (b) *to regulate signage (but not content) under Part 4 of the Act, and*

Noted.

- (c) *to provide time-limited consents for the display of certain advertisements, and*

The signage is a building identification sign and as such is not an advertisement.

- (d) *to regulate the display of advertisements in transport corridors, and*

The sign is a business identification sign, not an advertisement.

- (e) *to ensure that public benefits may be derived from advertising in and adjacent to transport corridors.*

The sign does not constitute advertising, being a building identification sign.

Further, SEPP 64 requires assessment of any sign against the Schedule 1 Assessment Criteria, which is provided following.

#### **1 Character of the area**

- *Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?*
- *Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?*

The signage is appropriate to and compatible with the area. There is no theme for outdoor advertising in the locality.

## **2 Special areas**

- *Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?*

The signage to the Bay Street frontage will not detract from the amenity or visual quality of any of the identified areas, being of reasonable size and location.

## **3 Views and vistas**

- *Does the proposal obscure or compromise important views?*
- *Does the proposal dominate the skyline and reduce the quality of vistas?*
- *Does the proposal respect the viewing rights of other advertisers?*

The signage is located on the building facade and as such does impact any of the above.

## **4 Streetscape, setting or landscape**

- *Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?*
- *Does the proposal contribute to the visual interest of the streetscape, setting or landscape?*
- *Does the proposal reduce clutter by rationalising and simplifying existing advertising?*
- *Does the proposal screen unsightliness?*
- *Does the proposal protrude above buildings, structures or tree canopies in the area or locality?*
- *Does the proposal require ongoing vegetation management?*

The sign is appropriate to the streetscape and form of the development and appropriately identifies the use of the site without clutter or unsightliness. The sign does not require ongoing vegetation management or protrude above structures or buildings in the area.

## **5 Site and building**

- *Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?*
- *Does the proposal respect important features of the site or building, or both?*
- *Does the proposal show innovation and imagination in its relationship to the site or building, or both?*

The sign is compatible with the scale of the building and respects the important features of the building.

## **6 Associated devices and logos with advertisements and advertising structures**

- *Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?*

The sign has no lighting, platforms or safety devices and no logo is proposed.

## **7 Illumination**

- *Would illumination result in unacceptable glare?*
- *Would illumination affect safety for pedestrians, vehicles or aircraft?*
- *Would illumination detract from the amenity of any residence or other form of accommodation?*
- *Can the intensity of the illumination be adjusted, if necessary?*
- *Is the illumination subject to a curfew?*

The sign is not to be separately illuminated, rather is up-lit by lighting illuminating the façade of the building.

## **8 Safety**

- *Would the proposal reduce the safety for any public road?*
- *Would the proposal reduce the safety for pedestrians or bicyclists?*
- *Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?*

The proposed sign will have no detrimental implications for safety.

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

The provisions of SEPP (Infrastructure) 2007 have been considered in the assessment of the development application.

The application is subject to clause 45 of the SEPP as the proposal involves the relocation of a substation and easement for electrical purposes. As such the application was referred to Ausgrid who initially provided comments objecting to the application due to the need to relocate the substation because of the proposed location of the driveway. Ausgrid's comments included requirements for consideration of the relocation of the substation. It would appear that the applicant contacted Ausgrid about their objection Ausgrid issued a second response in support of the proposal, providing requirements for the relocation of the substation and conditions to this effect have been included in the recommendation.

The application is subject to clause 101 of the SEPP as the site has frontage to a classified road (Bay Street) and the application proposes two driveways off that road. As such, the application was referred to RMS for concurrence, which was provided subject to conditions, which have been included in the recommendation as requested.

## **State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 (SEPP (Vegetation))**

The provisions of SEPP (Vegetation) have been considered in the assessment of the development application. Clause 26 of SEPP (Vegetation) is a savings provision that indicates that if an application has been made for removal of vegetation prior to the commencement of the Policy and not determined then the application shall be assessed on the basis that it had been made under the Policy. As the application was lodged on 21 December 2016, the savings provision applies to the application.

Council's landscape architect supports the removal of the street tree (Callistemon) in Bay Street and has indicated that all existing trees onsite are relatively insignificant and may be removed. Condition of consent are included in the recommendation.

The amended plans provide a 1.5m side setback to the basement car park and the building which will ensure the trees on the adjoining property can be retained.

## **Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment**

The Greater Metropolitan Regional Environmental Plan No. 2 applies to all land within Rockdale City local government area and requires consideration of the impact of development upon water quality in the catchment. The proposal is supported by Council's engineer and as such satisfies the provisions of GMSREP 2.



### ***Rockdale Local Environmental Plan 2011 (RLEP 2011)***

The site is zoned B4 Mixed Use under Rockdale Local Environmental Plan 2011 (RLEP 2011). The proposal is defined as a registered club and the use is permissible with consent in the B4 zone.

The objectives of the B4 Mix Use zone are satisfied by the proposal as is discussed following:

- *To provide a mixture of compatible land uses.*

The proposed use is permitted with consent and in conjunction with surrounding uses will provided for a mixture of compatible land uses.

- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*

The proposal is proximate to Rockdale Station and bus services and as such is an appropriate location for the provision of a registered club.

The relevant clauses of RLEP 2011 that apply to the proposal are below.

#### ***Clause 4.3 - Height of buildings***

Clause 4.3 sets maximum permitted heights for buildings and the site has a maximum height control of 28m. The proposed building has a maximum height of 8.36m which is compliant with the maximum height control.

#### ***Clause 5.1A – Development on Land Intended to be Acquired for Public Purposes***

Clause 5.1A requires that development not be granted consent on land zoned SP2 “classified Road” other than for the purpose of a road. The land adjacent to the frontage of 45 Bay Street has been resumed by RMS and no works other than paving and landscaping are proposed on this area, which are ancillary to a road usage.

#### ***Clause 5.10 – Heritage Conservation***

The site is not an item of heritage and is not located within a conservation area and as such the provisions of this clause do not apply to the assessment of the application. The site is located a sufficient distance from the nearest item of heritage that it will not result in any detrimental impacts to the heritage significance of the item.

The fire station located on the site was previously listed as on the S170 Register being under the jurisdiction of NSW Fire Rescue. It is no longer listed and such listing does not trigger the requirement for an assessment under this clause.

#### ***Clause 6.1 – Acid Sulfate Soils***

The site is within an area classified as Class 5 in the acid sulfate soils map. A Preliminary Site Investigation has been prepared for the site by EI Australia, dated 16 December 2016 which has concluded that the proposed maximum depth of the new basement structure is 13.60m AHD and, as such, it is considered unlikely that ASS will be encountered during development works.

## Clause 6.2 – Earthworks

The proposal involves excavation for the basement car park and clause 6.2 requires consideration of the following matters prior to granting consent for earthworks.

- (a) *the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality,*

A geotechnical investigation report has been prepared by EI Australia, dated 6 December 2016 which has concluded that the excavation is unlikely to impact ground water. The proposal is unlikely to impact upon existing drainage patterns and soil stability.

- (b) *the effect of the proposed development on the likely future use or redevelopment of the land,*

The excavation proposed is intended to facilitate the proposed future use of the site and as such the effect will be positive.

- (c) *the quality of the fill or the soil to be excavated, or both,*

The Initial Site Investigation carried out by EI Australia indicates the potential for soil contamination and as such conditions of consent will require the carrying out of a Phase II report and preparation of a RAP as necessary, along with subsequent remediation and site certification if required. A condition of consent will require any fill introduced to the site to be certified as not being contaminated.

- (d) *the effect of the proposed development on the existing and likely amenity of adjoining properties,*

The proposed excavation work has the potential to impact the amenity of adjoining properties during the works and a dilapidation report for the adjoining properties is recommended.

- (e) *the source of any fill material and the destination of any excavated material,*

See above comments in relation to (c).

- (f) *the likelihood of disturbing relics,*

The site has previously been used for residential and commercial development and as such is unlikely to contain any relics.

- (g) *the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area.*

Soil and sedimentation devices will be required to be installed and maintained throughout the excavation and construction works to ensure no unacceptable impacts upon watercourses.

## Clause 6.3 – Development in Areas Subject to Aircraft Noise

The provisions of this clause require consideration of the impact of aircraft noise from Sydney Airport upon the development and applies to land in an ANEF contour of 20 or greater, and as such applies to the subject site which is located near ANEF contour of 20.

The applicant has provided a Noise Impact Assessment prepared by Acoustic Logic, dated 8 March 2018. This report addresses aircraft noise and concludes that the internal noise levels achieved by the proposed development would satisfy AS 2021 'Acoustic – Aircraft Noise Intrusion – Building Siting and Construction' subject to the recommended attenuation measures. Accordingly, a condition of consent is recommended requiring the architectural plans and specifications lodged with the Construction Certificate Application to be consistent with the recommendations contained in Section 7 of the Noise Impact Assessment prepared by Acoustic Logic, dated 8 March 2018.

#### *Clause 6.4 – Airspace Operations*

This clause requires that consent not be granted to an application unless the consent authority is satisfied that the development will not penetrate the Limitation or Operations Surface (LOS) for Sydney Airport or if it does penetrate the LOS that consultation has occurred with the relevant Commonwealth body and the Commonwealth body advises that the development will not penetrate the LOS or that no objection is raised to the penetration.

The application is for a single storey building with a maximum height of 8.36m and will not penetrate the LOS which for the site is 15.24m.

#### *Clause 6.7 – Stormwater*

The proposed stormwater system has been assessed by Council's engineer as being satisfactory.

#### *Clause 6.12 – Essential Services*

Services are generally available on the site. Conditions should be placed on any consent requiring consultation with relevant utility providers to ensure appropriate provision of services on the site.

The application was referred to Sydney Water, who provided requested condition. The conditions have been included in the recommendation.

#### **Provisions of any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (S.4.15(1)(a)(ii))**

There are no Draft Environmental Planning Instruments that affect the assessment of this proposal.

#### **Provisions of Development Control Plans (S.4.15(1)(a)(iii))**

##### ***Development Control Plan 2011(DCP 2011)***

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

Relevant clauses	Compliance with objectives	Complies
4.1.1 Views and Vistas	The proposed one storey building has no detrimental impact upon views and vistas of significance	Yes
4.1.2 Heritage Conservation	The proposal is of sufficient distance to the nearest item of heritage such that it will not result in any adverse impact. The fire station located on the site was listed as on the S170 Register being under the jurisdiction of NSW Fire Rescue.	Yes, see discussion
4.1.3 Water Management	The application has been assessed as acceptable in relation to water management by Council's Engineer	Yes
4.1.4 Soil Management	Soil and Water Management Plan submitted	Yes
4.1.5 Contaminated Land	See discussion in relation to SEPP 55	Yes
4.1.7 Tree Preservation	See discussion in relation to LEP.	Yes
4.2 Streetscape and Site Context	Yes	Yes, see discussion
4.3.1 Open Space and Landscape Design	Yes	Yes, see discussion
4.4.5 Visual and Acoustic Privacy	The amended plans make appropriate provision for the protection of the visual and acoustic privacy of the adjoining development.	Yes, see discussion
4.4.6 Noise Impact	See assessment under LEP in relation to assessment of impact of traffic noise.	Yes
4.5.2 Equitable Access	Yes	Yes – subject to condition
4.6 Parking, Access and Movement	The parking and loading provision and access thereto have been addressed by Council's engineer as satisfactory.	Yes, see discussion
4.7 Air Conditioning and Communication Structures	The plans show plant and exhaust equipment to be located on the roof away from the boundaries which is satisfactory.	Yes
4.7 Waste Storage and Recycling Facilities	See discussion below	Yes, see discussion
5.3 Mixed Use	Yes	Yes, see discussion
6.4 Advertising and Signage	See assessment under SEPP 64. The proposed sign is consistent with the requirements for flush wall signs.	Yes
7.5 Rockdale Town Centre	Yes	Yes, see discussion

#### 4.1.2 Heritage Conservation

The OEH has indicated it has no role to play in the assessment of items listed by NSW Fire Rescue. Similarly the LEP and DCP do not require assessment of properties that are not listed as items under the LEP.

Given the sale of the building NSW Fire Rescue has indicated it no longer has an interest in the building and as such there is no planning framework requiring the assessment of the building in relation to heritage. Notwithstanding this, Heritage 21 have indicated the building has low level significance and the façade would be lost with the future road widening of Bay Street. Council's Heritage Advisor provided the following comment:

*My understanding is no it has no heritage status.*

*My interpretation of the Heritage Act is that a place must be owned by a government instrumentality to require a register to be prepared of heritage places owned by that agency*

*under section 170 of the Act. Therefore if a place is not owned by a government instrumentality section 170 does not apply.*

*However if you want a more certain answer then you could seek legal advice.*

*In recognition of its previous heritage listing before the building stopped being a fire station and was bought by the RSL I suggest we record and interpret the building before its demolished.*

Accordingly the demolition of the structure is supported in this instance. A condition of consent is recommended requiring archival recording to occur prior to demolition.

#### 4.2 Streetscape and Site Context

The streetscape presentation to Bay Street is acceptable, with the setback of the building matching the adjoining residential flat building to the east and the setback to the roof of the front drop off area matching the setback of the adjoining approved mixed use building to the west. This will result in an appropriate transition in setbacks between the Mixed Use and High Density Residential zones. Whilst the single storey form is not consistent with surrounding development it is advised that a future application is to be lodged for residential development on the top of the RSL Club.

#### 4.3 Open Space and Landscape Design

As the proposal is, by virtue of a separate future application, to be mixed use development with shoptop housing, a minimum 10% of the site is to be landscaped. The proposal provides a landscaped area of 300.7m<sup>2</sup>, on a site area of 2,942m<sup>2</sup>, equating to 10.22% of the site. Council's landscape architect has raised no objections to the landscape plan lodged with the application, subject to conditions which have been included in the recommendation.

#### 4.4.5 Visual and Acoustic Privacy

The design provides solid walls to the western boundary, other than for Gaming Room 2 which has a setback and glazed wall. The room adjoins the proposed driveway of the approved mixed use development to the west and as such will not impact the visual privacy of this development. Further, the outdoor terrace located in proximity to the western boundary will not result in unacceptable privacy impacts as it is also located adjoining the driveway. The roofing over the terrace will prevent dwellings in the adjoining approved development from looking down into the terrace.

The wall adjacent to the eastern boundary is blank other than in relation to the dining room which has a combination of a blank wall, glazing and glazing with privacy screens. The screening aligns with the location of balconies and windows to the adjoining apartments and as such an appropriate level of privacy will be maintained. The outdoor terrace to the rear adjacent to the eastern boundary has a setback of approximately 4m which is to be landscaped. The terrace is also to be provided with a visual privacy screen along the entirety of its eastern and southern sides to ensure visual privacy. The terrace is roofed and as such privacy to dwellings at the upper levels of the adjoining property will be protected.

In relation to acoustic privacy, Council's Health Officer initially raised the following concern with the acoustic report submitted with the application.

*As the applicant is also proposing a plant room, details of its contents and any proposed acoustic insulation and roof details is also required.*

*The existing Rockdale RSL Club has two running cooling towers and up to five air conditioning and ventilation units. These have been the cause of numerous complaints to Council regarding ongoing noise.*

*It is therefore recommended that information relating to the details of any noise producing equipment from the roof of the site is known. This data should then be collated and assessed against the NSW Industrial Noise Policy.*

An amended Noise Impact Assessment was prepared by Acoustic Logic, dated 8 March 2018. This report addresses noise impacts of the development and includes the following recommendations to ensure the acoustic privacy of the adjoining existing and future residences, and those opposite, is maintained:

- External doors of the project site shall remain closed during the proposed operation hours.
- Tamper proof sound level limiting devices should be installed within project site to limit the sound pressure level
- Maximum patron number within eastern outdoor area is 60 people and the outdoor area shall be shut down at 10pm.
- Maximum patron number within western outdoor area is 45 people and the outdoor area shall be shut down at 10pm.
- Eastern boundary of eastern outdoor seating shall be blanked off by 9mm FC sheet or 6mm Glazing or equal.
- Install 300mm SP acoustic louvres to the southern boundary of the eastern and western outdoor dining areas.
- Western boundary of western outdoor seating shall be blanked off by 9mm FC sheet or 6mm Glazing or equal.
- Line noise absorptive material equal to 50mm thick Martini HD faced by 20% open perforated metal sheet underneath soffit of outdoor sitting areas.
- Prominent notice shall be placed within project site to remind patrons to minimise the noise levels at any time.
- No operation after the proposed operation hours.
- Plant noise emission assessment shall be carried out at CC stage to ensure that the overall noise emission satisfy the requirements of Section 4.3 Construct a 1.8m high imperforate barrier from 6mm FC sheet, glass, colorbond, lapped-and capped fence or the like along the eastern boundary of the car park entry .

Council's Health Officer raised no objection to the amended report subject to conditions of consent. The requested conditions, along with conditions which reflect the above requirements have been included in the recommendation.

#### 4.5.2 Equitable Access

The provisions of the DCP and the Disability Discrimination Act are considered in this section of the report. Lift access is provided from the basement to the RSL Club. Adequate accessible parking spaces are provided in close proximity to the lift in the basement. The club provides an accessible WC. An accessible path of travel is available from the street and throughout the RSL Club, including the external terraces.

An Access Assessment Report was submitted with the application, dated 29 November 2016 and prepared by BCA Logic. The report addressed the originally lodged plans and concluded that the plans either comply or are capable of complying with Part 1.2 of BCA 2016.



A condition of consent is recommended requiring the plans and specifications to be certified as being compliant with Part D3 – Access for People with a Disability, Part E3 – Services and Equipment and Part F2 – Sanitary and Other Facilities of the BCA 2016 by a suitably qualified consultant prior to the release of the construction certificate.

#### 4.6 Car Parking, Access and Movement

The proposed car park, loading facilities and access thereto are supported by Council's Development Engineer as is the proposed drop off driveway from Bay Street. Council's Development Engineer provided the following comment in relation to the adequacy of the proposed parking.

*The commitment, parking provision of 54 car spaces including 4 accessible parking spaces are recommended for a merit assessment process by Council.*

- *The proposed alterations to the RSL club will not increase floor space. An additional 30 more car spaces will be provided.*
- *A review of other nearby licensed clubs and on the same street (Bay Street) show that the proposed car parking rate is higher than the nearby existing licensed clubs."*
- *Proposed parking rate of 1/25m<sup>2</sup> is over the provisions provided by the other Clubs, Ramsgate RSL, Brighton RSL & Rockdale Businessmen's Club.*

Conditions of consent are requested and have been included in the recommendation.

#### 4.7 Waste Storage and Recycling

Council's Waste Education and Contracts Supervisor has indicated there are no concerns with the number of bins proposed or the location of the waste room.

#### 5.3 Mixed Use

The proposal is compliant with the control requiring a 1.5m side setback where sites adjoin residential zones. Further, the ground floor is used for a non-residential purpose which activates the street as required by the controls. Finally, the façade treatment is appropriate to both street frontages and will provide an attractive addition to both streets.

#### 7.5 Rockdale Town Centre

**Building Use and Function:** The Rockdale Town Centre controls provides for different building uses and functions for different areas according to the desired future character of that area. For the subject site the character and their uses and functions are as follows:

**Bay/Chapel Street frontages** Centre Edge Residential – provides for high density residential at the edge of the centre with opportunities for retail or commercial uses. These areas are to have

- |  |          |
|--|----------|
| • active retail uses at ground level permitted                                     | Complies |
| • access to residential lobbies from these frontages                               | N/A      |
| • ground floor residential with direct street access permitted                     | N/A      |
| • vehicular access permitted where the development doesn't front a service laneway | Complies |
| • service access permitted where the development doesn't front a service laneway   | Complies |

**Building Form and Character:** All development is to be built to the street edge unless specified otherwise in the street character applying to the site. The Rockdale Town Centre controls provide setback and podium controls throughout the Rockdale Town Centre with different controls applying to different areas according to the desired future character set by the street character. For the subject site the controls applicable are as follows:

**Bay Street Arterial Edge –** Buildings will have regard to the high speeds of observers and be clearly read as a strong podium upon which sits a lighter, modulated building allowing vistas between buildings to the skyline beyond.

- |   |          |
|---|----------|
| • 3m setback deep soil zone   | Complies |
| • 3 storey podium   | N/A      |
| • 3m setback above podium   | N/A      |
| • Above podium setback of at least 4.5m from side, separation between buildings of at least 9m and maximum façade length of 40m | N/A      |
| • Street wall to complement neighbouring buildings  | N/A      |

**Chapel Street Local Edge –** Street edge defined by modulated built form transitioning from the strong urban character in the Centre core to the more spacious and open character of the surrounding residential area.

- |                             |          |
|-----------------------------|----------|
| • 2m setback deep soil zone | Complies |
| • 4 storey podium           | N/A      |
| • 3m setback above podium   | N/A      |

**Any Planning Agreement that has been entered into under section 93F, or any draft planning agreement that the developer has offered to enter into under section 93F (S.4.15(1)(a)(iiia))**

The proposal is not subject to a Voluntary Planning Agreement (VPA).

#### **Provisions of Regulations (S.4.15(1)(a)(iv))**

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

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

#### **Impact of the Development (S.4.15(1)(b))**

Potential impacts related to the proposal have been considered in response to SEPP, LEP and DCP controls. Further issues have been discussed in response to resident's submissions later in this report. Finally, issues of Crime Prevention Through Environmental Design have been considered in a referral response from NSW Police as follows.

## Crime Ratings

The NSW Police Safer by Design Evaluation process is based upon Australia and New Zealand Risk Management Standard ANZS4360:1999. It is a contextually flexible, transparent process that identifies and quantifies crime hazards and location risk,

The St George LAC Intelligence Unit has revealed the crime types (table 1) occurred at the location for the previous 12 months.

The statistics obtained are based on the following Police data and are as follows: Assault – 1; Stealing - 1 (including steal from motor vehicle); Fraud – 1.

Out of the data obtained assaults were broken down into two (2) categories, non-domestic violence related and alcohol related.

Reported crime statistics have been used to help identify 'likelihood' of crime and listed as activities in table 1. Along with the 'likelihood' a level of harm that be caused has been identified and listed as 'consequence'. A Safer By Design (SBD) Crime Risk Assessment was conducted to establish these crime ratings. In NSW, crime statistics are gathered and analysed in geographical areas referred to as Police Local Area Commands (LACs). This development is located within St George Local Area Command and the following incident categories and ratings have been identified for the Local Area Command in which the development is located.

Table 1 *Likelihood and Consequence Chart*

No	Activity	Risk	Likelihood	Consequence	Risk Rating
1	Assault – Alcohol and Non-DV	Harm person by threat of or violence	D	3	LOW
2	Malicious Damage	Damage property	D	2	LOW
3	Robbery	Theft of property using violence	D	3	LOW
4	Break and Enter	Take property by forcing entry	D	2	LOW
5	Steal From Retail Store	Theft of property from business or retail store	D	2	LOW
6	Steal From Motor Vehicle	Theft of property from motor vehicle	D	2	LOW
7	Steal From Person	Theft of property from or on person	D	2	LOW

After conducting a SBD Crime Risk Evaluation for the proposed development the crime risk rating has been identified as **LOW**. This is on a sliding scale of low, moderate, high.

As the proposed development has been identified as having a **LOW** risk rating, actions need to be incorporated in the planning; still important but can be scheduled to occur; may require short and long term solutions.

The report identified a number of areas of concern and identified amendments/conditions that could address the concerns. These identified matters have been incorporated into the recommended conditions.

It is considered that the likely impacts of the development are acceptable and the application is considered to be an appropriate form of development for the site.

#### **Suitability of the Site (S.4.15(1)(c))**

The relevant matters pertaining to the suitability of the site for the proposed development have been considered in the assessment of the proposal. It is considered that the design of the proposal appropriately responds to the context of the site in terms of streetscape presentation and impacts upon adjoining properties. It is considered that the application is an appropriate form of development for the site.

#### **Public Submissions (S.4.15(1)(d))**

The development was been notified in accordance with the provisions of Rockdale DCP 2011 on 17 January 2017, with the notification attracting one (1) submission. The issues raised in the submission are discussed below:

Issue 1: Impact upon pedestrian safety due to Bay Street entry/exit. Possibility of providing flashing warning lights when vehicles entering or exiting the driveway. Vehicles exiting the Club site will block the footpath causing inconvenience for pedestrians whilst waiting to enter Bay Street. Vehicles should not be able to make a right-hand turn into or out of the driveway in Bay Street.

Comment: The RMS have supported the two driveways subject to them being used for drop off/pick up only and being left/in and left/out driveways only. The recommendation contains conditions to this effect.

Issue 2: Alternatively traffic lights should be installed at the Bay Street driveways.

Comment: The amount of traffic entering and exiting the Bay Street driveways does not warrant the provision of traffic lights and as such they would not be supported by RMS as they would be too disruptive to traffic movement along Bay Street which is a classified road.

#### **Public Interest (S.4.15(1)(e))**

The proposal has been assessed against the relevant planning policies applying to the site having regard to the objectives and the controls. As demonstrated in the assessment of the development application, the proposal is considered to appropriately respond to the context of the site and constitutes an acceptable development of the site. As such it is considered that approval of the development application is in the public interest.

#### **S94A Contribution towards provision or improvement of amenities or services**

The proposal is subject to Council's Development Contributions Plan 2004 and should the application be approved a condition of consent should be included requiring the payment of \$59,746.53.

#### **CONCLUSION**

The proposed development has been considered under S4.15(1) of the Environmental Planning and Assessment Act, 1979. The application involves demolition of existing structures and construction of a RSL Club over one level of basement parking at 41-45 Bay Street and 4 Chapel Street, ROCKDALE.

The proposal is consistent with the objectives and controls under SEPP 64, SEPP 55, SEPP (Infrastructure), RLEP 2011 and DCP 2011 and is considered to be an acceptable form of development for the site. As such, the application is recommended for approval.