

Application Details

Application Number:	DA2016/241/A
Date of Receipt:	6 July 2017
Property:	Lot 1 DP 522410, Lot 2 DP 522410, Lot 1 DP 79509, Lot 19 DP 59816, Lot 1 DP 84102, Lot 1 DP 551369, Lot 2 DP 551369, Lot 1 DP 309448, Lot 2 DP 309448, Lot 1 DP 450104, Lot 2 DP 450104, Lot 61 DP 703624, Lot 3 DP 13570, Lot 4 DP 13570, Lot 5 DP 13570, Lot D DP 420619 and Lot 2 DP 1027204; known as 15-21A Bay Street, 1-11 Chapel street, 1-3 Chapel Lane and 6-12 Lister Avenue, Rockdale.
Owner:	Combined Projects (Kogarah) Pty Ltd, Combined Projects (Rockdale) Pty Ltd, Rockdale Council
Applicant:	Combined Projects (Rockdale) Pty Ltd
Proposal:	Construction of a mixed use development comprising 365 residential apartments, six (6) commercial premises, communal roof top open space, associated basement parking, public carpark, public domain works, and demolition of existing structures
Recommendation:	Approval
No. of Submissions:	Three (3)
Author:	Joe Vescio, Town Planning Consultant, JVUrban Pty Ltd
Date of Report:	18 October 2017

Key Issues

- Section 96(AA) modification of conditions of consent. Modifications seeking amendment of timing of approval of ancillary aspects of the development and timing relative to staging of Construction Certificates.
- No changes are proposed to any element of the approved development or fundamental requirements of the conditions.
- Proposal relates to a Development consent granted by the Land and Environment Court via a s34 Agreement (*Combined Projects (Rockdale) Pty Ltd v Bayside Council [2017] NSWLEC 1330*).

Recommendation

That amendment of DA-2016/241, pursuant to Section 96(AA) of the *Environmental Planning and Assessment Act 1979*, for Integrated Development- Construction of a mixed use development comprising 365 residential apartments, six (6) commercial premises, communal roof top open space,

associated basement parking, public carpark, public domain works, and demolition of existing structures be APPROVED, as set out in the attached conditions.

Background

History

In April 2015 a Design Excellence Competition was held for the subject site which was previously partially owned by Rockdale Council and was largely used as public car parks. The site had been subject to a massing study which was completed in July 2014 to inform the future built form and yield of the sites. The competition was run as an invited single-stage process with 3 architectural firms invited to submit.

The jury outcome of the design competition was that whilst none of the submissions exhibited Design Excellence, the scheme by Architecture and Building Works was selected to proceed as being capable of achieving Design Excellence, subject to significant amendment. The developer proceeded to then submit an amended scheme to Council in the form of a development application.

Significant concerns were raised with the initial proposal and the applicant was advised of the concerns, as were the JRPP in its briefing. In response to the concerns, the applicant lodged amended plans which were again assessed. The amended plans included some significant improvements, such as providing two tower elements on Site C instead of a single tower, and improvements in setback above podium and separation from adjoining sites, but still retained fundamental problems.

The applicant prepared a final set of amended plans that were considered by and refused by the JRPP in accordance with the recommendation.

The applicant lodged a Class 1 Appeal with the Land and Environment Court as a deemed refusal of the application (Case No. 361926 of 2016).

The matter was the subject of Conciliation Conferences on 4th, 6th, 20th April, 1st, 8th, 22nd, 23th May, 20th and 22nd June 2017 which resulted in submission of amended plans and ongoing improvements including resolution of the principal urban design shortcomings. Final revised plans were submitted to and a s34 Agreement was made between the parties and Orders made by the L&E Court on 27 June 2017. The Orders were:

1. *The final orders to give effect to the parties' agreement under s34(3) of the Land and Environment Court Act 1979 are:*
 - a) *The Applicant is granted leave to rely upon the amended plans referred to in the conditions of consent annexed hereto and marked "Annexure A".*
 - b) *The Applicant is to pay the Respondent's costs thrown away pursuant to section 97B of the Environmental Planning and Assessment Act 1979, in an agreed amount of \$60,000 within 28 days of the date of these orders.*
 - c) *The Appeal is upheld.*
 - d) *Development application no. DA-2016/241 for the demolition of existing structures and construction of a mixed use development comprising three buildings containing 365 residential apartments, ground floor commercial/retail floor space, basement car parking and public domain area at 15-21A Bay Street, 1-11 Chapel Street, 1-3 Chapel Lane and 6-12 Lister Avenue, Rockdale NSW 2216 is approved subject to the conditions contained in Annexure "A".*

Proposal

The applicant seeks to modify the consent to allow for staging of the issue of the Construction Certificates to allow for progressive development of the various design stages and elements whilst preceding works take place. In order to facilitate the staging, a number of conditions of consent of DA2016/241 are required to be amended to reflect the appropriate timing of the provision of information to Council and/or the Certifying Authority.

The provisions of Section 96(AA)) of the EPA&A Act apply as the development application was approved by the Land and Environment Court, being *Combined Projects (Rockdale) Pty Ltd v Bayside Council* [2017] NSWLEC 1330.

In short, the proposal as submitted by the applicant will allow for early works such demolition and bulk earthworks etc to commence whilst the planning and design resolution of the buildings is documented and detailed. The consequence is that the overall development including the provision of public infrastructure and public domain works will be completed earlier.

Specifically the following the following conditions of DA2016/241 are proposed to be amended:

- Conditions 15a and b, 18, 18a, 18b, 41b, 41c(iii), 45, 52 and 70 of the DA2016/241.

The relevant conditions are recited below with the requested change in bold:

14. *Prior to the issue of any construction certificate **for above ground works**:*

- a. the side walls are to be designed of a high architectural standard and treated to provide visual interest and present as wall art with dynamic and highly animated façade treatment utilising a variation of maintenance free materials, colours, and textures with textured exposed concrete, cladding and bolt on screens and fins. Full coloured elevational details and sections of this treatment are to be provided for the approval of Council's Director of City Futures;*
- b. Building C is to be provided with a 9m gap to Bay Street and 7m to Chapel Grove generally as reflected in SK01 – SK-05 dated 9 May, 2017, except as follows: Single storey (ie there should be no direct vertical stacking of bays) projecting glazed bays a maximum 500mm are to be provided to each unit facing the gap, with such bays to be offset so as not to be directly adjacent at each level. Glazing is to be opaque treated for privacy and provided with concealed LED lighting to emphasise the boxes and provide visual interest. Detailed plans (elevations, sections and plans) of works complying with this condition are to be provided for the approval of Council's Director of City Futures.*
- c. The details required to be provided and approved under this condition are not to be varied by a construction certificate or otherwise altered by a private certifier*

18. *Prior to the Issue of any Construction Certificate **for above ground works**:*

*Two (2) sample boards containing original samples and swatches of all external materials and colours including: sandstone wall cladding; balustrading (to be frame-less or semi frame-less opaque); glazing; wall and roof cladding; balcony edge treatments; louvres and screens; driveway, footpath and roadway finishes. Sandstone cladding is to be a natural Australian quarry sandstone (Gosford Quarry or similar) material in a brown hue range with a honed banded finish of minimum 600mm x 400mm x 40mm dimension and is to be returned with mired joints at all corners and junctions to avoid the appearance of a tile. The boards are to be submitted and stamped as approved by the Director of City Futures of Bayside Council prior to issue of any Construction Certificate **for above ground works**. The construction certificate shall be precisely consistent with these approved materials.*

Prior to Issue of any Construction Certificate

18A. Prior to the Issue of any Construction Certificate **for public Infrastructure**: Public infrastructure requirements for the development should be designed and approved by Council Manager of Infrastructure prior to the issues of any Construction Certificate **for public Infrastructure**:

- (i) The applicant shall design new Chapel Street Plaza, extending from Bay Street along Chapel Street until Lister Avenue generally in accordance with the Chapel Square Public Domain Plan submitted in this application. Prior to the issue of any Construction Certificate **for public Infrastructure**, a detailed design should be determined in consultation with and approved by Council's Strategic Planning section in relation to:
 - (a);
 - (b);
 - (c);
 - (d);
 - (e) ...;

41. Noise Impacts

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

- (b) The report by Koikas Acoustics Pty Ltd dated 30 November 2015 with reference 2850R20151130mfcChapeiStPrecinctRockdalev3 shall be amended prior to the issue of any construction Certificate to incorporate the approve plans listed in this consent and any other relevant condition of consent. The amended report shall be submitted to Council to Director of City Futures for approval prior to the issue of the Construction Certificate **for above ground works**. The proposal shall be designed and constructed in accordance with the approved report.

41C(iii) Prior to issue of ~~any~~ **the** occupation certificate compliance shall be certified by and suitability qualified noise expert.

45. Landscape Conditions

The following conditions shall be incorporated into the landscape documentation prior to issue of ~~any~~ **the** Construction Certificate:

- a)
- b)
- c)
- d)
- e).....
- f)
- g)

52. Safer by Design

To maximise security in and around the development and in addition to the recommendations of the report titled 'Crime Prevention through Environmental Design Assessment' by Barker Ryan Stewart dated November 2015 with reference SY150019, 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 ~~any~~ **the** Construction Certificate, implemented prior to issue of the Occupation Certificate, and maintained for the lifetime of the development:

- (a)
- (b)
- (c)
- (d)
- (f)

70. Prior to the issue of any Construction Certificate **for above ground works**, amended detailed drainage design plans for the management of stormwater are to be submitted to Council's Manager Development Services for assessment and approval.....

BAYSIDE COUNCIL

Planning Assessment Report

Site location and context

The site is known as Nos 15 - 21A Bay Street, Nos. 1 - 11 Chapel Street, Nos. 1 - 3 Chapel Lane and Nos. 6A - 12 Lister Avenue, Rockdale and is legally described as Lot 3-5, DP 13570, Lot D, DP 420619, Lot 61, DP 703624, Lot 2, DP 1027204, Lots 1-2, DP 551369, Lot 1, DP 309448, Lots 1-2, DP 450104, Lot 4, DP 9591, Lot 1, DP 79509, Lots 1-2, DP 522410, Lot 19, DP 59816 and Lot 1, DP 84102.

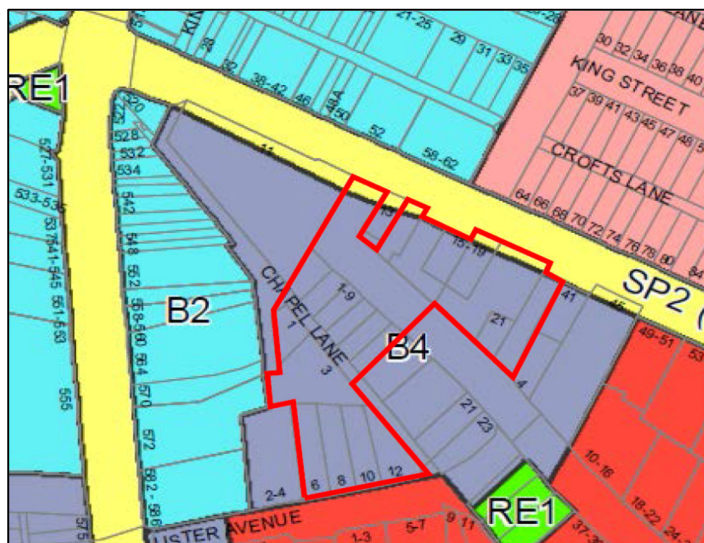


Figure 1: Zoning Map Subject site outlined in red

The site is within the expanded Rockdale town centre area. Bay Street is a major link road between Botany Bay/Brighton Le Sands and the city centre. It is in close proximity to the older commercial strip shops along the Princes Highway and also to Rockdale Railway Station and the associated bus interchange.

The site includes an “L” shaped portion of Chapel Street from Bay Street to the end of No. 21 Bay Street, Chapel Lane from Lister Avenue to the northern edge of No. 1 Chapel Lane and the unnamed lane that adjoins the western side of Nos. 1-3 Chapel Lane.

The development site is comprised of a number of lots as follows:

Chapel Street to Chapel Lane (referred to as Site A): an irregular shaped allotment which is wider at its southern end (52.095m frontage to Lister Avenue) than at its northern end (7.345m frontage to the corner of Chapel Lane and unnamed lane)) and has a frontage of 103.27m to Chapel Lane and 115.0m to the unnamed lane and adjoining Nos. 2-4 Lister Avenue. It has an area of 3,315m². This parcel is occupied by a council car park, part of the unnamed lane, a single storey commercial building at 1-3 Chapel Lane and four detached, single storey dwellings at Nos. 6A-12 Lister Avenue. It also includes part of the unnamed lane (approximately 6.2m x 18.6m) and this portion of the site provides vehicular access to sites fronting the Princes Highway.

Chapel Street to Chapel Lane (referred to as Site B): an irregular shaped allotment which is wider at its southern end (29.5m) than at its northern end (23.0m) and has a frontage of 61.785m to Chapel Street and 55.495m to Chapel Lane, with an area of 1.496m². This parcel is occupied by a council car park and contains a single storey dwelling at No. 11 Chapel Street.

The Chapel Lane and unnamed lane public domain: the portion of Chapel Lane included in development Sites A and B above and under which the basement carpark is to extend has an area of approximately 324m².

The Chapel Street public domain is comprised of the existing Chapel Street road reserve that runs from the southern edge of No. 21A Bay Street and bends around No. 13 Bay Street to Bay Street. Currently, Nos. 15-21 Chapel Street do not have vehicular access via Chapel Street. No. 13 Bay Street currently does not have vehicular access. Vehicular access to a garage within the Church compound is currently provided from Chapel Street. The Church site including the house contains a number of store buildings and is a heritage item.

Bay Street to Chapel Street (referred to as Site C and known as Nos 15-21A Bay Street): an irregular shaped allotment which is wider at its southern end (24.0m) than at its northern end (49.1m) and has a frontage of 73.24m to Bay Street and 77.91m to Chapel Street, with an area of 2,960m². This parcel is currently occupied by a council car park.

The Bay Street public domain which comprises the existing footpath area and the proposed 5.5m wide portion of the frontage of Nos. 15 and 21-21A Bay Street (note Nos. 17-19 Bay Street have previously has a road widening area along the frontage excised from the allotment).

Referrals

The proposal was referred to Council's Senior Development Engineer and Council's Coordinator Asset Strategy.

Statutory Considerations

Environmental Planning and Assessment Act, 1979

S.96(AA) - Modification by Consent Authorities of Consents granted by the Court

Section 96(AA) of the Act confers on a consent authority the power and discretion to modify a consent granted by the Court as follows:

- (1) A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the Court and subject to and in accordance with the regulations, modify the development consent if:
 - (a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and
 - (b) it has notified the application in accordance with:
 - (i) the regulations, if the regulations so require, and

(iii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and

(c) it has notified, or made reasonable attempts to notify, each person who made a submission in respect of the relevant development application of the proposed modification by sending written notice to the last address known to the consent authority of the objector or other person, and

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

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

..... "

The following addresses each of the S96(AA) requirements as follows:

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

Approval was granted for the construction of a mixed use development comprising 365 residential apartments, six (6) commercial premises, communal roof top open space, associated basement parking, public carpark, public domain works, and demolition of existing structures. The proposed amendments seek to modify certain conditions of that consent to facilitate and expedite the staged construction of the approved development. In order to ensure that the timing of the provision of information is logical and practical, a number of conditions of consent that influence that timing or are influenced by works on across the site need to be modified. There is no modification to the approved landuse, the composition of the development or the physical form, design or siting of the development. The timing of the provision of public domain infrastructure is not changed by the proposed amendment.

The proposed amendments were referred to Council's Engineers and landscape architect and their relative comments reflected in the recommended amended conditions.

On this basis, Council can be satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted.

(b) it has notified the application in accordance with:

(i) the regulations, if the regulations so require, and

(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and

(c) it has notified, or made reasonable attempts to notify, each person who made a submission in respect of the relevant development application of the proposed modification by sending written notice to the last address known to the consent authority of the objector or other person, and

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

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

..... "

In accordance with S96(AA) (1A) above an assessment of the application has been undertaken pursuant to the matters for considerations under Sec 79C(1) of the *Environmental Planning and Assessment Act, 1979*.

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:

Relevant EPI	S96(AA) Application
SEPP No. 55 – Contaminated Land	No impact.
GMREP No. 2 – Georges River Catchment	No impact.
SEPP (Infrastructure)	No impact.
SEPP (BASIX)	No impact.
SEPP No. 65 – Design Quality of Residential Apartment Development	No impact.
Rockdale LEP 2011	No impact.

Rockdale Local Environmental Plan 2011

The site is zoned part B4 Mixed Use and part SP2 (Classified Road) under Rockdale Local Environmental Plan 2011 (RLEP 2011). It is noted that the portion zoned SP2 coincides with the road widening required along Bay Street. The B4 zone applies to Chapel Street and Chapel Lane 1 & 2.

The approved mixed use development comprising commercial premises and residential flat buildings is permissible with consent in the B4 Mixed Use zone. The work proposed in the SP2 zone are limited to roads and works normally ancillary to roads and is permissible with consent.

There are no other clauses of the RLEP 2011 affected by the proposed amendments of the approved development

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

Nil

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

A compliance table for the proposed S96(AA) application is provided below:

Rockdale DCP 2011	Proposed amendments S96(AA)
Section 4 General Principles for Development	
4.1 Site Planning - views and Vistas - Conservation Areas - Water Management - Soil Management - Contaminated Land - Development on Sloping Sites - Tree Preservations - Biodiversity - Lot Size & Site Consolidation	The proposal does not affect compliance with this control
4.2 Streetscape & Site Context	The proposal does not affect compliance with this control
4.3 Landscape Planning and Design	The proposal does not affect compliance with this control
4.4 Sustainable Building Design	The proposal does not affect compliance with this control
4.5 Social Equity	The proposal does not affect compliance with this control
4.6 Carparking, Access and Movement	The proposal does not affect compliance with this control
4.7 Site Facilities	The proposal does not affect compliance with this control
Section 5 Building Types	
5.3 Mixed Uses - Setbacks - Uses - Design - Public Domain Interface - Arcades - Laneways & thru site Links - Parking	The development as amended is substantially the same development as that granted consent in DA2016/241, June 2017. There are no proposed changes to the landuse, physical form or design of the approved development.
Section 7 Special Precincts	
7.5 Rockdale Town Centre	The suitability and fit of the approved development has been assessed against the provisions for the Rockdale Town Centre and found to be satisfactory, subject to the conditions. The proposed amendments to conditions of

	DA2016/241 do not alter the development's requirements to address the public domain improvements negotiated as part of the development.
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S.79C(1)(a)(iv) - Provisions of regulations

Nil

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

Subject to ultimate compliance with the conditions of consent no adverse impacts are likely to arise as a consequence of the timing of provision of the information sought to be submitted by the conditions.

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

The suitability of the site for the approved development has been determined by the granting of development consent, subject to conditions, by Order of the Land and Environment Court in June 2017.

It is established in this report that the proposed amendments result in substantially the same development as that approved. The proposed amendments do not result in any change to the environmental impacts of the development as they were identified and addressed throughout the assessment of DA2016/241 by Council and the subsequent Conciliation Conferences in early 2017.

The proposed modifications relate to the timing of the provision of documentation to Council and/or the Principal Certifying Authority, in relation to the construction phases of the development, not to further assessment of the development as approved. On this basis, the site has been assessed and remains suitable for the approved development.

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

The modification application was notified to surrounding properties and previous submitters. Three (3) submissions were received as follows:

Submission from:	Issues	Comments
John Kirby & YY Wu 14/53 - 55 Bay St	<ul style="list-style-type: none"> no reason to lodge a submission relative to the changes however, original Submission (Letter dated February 4 2016) relative to the increase in traffic still stands 	The comments relate to the original application. The s96 relates only to changes on timing of the provision of relevant information and amended documentation as part of the Construction Certificate. The original concerns were considered and addressed as part of the
S B. Shrestha 3/17-19 Chapel St,	<ul style="list-style-type: none"> Site at corner of Lister & Chapel Ln has become a dumping site and drug users safe haven. Noise and air pollution Increase in congestion and crime 	

	<ul style="list-style-type: none"> • Reduced sunlight to unit • Less space for kids to share one small park. • Objects to work on Saturdays and before 8am • Danger from construction trucks 	deliberation of the original application and many of which resulted in changes to the ultimately approved development.
Craig Greenwood 58-62 Bay St	<ul style="list-style-type: none"> • Downsized somewhat (now 365 not the 435 in the original) • all original concerns are still valid 	The consent authority is unable to re-visit the approval and is limited to assessing the application as submitted.

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

The applicant contends that the modifications of the conditions are in the public interest as they will have no will have no adverse environmental impacts on the properties in the vicinity of the site and will arguably have a positive impact by hastening the provision of associated public domain improvements. This proposition is concurred with.

ASSESSMENT

Whilst there is validity and support for the submission on the basis of allowing for the orderly progression and management of the development process in particular design documentation whilst civil works etc are undertaken, the proposed staging or milestones put forward by the applicant are considered somewhat ambiguous and absent definition cannot be strictly enforced or timed.

The applicant's planning consultant has advised that the intention is to progress the process via four (4) construction certificates as follows:

1. Earth works, shoring, & in-ground footings - ASAP
2. In ground drainage and basement structure to Ground floor – April 2018
3. Ground floor structure to roof level and public infrastructure works (i.e. above ground works) – August 2018
4. Final fit out & landscaping – February 2020

As the landscaping is an integral and ancillary aspect of both the building design and public domain works, and as deep soil planting and on structure design needs to be properly considered in the civil and structural designing, it should not be severed and abandoned as a final stage. Accordingly it should form part of the documentation for the CC for the buildings.

Further as fit outs could be exempt and complying development under the Codes SEPP, it is preferable to avoid deferring any essential condition to this stage as it may not eventuate.

Having regard to the above, in order to satisfy the applicants intent on streamlining the construction and design, whilst balancing the Council's need for certainty in performance and delivery of the design details and construction, the following stages have been adopted in the recommended changes to the wording of the conditions:

- Prior to issue of a CC for any works entailing demolition, bulk excavation, shoring, and footings;
- Prior to issue of a CC for any below ground level works entailing basement walls, basement slabs and sub-surface drainage;
- Prior to issue of a CC entailing any works above existing ground level including public domain works;

Accordingly the recommendation seeks the following changes to the conditions as underlined:

15. *Prior to the issue of any construction certificate **entailing any works above existing ground level including public domain works:***

- a. *The side walls are to be designed of a high architectural standard and treated to provide visual interest and present as wall art with dynamic and highly animated façade treatment utilising a variation of maintenance free materials, colours, and textures with textured exposed concrete, cladding and bolt on screens and fins. Full coloured elevational details and sections of this treatment are to be provided for the approval of Council's Director of City Futures;*
- b. *Building C is to be provided with a 9m gap to Bay Street and 7m to Chapel Grove generally as reflected in SK01 – SK-05 dated 9 May, 2017, except as follows: Single storey (ie there should be no direct vertical stacking of bays) projecting glazed bays a maximum 500mm are to be provided to each unit facing the gap, with such bays to be offset so as not to be directly adjacent at each level. Glazing is to be opaque treated for privacy and provided with concealed LED lighting to emphasise the boxes and provide visual interest. Detailed plans (elevations, sections and plans) of works complying with this condition are to be provided for the approval of Council's Director of City Futures.*

The details required to be provided and approved under this condition are not to be varied by a construction certificate or otherwise altered by a private certifier.

18. *Prior to the Issue of any Construction Certificate **entailing any works above existing ground level including public domain works :***

*Two (2) sample boards containing original samples and swatches of all external materials and colours including: sandstone wall cladding; balustrading (to be frame-less or semi frame-less opaque); glazing; wall and roof cladding; balcony edge treatments; louvres and screens; driveway, footpath and roadway finishes. Sandstone cladding is to be a natural Australian quarry sandstone (Gosford Quarry or similar) material in a brown hue range with a honed banded finish of minimum 600mm x 400mm x 40mm dimension and is to be returned with mired joints at all corners and junctions to avoid the appearance of a tile. The boards are to be submitted and stamped as approved by the Director of City Futures of Bayside Council prior to issue of any Construction Certificate **entailing any works above existing ground level including public domain works** . The construction certificate shall be precisely consistent with these approved materials.*

18A. *Prior to the Issue of any Construction Certificate **entailing any works above existing ground level including public domain works:** Public infrastructure requirements for the development should be designed and approved by Council Manager of Infrastructure prior to the issues of any Construction Certificate **for public Infrastructure:***

- (ii) *The applicant shall design new Chapel Street Plaza, extending from Bay Street along Chapel Street until Lister Avenue generally in accordance with the Chapel Square Public Domain Plan submitted in this application. Prior to the issue of any Construction Certificate **entailing any works above existing ground level including public domain works**, a detailed design should be determined*

in consultation with and approved by Council's Strategic Planning section in relation to:

- (a);
- (b);
- (c);
- (d);
- (e);

41 **Noise Impacts**

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

(b) The report by Koikas Acoustics Pty Ltd dated 30 November 2015 with reference 2850R20151130mfcChapeiStPrecinctRockdalev3 shall be amended prior to the issue of any construction Certificate to incorporate the approve plans listed in this consent and any other relevant condition of consent. The amended report shall be submitted to Council to Director of City Futures for approval prior to the issue of the Construction Certificate **entailing any works above existing ground level including public domain works**. The proposal shall be designed and constructed in accordance with the approved report.

(c)(iii) Prior to issue of ~~any~~ **the** occupation certificate compliance shall be certified by and suitability qualified noise expert.

45. **Landscape Conditions**

The following conditions shall be incorporated into the landscape documentation prior to issue of ~~any~~ **the** Construction Certificate **entailing any works above existing ground level including public domain works**:

- a.
- b.
- c.
- d.
- e.
- f.
- g.

52. **Safer by Design**

To maximise security in and around the development and in addition to the recommendations of the report titled 'Crime Prevention through Environmental Design Assessment' by Barker Ryan Stewart dated November 2015 with reference SY150019, 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 ~~any~~ **the** Construction Certificate **entailing any works above existing ground level including public domain works**, implemented prior to issue of the Occupation Certificate, and maintained for the lifetime of the development:

- (e)
- (f)
- (g)

(h)

(f)

70. Prior to the issue of any Construction Certificate **for any below ground level works entailing basement walls, basement slabs and sub-surface drainage (i.e other than demolition, bulk earthworks and shoring)**, amended detailed drainage design plans for the management of stormwater are to be submitted to Council's Manager Development Services for assessment and approval.....
.....

Note: The above condition 70 is now numbered 73 in the Draft Notice of Determination given the adjustments made to the Court Order to rectify some errors with conditions.