

BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number:	DA-2017/606
Date of Receipt:	15 December 2017
Property:	177 Russell Avenue, DOLLS POINT (Lot 80 DP 2237), (Lot 81 DP 2237), (Lot 82 DP 2237), (Lot 83 DP 2237)
Owner:	War Widow's Guild Of Australia NSW Ltd
Applicant:	HELM Pty Ltd
Proposal:	Integrated Development - Demolition of all buildings and structures on site and construction of a five (5) storey residential flat building comprised of 36 apartments; two levels of basement parking; front fence and landscaping
Recommendation:	Approved
No. of submissions:	Eight (8)
Author:	Alexandra Hafner
Date of Report:	1 June 2018

Key Issues

The application has been assessed in accordance with the relevant provisions of the *Environmental Planning and Assessment Act, 1979*; which requires an assessment against the provisions of the following (amongst others):

- *State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development and the associated Apartment Design Guide*;
- *GMREP No. 2 - Georges River Catchment*;
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*;
- *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017*;
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*;
- *Rockdale Local Environmental Plan, 2011*;
- *Rockdale Development Control Plan, 2011*.

The development complies with the relevant provisions contained within each of the above listed environmental planning instruments and applicable DCP, including the site specific DCP. The application is referred back to the SECPP for determination in accordance with the below assessment report.

Recommendation

1. That the Development Application No.DA-2017/606 for the proposed demolition of all buildings and structures on site and construction of a five (5) storey residential flat building comprised of 36 apartments; two levels of basement parking; front fence and landscaping at No. 177 Russell Avenue, Dolls Point, be APPROVED pursuant to Section 4.16(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report.

2. That the objectors be advised of the Sydney Eastern Planning Panel's decision.

Background

History

The site is owned by the War Widows' Guild (the Guild), which has had a long involvement in providing low cost housing for war widows and in doing so, developed a series of retirement housing sites between 1953 and 1988. A total of 254 units were provided for housing for war widows. Since 2003, the Guild's membership has decreased 70% with the average age of members having increased from 80 to 87 years. The needs of the members have increased significantly and the decline in health of residents at the subject site only accommodates 6 Guild residents out of a possible 30 units.

The Guild has selected to redevelop the site for purposes of sale to release equity and continue to offer a range of support services for its members. The site has been subject to a Planning Proposal (PP) which was exhibited in accordance with the relevant provisions of the Act. On 9 November 2017, Council resolved to endorse the PP for the subject site and seek a Gateway determination from the NSW Department of Environment and Planning for an increase in both the maximum building height from 14.5 metres to 17.75 metres and floor space ratio from 1:1 to 1.65:1. Amendment 18 to the Rockdale LEP 2011 was notified on 4 May 2018 in relation to the subject site.

A Voluntary Planning Agreement (VPA) was exhibited concurrently with the PP and the Bayside Planning Panel recommended that a site specific DCP be prepared for the site to ensure the site not be over developed. The exhibition of the draft DCP concluded on Friday 9 February 2018 and a report tabled to and endorsed by Council. The VPA was executed on 4 May 2018 between both Parties (Bayside Council and the War Widows Guild of Australia NSW Limited). The subject of the VPA included the Developer to enter into a Planning Agreement in accordance with c.f. Section 93F of the *Environmental Planning and Assessment Act, 1979*, in connection with the LEP amendment providing for the payment of a monetary Development Contribution and the dedication of land to enable the future construction of a pedestrian path and cycle way adjacent to the Land, via the LEP gazettal.

In addition to the above, the site has also been subject of the following applications:

- Development Application No. DA-1999/76 approved on 3 November 1998 for the construction of a detached carport for five (5) cars; and
- Development Application No. DA-2017/607 for the installation of a temporary real estate office and associated signage to facilitate the sale of proposed residential flat building withdrawn on 22 December 2017.

A briefing was held with the Sydney Eastern City Planning Panel (SECPP) on Thursday 15 February 2018. Key issues discussed included the application of the savings and transitional provisions in Clause 1.8A of the *Rockdale Local Environmental Plan, 2011* given the subject DA was lodged shortly after the endorsement by council of the PP seeking amendments. Following this, Council sought legal advice on 12 March 2018. The summary of advice concluded that should the DA be determined after

the amended height and FSR controls put forward in the PP are made, those amendments will apply to the DA as the application is determined in accordance with the LEP at that time.

Proposal

Council is in receipt of Development Application No. DA-2017/606 which seeks consent for the demolition of existing structures and construction of a five (5) storey, 36 unit residential flat development over two levels of basement car parking. Specifically, the proposal will consist of the following:

- Demolition of existing structures and removal of two (2) established magnolia trees with associated landscaping;
- Excavation and earthworks to a depth 6.0 metres below existing surface levels to achieve an anticipated bulk excavation level of approximately RL-4.0m;
- Basement Levels 1 and 2 containing 62 parking spaces, including a car wash bay; four (4) bicycle spaces and three (3) motorcycle spaces;
- Ground Floor Level comprised of 1 x 1 bed; 5 x 2 bed and 2 x 3 bedroom units with central atrium and associated private open space/terraces; ground floor entry portico and separate vehicular crossing addressing Russell Avenue; lift and stair access;
- First Floor Level comprised of 1 x 1 bed; 3 x 2 bed and 4 x 3 bedroom units with central atrium and associated private open space areas; lift and stair access;
- Second Floor Level comprised of 1 x 1 bed; 3 x 2 bed and 4 x 3 bedroom units with central atrium and associated private open space areas; lift and stair access;
- Third Floor Level comprised of 1 x 1 bed; 3 x 2 bed and 4 x 3 bedroom units with central atrium and associated private open space areas; lift and stair access;
- Fourth Floor Level comprised of 4 x 3 bedroom units with central atrium and associated private open space areas; lift and stair access;
- Non-trafficable roof top with glazed skylights; solar panels to meet BASIX requirements and air conditioning infrastructure.

Additional works including landscaping and hydraulics.

Site location and context

The subject site is a generally rectangular block, legally known as Lots 80-32 under DP 2237. The site has a primary frontage of 47.5m to Russell Avenue and total site area of 2,575sqm (by Survey). As shown in the aerial below, the sites eastern boundary adjoins Peter Depena Reserve separated by Waradiel Creek and a southern frontage of 52m. Accordingly, the site has only one adjoining neighbour located west of the site.



Figure 1. Aerial of subject site as shown in red (Source: Applicant's SEE).

The site is currently occupied by two residential flat buildings, each two storeys in height and comprised of 30 x one bedroom apartments. A carport is located within the centre of the site and provides covered parking for eight (8) vehicles. Centrally located within the site are two well established Magnolias. The built environment in the immediate vicinity is comprised of older three and four storey residential flat buildings with a modern part four and part five storey development directly opposite. A four storey residential flat building adjoins the site in a westerly direction.

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*.

S4.46 - Development that is Integrated Development

The site is groundwater affected and undertaking of the development requires dewatering of the site for the construction of the basement level carpark. As such, a Controlled Activity Approval (CAA) is required under Part 3, Chapter 3 of the *Water Management Act, 2000*, and this development is therefore nominated as Integrated Development for the purposes of Section 91 of the *Environmental Planning and Assessment Act, 1979*.

The application was referred to the Department of Industry - Water for review. Council is in receipt of correspondence dated 26 March 2018 confirming that the Department has reviewed the associated documents and considers that for the purposes of the *Water Management Act, 2000*, a controlled activity approval is not required and no further assessment by the agency is necessary. No CAA application is required and the development is acceptable with regards to Section 91 of

the *Environmental Planning and Assessment Act, 1979*.

S4.15 (1) - Matters for Consideration - General

S4.15 (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 application is accompanied by Multi Dwelling BASIX Certificate No. 862441M and dated Monday 20 November 2017. The Certificate demonstrates the proposed development satisfies the relevant thermal comfort, water and energy commitments as required by the SEPP BASIX. These commitments are also noted on the accompanying architectural plans.

The proposed development is acceptable in this regard.

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

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 (Vegetation SEPP) applies to the proposal, the aims of which are:

*(a) to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and
(b) to preserve the amenity of non-rural areas of the State through the presentation of trees and other vegetation.*

The application is accompanied by an Arboricultural Impact Assessment Report, prepared by The Arborist Network, Reference No. CD1628B and dated 12 December 2017. The Report identifies a total of 12 individual trees on the subject site (Appendix 1 - Tree Schedule) and with the exception of four (4), the remaining plantings are identified to be relatively recent (less than 20-30 years).

Of the vegetation identified on the subject site, the development proposes for the retention of a large Oak tree in the south western corner of the site as well as a Robinia tree in the primary setback. As a consequence of the development however, the proposal also requires the removal of two Magnolia trees located in the centre of the site. Whilst it is technically possible to transplant the trees the cost of doing so is recognised to be disproportionate to the landscape benefit the trees provide.

The application and associated documentation was referred to Council's Tree Management Officer for review and comment. The Officer also concluded that '*whilst the retention of the two mature Magnolia trees is desirable and transplanting is technically possible, this is considered highly impractical*'. The proposal is considered acceptable with regards to the aims of this Policy.

State Environmental Planning Policy No 19—Bushland in Urban Areas

The general aim of this Policy is to protect and preserve bushland within the urban areas referred to in

Schedule 1 because of its value to the community as part of the natural heritage; its aesthetic value; and its value as a recreational; educational and scientific resource. The definition of 'bushland' referred to within Clause 4 - Interpretation '*is land in which there is vegetation that is either a remainder of the natural vegetation of the land, or, if altered, still represents the structure and floristics of the natural vegetation*'.

The site adjoins land zoned RE1 - Public Recreation under the RLEP 2011, being Cook Park and the Peter Depena Reserve. This triggers the requirements of Clause 9(2) which applies to land which adjoins bushland zoned or reserved for public open space purposes. The consent authority shall then take into account:

- the need to retain any bushland on the land;
- the effect of the proposed development on bushland zoned or reserved for public open space purposes and, in particular, on the erosion of soils, the siltation of streams and waterways and the spread of weeds and exotic plants within the bushland; and
- Any other matters which, in the opinion of the approving or consent authority, are relevant to the protection and preservation of bushland zoned or reserved for public open space purposes.

The Applicant submits the site is separated from Cook Park and Peter Depena Reserve from Waradiel Creek. Further, '*the works proposed on the site will not result in any disturbance of the Reserve, nor any of the vegetation on it. Similarly, all site works can be undertaken not result in erosion, siltation or the spread of exotic weeds or plant species within Cook park or Peter Depena Reserve*'.

Based on the above, the proposed development is acceptable with regards to the provisions of this Policy.

State Environmental Planning Policy No 55—Remediation of Land

Under the provisions of Clause 7 of SEPP 55, a consent authority must not consent to the carrying out of development on land unless:

- (a) *it has considered whether the land is contaminated, and*
- (b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purposes for which the development is proposed to be carried out, and*
- (c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

The application is accompanied by an Acid Sulfate Soil Assessment and Waste Classification Assessment, prepared by Environmental Investigation Services (EIS), Reference E29353KMrpt2 and dated 19 April 2017. The Report includes the analysis of borehole testing at Part 7.3 of the Report and notes that although the site contains some previous fill material, the laboratory testing confirms that the site is not contaminated.

The consent authority can be satisfied that the land is suitable for the purposes for which development is proposed and satisfies the relevant provisions of the Policy.

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

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

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

The proposal was referred to the DRP on Thursday 5 April 2018. Matters raised by the DRP are discussed in detail below with respect to SEPP 65 and the Apartment Design Guide (ADG).

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

The design quality principles have been considered in the assessment of the proposal and are found to be satisfactory as indicated below.

Principle 1 – Context and Neighborhood Character

The DRP noted '*the proposed design generally responded positively to the surrounding neighbourhood character and has developed a design that takes advantage of its unique position to look and view of the adjoining Peter Depena Reserve and Waradiel Creek. This in turn provides a high level of visual surveillance of these areas, connects the proposed development visually with the surrounding landscape and helps provide a positive streetscape appeal and response. The Panel considers the lack of a direct internal connection to the Peter Depena Reserve to be a deficiency in design and contextual response. The Panel supports the retention of the mature oak tree on site*'.

Further, '*the Panel is less supportive of a design response that requires the removal of the two significant magnolia trees and a variety of mature trees and palms to the eastern boundary, given their relative significance and contribution to local character. Their removal represents a significant loss to existing local amenity*'.

The site is situated on the southern side of Russell Avenue, adjacent to Peter Depena Reserve and Waradiel Creek. Local bus transport is located directly forward of the site and local shops are located within walking distance (400m) west towards Clareville Avenue. The proposed development addresses the existing streetscape scale and character of Russell Avenue. The local context of the surrounding development consists of a variety of 3-4.5 storey residential flat buildings from the 1960-1980's era. All of the surrounding developments have significant setbacks from Russell Avenue which has allowed for meaningful landscaped areas, with the concept continuing the design of the proposal. The scale of the development has direct implications for the design quality of the apartments, relating appropriately to the context and desired future character of the area whilst sensitively managing impacts on the surrounding buildings.

Further consideration of the compatibility of the proposal and its surroundings can be undertaken with regards to the LEC Planning Principle on 'compatibility with context' in *Project Venture Developments v Pittwater Council [2005] NSWLEC 1919*. In order to test whether a proposal is compatible with its context, the following two questions shall be considered:

- *Are the proposal's physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites.*

The Applicant submits the proposal provides adequate building separation and is of a scale that will not constrain the development potential of neighbouring sites. The physical impacts upon neighbouring sites are discussed in the body of this Report and deemed acceptable.

- *Is the proposal's appearance in harmony with the buildings around it and the character of the street?*

The immediate visual catchment comprises of a variety of older three and four storey residential flat buildings of limited quality. The proposal has respected the prevailing landscaped street setback with an increased setback to Waradiel Creek and Peter Depena Reserve with generous deep soil planting (28%) which contributes to the existing 'garden' suburb of Dolls Point. The scale of the development, including the recessed top floor and increased side setbacks, provide a logical termination of residential flat development before Peter Depena Reserve. The high quality design and features with increased street activation is determined to contribute to street character, enhancing the character of the locality.

The proposal has demonstrated compatibility within its context and the desired future character of the locality.

Principle 2 – Built Form and Scale

The DRP '*generally considered the built form and scale to be of high quality and in keeping with the surrounding buildings. The design contributes positively to the public domain and character of the streetscape*'.

'The Panel was concerned about the internal layout and outlooks created that did not provide for sufficient separation, privacy and amenity to the residents from communally accessible areas. The Panel was supportive of the internal atrium but considers further design resolution is required to provide appropriate separation distances, under the ADG. Further design development is required to provide privacy to bedrooms and living spaces and the Panel questioned the merit of bedrooms, on all levels within the proposed development, facing into the atrium'. Most importantly, the Panel considered that the design responses 'needed to consider a through site access for all residents to the park and a communal open space within the southern sector of the complex'.

'It is noted that significant trees are proposed to be removed from site and being replaced within a similar location by an atrium that resolves in poorer built form. The Panel suggested that an enhanced design response needs to be considered that retains these significant trees and the consequent design issues'.

The proposed development is of a built form and scale commensurate with the surrounding area. The Applicant submits '*the combination of increased setbacks to all boundaries, a consistent building line with adjoining buildings and the building articulation minimises the apparent bulk and scale of the development and ensures it is compatible with its surroundings*'. As shown in the below photomontages, the developments articulated building form, corner balconies and projections from the facade create a visual division from the built form. The proposed height, having regard to the height of the Park's existing mature trees ensure that the future development '*does not visually intrude on the key public areas of Peter Depena Reserve*'.



Figure 2. Photomontage (supplied by Applicant).

The proposal satisfies this Principle.

Principle 3 – Density

The DRP noted '*whilst the overall development appears appealing and generally in keeping with the local area, the density of the proposed development results in the loss of significant natural features and elements that are part of the local character and context. The Panel questioned the proposed level of density on site, the resultant loss of significant trees and the extent of basement carparking. The pursuit of density on site has resulted in the loss of existing amenity*'.

The proposed density is 1.65:1 in accordance with the recently gazetted planning proposal relating to the subject site. The proposal is therefore satisfactory with regards to this Principle.

Principle 4 - Sustainability

The Panel notes that the '*development proposes a number of sustainability initiatives and meets minimum BASIX requirements*'. The Panel considers the development could benefit from utilisation of rainwater harvesting, recycling of water on site, more substantial use of photovoltaic panels to an expansive roof area available and broader sustainability initiatives such as communal productive gardens for residents'.

The development is subject to the *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004* and requires the submission of a valid BASIX Certificate. Accordingly, the application is

accompanied by BASIX Certificate No. 862441M and dated Monday 20 November 2017. The Certificate demonstrates the proposed development satisfies the relevant thermal; water and energy commitments as required by SEPP (BASIX).

The proposal complies with the ADG in relation to the provision of solar access and cross ventilation to units. The application is accompanied by a BASIX Certificate which confirms energy efficiency measures proposed to be implemented on site and is therefore satisfactory in regards to this Principle.

Additionally, the development improves housing opportunities and residential accommodation with one; two and three bedroom units; further contributing to housing affordability within the Dolls Point area.

Principle 5 – Landscape

The DRP noted the following with respect to the proposal:

- *'The Panel has concerns about the proposed removal of significant established trees on the site and is not convinced that the design response or development outcome justifies or warrants the removal of these trees';*
- *'The proposed landscape to the eastern boundary does not provide for the scale or maturity of existing vegetation (as is indicated on the architectural plans) and will result in diminished amenity to the adjoining property';*
- *'The location of the proposed driveway access requires the removal of an established street tree. The Panel questioned the proposed design layout and the alignment of the driveway ramp. A reconfiguration of the basement carpark and reduction of ambulant spaces could reduce the basement footprint and allow for the retention of existing vegetation';*
- *'The Panel has concerns relating to the landscape maintenance of multiple private open spaces that significantly contribute to streetscape amenity. The maintenance of these spaces under private ownership and consistency of long term landscape outcomes need to be addressed';*
- *'The Panel noted the development provides for substantial private open space landscaped areas for ground floor residents but provides limited communal open space is not directly accessible to the residents from within the development. The area provided for communal open space is not directly accessible to the residents from within the development';*
- *'The Panel does not consider the atrium to be communal open space and it should not be counted in the compliance assessment calculations';*
- *The design response therefore provides:*
 - i) *for substantial privately owned landscaped areas with no apparent mechanism for consistent integrated maintenance to ensure ongoing amenity in the future;*
 - ii) *provides significant deep soil and landscaped areas on the site but does not provide adequate, accessible communal open space;*
 - iii) *provides a design layout with a parkland focus but no through site link;*
 - iv) *an atrium with privacy and separation issues;*
 - v) *the loss of significant mature trees on the site.*

The trees are recognised as having a cultural significance rather than a heritage one and their retention would effectively sterilise the site from redevelopment as the size of the tree protection zone would dramatically reduce the size of any basement carpark required in addition to dewatering of the water table having a negative effect on their ongoing health. The Applicant has propagated seven saplings to provide replanting opportunities as part of the future redevelopment, incorporated into the design and planted in the north eastern and south eastern corners of the site.

Additionally, the development provides a large area of high quality landscaped open space provided on 40% of the site, compared to Council's DCP requirement of 15%. The protection and retention of the existing street trees along Russell Avenue will both promote visual privacy for intended occupants and retain positive natural features which contribute to the local context.

The proposal satisfies the Principle relating to Landscaping.

Principle 6 – Amenity

The Panel has identified concerns relating to the resultant amenity, listed as the following:

- *'The lack of privacy and separation between communal walkways; lift lobby areas and proposed bedrooms and living areas to southern units on all levels';*
- *'The lack of through-site access and universal access to Peter Depena Reserve directly from within the site and questions the reliance on adjoining public spaces to facilitate such access';*
- *'Lack of access and universal access to the proposed communal open space and reliance on the Peter Depena Reserve and cycleway to facilitate this'.*

The DRP held strong concerns regarding the lack of universal access arrangements between ground floor and upper floor level residents. The following comments are offered with respect to the amenity for residents and neighbours:

- *'A large open atrium space is created in the centre of the building to provide a lush tranquil area that acts as a communal space where residents can interact (apartment access is visible over a number of levels). The apartments that front this space all have their main orientation elsewhere and are not solely reliant on the atrium for amenity however allows the apartments to benefit from the increased cross ventilation and daylight for secondary windows or bedrooms. Appropriate privacy measures ensure an appropriate balance between apartment amenity and the communal use of the space';*
- *'Oversized open plan living spaces, generous sized bedrooms and high ceilings to living spaces optimise the living conditions and amenity producing a unique quality boutique atmosphere';*
- *'Good building separation to the adjacent neighbours on the western boundary has design elements incorporated to further protect the amenity of the adjoining property such as the landscaped buffer zone at ground level and privacy devices';*
- *'A substantial deep soil landscape buffer zone which encompasses 28% of the site and has deliberately been located to all boundaries has the ability of sustaining mature trees enhancing the level of visual and acoustic privacy'; and*
- *'Each apartment includes generous storage spaces as well as ample additional storage located in the basement regardless of the apartment size'.*

The design of the proposal results in a positive amenity outcome for residents and neighbours alike. Potential aspects of design which could degrade the quality and livability of units has been carefully considered and mitigated in this instance. This Principle is satisfied.

Principle 7 - Safety

The DRP noted *'the proposed development provides for a high level of passive surveillance over the adjoining Peter Depena Reserve and future cycleway but does not provide a positive relationship for residents to their communal open space. The development needs to provide site through, universal*

access to the communal open space and ideally to the Peter Depena Reserve, as it is deficient in the provision of communal open space within the development and reliant on the adjoining reserve to ameliorate this'.

The proposed development provides a prominent and clearly identifiable pedestrian entry portico from Russell Avenue with all residential apartments and basement level parking accessible only via a secure electronic system. Ground Floor Units G01 to G08 are provided with secondary entry points via Peter Depena Reserve and the future walkway and bicycle path separating the site from Waradiel Creek. The DRP noted however that the development '*does not provide a positive relationship for residents to their communal open space*'. Additionally, the DRP recommended the proposal provide site through, universal access to communal open space and ideally to the Reserve.

The Applicant submits the design of the building has taken into careful consideration the safety and security of mixed users of the building with a focus on surveillance; access control; territorial reinforcement and space management. '*The apartments, which address Russell Avenue and the Peter Depena Reserve incorporate balconies at all levels, which allow controlled overlooking of the public spaces below, whilst still maintaining the internal privacy for occupants due to the depth of the balconies*'. Changes in levels between private courtyards and the natural ground will assist in the promotion of an active street frontage and additional passive surveillance opportunities. Each floor level is provided with a centralised lobby area focused around an internally landscaped atrium/courtyard and shared with seven other residential units.

Whilst there is no direct or centralised access between upper floor levels and the ground level communal open space, residents have BCA compliant access via both lift and paths located along the western elevation of the development. Safety considerations under this Principle are therefore satisfied.

Principle 8 - Housing Diversity and Social Interaction

The design of the development and proposed unit mix generally provides for varied housing choice with the DRP noting the following with regards to housing diversity and social interaction:

- '*The interactions between residents and the communal open space, which do not provide direct or universal access to the space*;
- '*A communal open space that does not provide any facilities such as barbecue or seating, which a person requiring universal access may need as they may not be able to access public facilities within the park*';
- '*The negative social interactions relating to inadequate building separation, privacy and overlooking within the internal atrium*'.

The Applicant states the following with regards to the Principle:

- '*The proposal has responded to its social responsibilities by providing apartments specifically designed for Owner-Occupiers through quality of design and mix of apartment sizes and configurations. There is also a demonstrated deficiency in high quality 1, 2 and 3 bedroom apartments in this locality and the proposal seeks to assist in redressing this imbalance by providing oversized apartments ranging in size from 58sqm to 198sqm*';
- '*Adaptable apartments have been incorporated and the design has focused on accessibility principles for the remaining apartments*';
- '*The mix of apartments responds to the social context and provides the facilities that will compliment the existing precinct as well as the desired future community*'.

Whilst the proposal does not provide universal access arrangements between all levels of the development, equitable access is achieved through compliance with both the requirements of the BCA and DDA. The proposal is deemed acceptable with regards to this Principle.

Principle 9 – Aesthetics

The DRP considered '*the design aesthetics to have been generally well considered subject to the comments above*'. The development is to be constructed primarily of glass; powder coated aluminium and rendered concrete in neutral tones with accents to emphasise particular elements of articulation. Materials and colour are deemed complimentary to the urban setting of the development, particularly given its proximity to a substantial public space. The Principle is satisfied in this instance.

c. the Apartment Design Guide

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

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

CLAUSE	DESIGN CRITERIA	COMMENTS	COMPLIES										
3J - Bicycle and car parking	As per Guide to Traffic Generating Developments, or per council requirement, whichever is less. Parking provided off street.	Council DCP Part 4.6 applies.	Refer to DCP 2011 Part 4.6 assessment below.										
4D – Apartment size and layout	<p>Minimum internal areas:</p> <table border="1"> <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> <p>Internal areas includes only one bathroom. Additional bathrooms increase area by 5m² each.</p> <p>Further bedrooms increase minimum internal area by 12m² each.</p>	Apartment type	Minimum internal area	Studio	35m ²	1 bedroom	50m ²	2 bedroom	70m ²	3 bedroom	90m ²	Each of the residential units satisfy minimum internal areas and room dimensions. Floor plans are demonstrated to be highly functional, rational and efficient.	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 border="1"> <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> <tr> <td>Two storey apartments</td><td>2.7m main living 2.4m first floor, area < 50% of apartment area</td></tr> <tr> <td>Attic spaces</td><td>1.8m at edge 30deg min slope</td></tr> <tr> <td>Mixed use area</td><td>3.3m for ground and first floor</td></tr> </tbody> </table>	Minimum ceiling heights:		Habitable	2.7m	Non-habitable	2.4m	Two storey apartments	2.7m main living 2.4m first floor, area < 50% of apartment area	Attic spaces	1.8m at edge 30deg min slope	Mixed use area	3.3m for ground and first floor	All habitable floors feature a 2.7m high ceiling with stacking of services and coordination of bulkheads centralised above non-habitable areas (bathrooms; ensuites and rooms).	Yes			
Minimum ceiling heights:																		
Habitable	2.7m																	
Non-habitable	2.4m																	
Two storey apartments	2.7m main living 2.4m first floor, area < 50% of apartment area																	
Attic spaces	1.8m at edge 30deg min slope																	
Mixed use area	3.3m for ground and first floor																	
3F Visual Privacy	<p>Min separation - side & rear boundaries:</p> <table border="1"> <thead> <tr> <th>Building height</th> <th>Habitable rooms and balconies</th> <th>Non habitable rooms</th> </tr> </thead> <tbody> <tr> <td>Up to 12m (4 storeys)</td> <td>6m</td> <td>3m</td> </tr> <tr> <td>Up to 25m (5-8 Storeys)</td> <td>9m</td> <td>4.5m</td> </tr> <tr> <td>Over 25m (9+storeys)</td> <td>12m</td> <td>6m</td> </tr> <tr> <td colspan="3">Buildings on the same site combine required building separations. Gallery treated as habitable space</td></tr> </tbody> </table>	Building height	Habitable rooms and balconies	Non habitable rooms	Up to 12m (4 storeys)	6m	3m	Up to 25m (5-8 Storeys)	9m	4.5m	Over 25m (9+storeys)	12m	6m	Buildings on the same site combine required building separations. Gallery treated as habitable space			<p>The following minimum setbacks are provided for building separation purposes:</p> <p>Russell Avenue - Ground to L3 = 8m; L4 = 13;</p> <p>Eastern boundary - Ground to L3 = 6m; L4 = 7m;</p> <p>Southern boundary - Ground to L3 = 6m; L4 = 7m;</p> <p>Western boundary - Ground to L3 = 6m with minor point encroachment at 5m setback; L4 = 9m</p>	No - refer below for further discussion.
Building height	Habitable rooms and balconies	Non habitable rooms																
Up to 12m (4 storeys)	6m	3m																
Up to 25m (5-8 Storeys)	9m	4.5m																
Over 25m (9+storeys)	12m	6m																
Buildings on the same site combine required building separations. Gallery treated as habitable space																		
4A – Solar and daylight access	<p>Living rooms + POS of at least 70% of apartments receive min 2hrs direct sunlight b/w 9am & 3 pm mid-winter</p> <p>Max 15% apartments receive no direct sunlight b/w 9am & 3pm mid-winter</p>	<p>47% of units receive a minimum 2 hours in mid winter; and 81% of the units receive 1 hour and 50 mins in mid winter.</p>	No - refer below for further discussion.															
4F – Common circulation and spaces	Max apartments off a circulation core on a single level is eight.	A centrally located lift lobby provides access to no more than eight (8) residential units per level.	Yes															

4E – Private open space and balconies	<p>Primary balconies as follows:</p> <table border="1" data-bbox="366 152 885 399"> <thead> <tr> <th>Dwelling type</th><th>Minimum area</th><th>Minimum depth</th></tr> </thead> <tbody> <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> </tbody> </table> <p>Min balcony depth contributing to the balcony area is 1m.</p> <p>Ground level, podium or similar -POS provided instead of a balcony: min area 15m² and min depth of 3m.</p>	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	<p>All residential units satisfy minimum area and depth requirements in accordance with this objective. The use of landscaping and screening to generous terrace areas will ensure visual and acoustic privacy. The following elements are provided in this regard:</p> <ul style="list-style-type: none"> - solid or partially solid balustrading; - low level screening/landscaping along the ground floor perimeter planting; - Horizontal and fixed louvred systems. 	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	<p>Min 60% of apartments are naturally cross ventilated in the first nine storeys of the building.</p> <p>Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.</p>	<p>The development provides 78% (28 out of 36) residential units with natural cross flow through both its orientation with dual aspect apartments and central atrium.</p> <p>No residential unit exceeds the maximum 18m depth.</p>	Yes															
4G – Storage	<p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <table border="1" data-bbox="366 1635 885 1882"> <thead> <tr> <th>Dwelling type</th><th>Storage size volume</th></tr> </thead> <tbody> <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> </tbody> </table> <p>At least 50% of the required storage is located within apartment</p>	Dwelling type	Storage size volume	Studio	4m ²	1 bed	6m ²	2 bed	8m ²	3 bed	10m ²	<p>Residential units are provided with storage both within the floor area in addition to the secure basement parking levels (Drawing No. DA.27 and DA.28).</p>	Yes					
Dwelling type	Storage size volume																	
Studio	4m ²																	
1 bed	6m ²																	
2 bed	8m ²																	
3 bed	10m ²																	

3F - Visual Privacy

The development proposes a minor point encroachment/technical non-compliance in relation to minimum building separation requirements along the western allotment boundary as shown in the figure below. The Applicant submits '*privacy impacts along the western facade to the neighbouring property have been carefully managed in conjunction with the achievement of a generous 16m building separation for the majority of the building. Controlled view lines from the bedrooms and/or balconies located on this facade have been achieved with the use of adjustable aluminium external screens, solid up-stand balustrade designs and raised planters where appropriate*'. The objectives of this provision are suitably justified in this instance and the minor non-compliance is supported.



Figure 3. Section A-A.

It is also noted that the separation within the atrium does not meet minimum separation requirements however, potential visual privacy impacts are mitigated through the following:

- appropriate placement and design of windows (offsetting);
- use of landscaping; and
- use of privacy screening.

The proposal is acceptable with regards to visual privacy and building separation.



Figure 4. Section B-B.

4A - Solar and daylight access

The Applicant submits 'apartments have been designed to provide a superior solution for street activation; access; privacy; natural light and ventilation. The floor plans are designed to be highly functional; rational and efficient with the use of dual frontage apartment designs, which promote optimal day lighting, and cross-ventilation through the use of the central landscaped courtyard'.

Seven (19%) of the units do not receive direct solar access due to its southern orientation which have been orientated to embrace views to Peter Depena Reserve; Waradiel Creek and Botany Bay (L4) and create passive surveillance opportunities. Compliance may be achieved for Units G08; 108; 208 and 308 however the side boundary outlook would be less desirable than park views and result in overlooking to the western adjoining residential flat development and a poorer planning outcome. The variation to the numerical requirements relating to solar and daylight access is supported in this instance as the level of ambient lighting to the non-compliant units is deemed acceptable.

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

Relevant clauses	Compliance with objectives	Compliance with standard/provision
2.7 Demolition requires consent	Yes	Yes - see discussion
4.3 Height of buildings	Yes	Yes - see discussion
4.4 Floor space ratio - Residential zones	Yes	Yes - see discussion
5.10 Heritage conservation	Yes	Yes - see discussion
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 subject site is zoned R4 - High Density Residential under the provisions of Rockdale Local Environmental Plan 2011 (RLEP 2011) and the proposed residential flat building is permitted with 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 proposed development is consistent with the objectives of the zone as it will contribute to the housing needs of the community within a high density residential environment and in a manner which provides additional facilities and services to meet the day to day needs of residents.

2.7 Demolition requires consent

The application is accompanied by Demolition Plan DA.52 which identifies all existing structures and ancillary development forms nominated for demolition. Subject to conditions, the provisions of this Clause are satisfied.

4.3 Height of buildings

Clause 4.3 permits a maximum building height of 17.75 metres as measured from NGL (existing) for the subject site.

The proposed development seeks an overall building height of 17.75 metres to the lift overrun (RL19.00) and 16.95 metres to the rooftop (RL18.200), therefore satisfying the numerical provisions of this Clause. In this regard, the proposal will result in a high quality urban design; maintain satisfactory sky exposure and daylight to both adjoining residential flat development and the public domain and will provide an appropriate transition in built form and land use intensity. The objectives of this Clause are also satisfied.

4.4 Floor space ratio - Residential zones

Clause 4.4 permits a maximum FSR of 1.65:1 for the subject site.

The proposed development seeks an overall GFA of 4250sqm over a site area of 2575sqm and a resultant FSR of 1.65:1, therefore complying with the numerical provisions of this Clause. In this regard, the proposed density is in accordance with both the recently gazetted PP for the site; determined to be in accordance with the desired future character of Dolls Point and will result in minimal adverse environmental effects on the use and enjoyment of adjoining properties.

The proposal also satisfies the objectives of this Clause.

5.10 Heritage conservation

The subject site is located within the vicinity of two heritage items listed on Schedule 5 of Rockdale Local Environmental Plan 2011 being Primrose House, 190 Russell Avenue, Dolls Point (Item I190) and Cook Park, located immediately adjacent to the site (Item I168). Cook Park is a major open space on the edge of Botany Bay with distinctive Norfolk Island Pines and historical associations with early developers Saywell and Cook. Established in 1886 Cook Park provides evidence of the late 19th century development of the area as the creation of the park was in direct response to the expanding urbanisation. Aesthetically the park is significant in its role as defining the character of the suburb and the edge of Botany Bay.

Accordingly, the proposal was referred to Council's Heritage Advisor for review and comment.

Council's Advisor has confirmed the following:

- *The subject development will not have an impact upon the heritage significance of Primrose House due to the distance between the two properties.*
- *The open space and landscape character of Cook Park is confined to its curtilage. The existing development along the Cook Park boundary with Russell Avenue is comprised of multi-unit residential flat buildings from the latter half of the 20th century. The properties along Cook Park have already been developed. The proposed development will be higher in density but will not impact the landscape character of Cook Park. The heritage significance of Cook Park will not be impacted by the proposed development.*

The proposal is deemed acceptable with regards to the provisions of this Clause.

6.1 Acid Sulfate Soil - Class 3

The site is located within an area identified as containing Class 3 - Acid Sulfate Soils. The provisions of this Clause are such that any works more than 1 metre below the natural ground surface require the submission of an Acid Sulfate Soils Management Plan. Accordingly, the application is accompanied by an Acid Sulfate Soils Assessment and Management Plan prepared by Environmental Investigation Services and dated 19 April 2017.

The Report indicates '*the soil samples analysed for this investigation encountered results which were above the action criteria adopted for the acid sulfate soils assessment. Based on these results, the risk of generating ASS conditions following disturbance of the natural soils for the proposed development at the site is considered to be high. An acid sulfate soil management plan (ASSMP) is required for the proposed development*'.

The Assessment Report contains a set of recommendations including procedures for groundwater seepage and dewatering during development and disposal information for the soils. Subject to the imposition of the recommended conditions, the proposal complies with the provisions of this Clause.

6.2 Earthworks

The application is accompanied by a Geotechnical Report, prepared by JK Geotechnics and dated 12 April 2017. The Report investigates geotechnical information on subsurface conditions as a basis for recommendations for the proposed civil and structural design. Excavation and earthworks to a depth of 6.0m is required to achieve an anticipated bulk excavation level (BEL) of around RL -4.0m. Resulting from investigation, the following geotechnical issues were identified:

- Bulk excavation works are to occur to a depth of 6.0m and entirely within the fill and silty sands;
- The proposed basement levels will extend below the identified natural groundwater levels, recorded between 0.7m and 1.2m depths;
- A dewatering licence will be required for the construction period and a detailed application will have to be made to DPI Water.

Some of the following recommendations are made:

1. A dilapidation report be undertaken, both externally and internally, on the western adjoining property and the road condition of Russell Avenue for the extent of the allotment width. Detailed surveys should also be carried out of the buried services and note made of any that are likely to be sensitive to displacement;
2. Excavation works shall be complemented by reference to the Code of Practice 'Excavation Work' prepared by Safe Work Australia July 2014;
3. Permanent dewatering systems are not likely to be approved, therefore the basement will need to be tanked and designed to take the hydrostatic lateral and uplift pressures into account. The water quality must be determined to assess the need for treatment prior to discharge;
4. The retention system must be installed to a minimum depth which satisfies stability and dewatering considerations.

Subject to the recommended conditions contained within the Report, the proposed development will have minimal impact on the amenity of surrounding properties with respect to drainage patterns and soil stability. The provisions of this Clause are satisfied.

6.4 Airspace operations

The subject site is affected by the Obstacle Limitation Surface (OLS) which is set at 80 to 90 metres AHD. The proposed development seeks a maximum building height of 19.2 metres AHD contained well below the OLS, have minimal adverse impact on the OLS and therefore is satisfactory with regards to the provisions of this Clause.

6.6 Flood Planning Land

The subject site is identified as flood affected and the application is accompanied by a Flood Advice Letter issued by Council and dated 24 February 2016. The Letter nominates a minimum habitable floor level of 2.50m AHD in addition to nominated floor related development controls including that fill be limited to the building footprint and under the driveway. The application was referred to both Council's Development Engineer and Strategic Asset Engineers for review and comment to ensure the proposed development satisfies the relevant objectives as listed:

- (a) to minimise the flood risk to life and property associated with the use of land;
- (b) to allow development on land that is compatible with the land's flood hazard, taking into account projected changes as a result of climate change; and
- (c) to avoid significant adverse impacts on flood behaviour and the environment.

Cardno were engaged to undertake an assessment of the pre- and post-development impacts on the

flood behaviour and surrounding environment, particularly with regard to the extent of fill which is not limited to the building footprint. Cardno's assessment concludes '*the post-development scenario is considered to not have a significant adverse impact (noting the RLEP clauses) on flood behaviour at neighbouring properties*'.

Council's Strategic Asset Engineer has reviewed the proposal and confirmed there is an increase in depth of flooding on Russell Avenue north of the site between 0.01 and 0.02m and Council concurs this is not a significant increase and therefore acceptable. The modelled results show a decrease in flood depth to the west of the site and the reduction may reflect the impact of the proposed stormwater infrastructure within the site which reduces potential floodwater. Recommended conditions are imposed on the draft Notice of Determination.

The proposed development therefore acceptable with regards to the provisions of this Clause.

6.7 Stormwater

The objective of this Clause is to minimise the impacts of urban stormwater on the site to which development applies; adjoining properties; native bushland and receiving waters. The application was accompanied by Concept Stormwater Plans and Certification prepared by AJ Whipps Consulting and dated December 2017, which was referred to Council's Development Engineer for review and comment. The following matters were raised:

1. *Council's Flood Advice Letter dated 24 February 2016 requested filling to be limited to the building footprint. The plans indicate that the basement is elevated and all landscaping areas are to be elevated as well. Revised plans shall demonstrate the proposal maintain fill to the ground floor building footprint and all outdoor patio's be suspended where possible;*
2. *The Stormwater Management System does not consider water quality improvements as per Council's Technical Specification. Reference is made to Section 7.5.2 regarding targets for Urban Stormwater Improvement Conceptualisation model. A soft copy of this model shall be provided for Council;*
3. *Connections to the channel shall be limited to one connection. All subsoil drainage pipes shall be eliminated and basement levels shall be noted as tanked, due to the presence of the high water table;*
4. *It is not clear how the overflow from the rainwater tank being located in the lower basement level shall operate;*
5. *An oil separate system shall be incorporated into the basement design in accordance with Section 7.54 of Council's Technical Specifications;*
6. *Basement pump out calculations are to be provided to Council in accordance with Council's Technical Specifications.*

Revised and additional information prepared by AJ Whipps Consulting was submitted to Council's Development Engineer on 7 May 2018 for consideration. In particular, the following responses were provided in relation to each of the above items:

1. Council's Flood Advice Letter stated that Council requires all habitable floor levels to be at a minimum 2.50m AHD, which is 1.15m above the average natural ground level. The area of raised landscaping outside of the building footprint proposed in the DA design is 508sqm, illustrated by areas highlighted in red below. The Flood Study referred to in Council's Flood Advice Letter identified the area of raised landscaping equates to 0.016% of the catchment area. As a result, it is concluded that the impact of raised landscaping as proposed would have a negligible impact on the flood levels within both the catchment area and is therefore satisfactory with regards to stormwater and flood matters. Council's Development Engineer

agreed with this statement and solution.

2. The site sits upon deep sand and the site itself can be seen as a treatment system for stormwater flows. The landscaped/permeable area has a treatment capability recognised to be a more environmentally and cost efficient response rather than a mechanical system which would require regular maintenance and cost in excess of \$150,000.00. Council's Development Engineer agreed with this statement and solution.
3. AJ Whipps stated by utilising the existing three channel outlets, the development retains existing conditions which are beneficial to the channel and the catchment as opposed to a single outlet which will concentrate flows to a point, causing scour and condition issues. Council's Development Engineer agreed with this statement and solution.
4. AJ Whipps stated the overflow from the RW tank will operate under a charged system, which is a standard solution for residential property development. Council's Development Engineer agreed with this statement and solution.
5. Revised stormwater plans Drawing C03 incorporates an oil separator system into the proposed Basement Level deemed acceptable by Council's Development Engineer.
6. Revised stormwater plans also incorporate basement pump out calculations, deemed acceptable by Council's Development Engineer.



Figure 3. Extent of raised landscaping shown in red.

Based on the above, Council's Development Engineer is satisfied the proposed development satisfies the relevant provisions with respect to urban stormwater. Subject to recommended conditions, the provisions of this Clause are satisfied.

6.12 Essential services

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

specific requirements for the provision of services on the site.

S4.15 (1)(a)(iii) - Provisions of any Development Control Plan

The following Development Control Plan is relevant to this application:

Rockdale Development Control Plan 2011

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

Relevant clauses	Compliance with objectives	Compliance with standard/provision
4.1.1 Views and Vista	Yes	Yes - see discussion
4.1.2 Heritage Conservation - Vicinity of Heritage Item	Yes	Yes - see discussion
4.1.3 Water Management	Yes	Yes - see discussion
4.1.3 Flood Risk Management	Yes	Yes - see discussion
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 - see discussion
4.1.9 Lot size and Site Consolidation - Residential flat buildings	Yes	Yes - see discussion
4.2 Streetscape and Site Context - General		
4.2 Streetscape and Site Context - Fencing	Yes	Yes - see discussion
4.4.1 Energy Efficiency - Residential	Yes	Yes - see discussion
4.4.2 Solar Access - Residential Flat Buildings and Shop Top Housing	Yes	No - see discussion
4.4.3 Natural Lighting and Ventilation - Residential	Yes	Yes - see discussion
4.4.4 Glazing - General Controls	Yes	Yes - see discussion
4.4.5 Visual privacy	Yes	Yes - see discussion
4.4.5 Acoustic privacy	Yes	Yes - see discussion
4.5.1 Social Equity - Housing Diversity and Choice	Yes	No - see discussion
4.5.2 Social Equity - Equitable Access	Yes	Yes - see discussion
4.6 Parking Rates Residential Flat Buildings	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 - see discussion
4.6 Driveway Widths	Yes	Yes - see discussion
4.6 Basement Parking - Residential Flat Buildings	Yes	Yes - see discussion
4.6 Design of Loading Facilities	Yes	No - see discussion
4.6 Car Wash Facilities	Yes	Yes - see discussion
4.7 Air Conditioning and Communication Structures	Yes	Yes - see discussion
4.7 Waste Storage and Recycling Facilities	Yes	Yes - see discussion
4.7 Service Lines/Cables	Yes	No - see discussion
4.7 Laundry Facilities and Drying Areas	Yes	Yes - see discussion
4.7 Letterboxes	Yes	Yes - see discussion
4.7 Hot Water Systems	Yes	Yes - see discussion
7.6 177 Russell Avenue, Dolls Point	Yes	Yes - see discussion

Relevant clauses	Compliance with objectives	Compliance with standard/provision
7.6 Development setbacks	Yes	Yes - see discussion
7.6 Building Height – Storeys	Yes	Yes - see discussion
7.6 Landscaped area and deep soil	Yes	Yes - see discussion
7.6 Building Design	Yes	Yes - see discussion

4.1.1 Views and Vista

The siting of the proposed residential flat development will ensure there is minimal adverse impact to surrounding and available views experienced in a south-easterly and easterly direction by surrounding development.

The Land and Environment Court has established 'planning principles' in relation to impacts on views from neighbouring properties. In *Tenacity Consulting Pty Ltd v Warringah Council (2004) NSWLEC 140*, Roseth SC states that the 'notion of view sharing is involved when a property enjoys existing views and a proposed development would share that view by taking some of it away for its own enjoyment.

In deciding whether or not view sharing is reasonable, Commissioner Roseth set out a four (4) step assessment in regards to what will constitute a 'reasonable sharing of view'. The steps are as follows:

1. *Description and assessment of views to be affected by the proposal and the value of these views.*
2. *Ascertain whether view retention expectations are realistic. Consider from what part of the property the views are obtained.*
3. *Assess the extent of the impact for the whole property. The impact should be qualified on a scale of negligible to devastating.*
4. *Assess the reasonableness of the proposal that is causing the impact, taking into account any non-compliance that is causing view loss (A development that complies with all the planning controls would be more reasonable than one that breaches them).*

The Applicant provides the following comments with respect to the above considerations:

The existing 2 level buildings at 177 Russell Avenue already block the majority of the views of the park to the south of 166 Russell Avenue. Minimal views could be available, in between the subjects sites buildings, however would be limited through the canopy of the 2 Magnolias which are located in the centre of the site (shown below).

The above image shows the residents of 166 Russell Avenue enjoy limited views in a south easterly direction towards Cook Park and Waradiel Creek. These views will not be impacted by the proposal.

The Applicant provides the following comments with respect to the western adjoining development at 173 Russell Avenue:

The apartments located at 173 Russell Avenue have balconies along its eastern facade currently overlooking the subject site. Views from the balconies along the lower levels of the RFB are already impacted by the existing western building and its hipped roof as well as the existing vegetation on the site.

Views to the south, to Waradiel Creek and Peter Depena Reserve, will not be impacted by the

proposed development (as shown in the figures below).

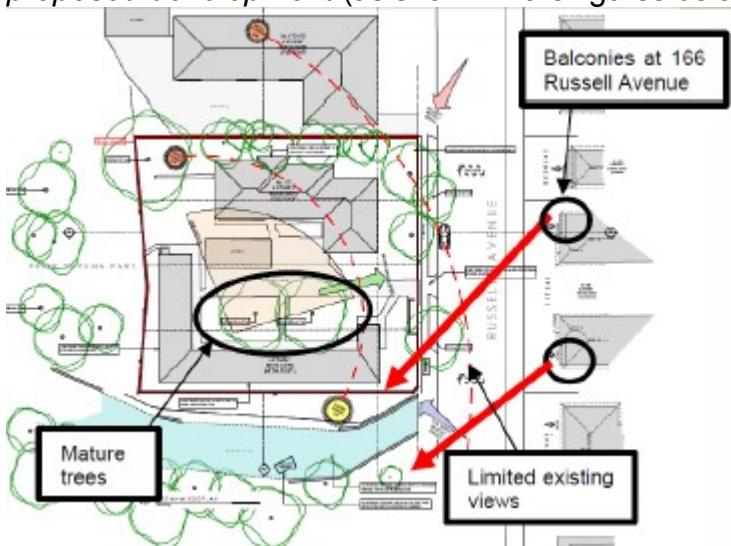


Figure 4.



Figure 5. View assessment (supplied by Applicant).

As demonstrated above, the subject views are to the east and south east towards Waradiel Creek and Cook Park. The views, whilst offering a level of amenity, are not iconic, and are already interrupted by the existing development and Magnolia trees. Further, the ADG contains a number of design considerations relating to building separation and minimum distance provisions to which the proposal generally complies. Where the development seeks a minor variation to the required building separation along the western allotment boundary, the portion of non-compliance is appropriately articulated with additional privacy screens. In this regard, the proposed development does not unreasonably affect or impose upon views which may be experienced by surrounding developments. It is deemed unrealistic to require the subject application to reduce either the development height or floor area given Council had resolved to endorse the PP relating to its increase.

The proposed development will not detract from, neither contribute to, views which may be experienced from the surrounding street network or public places and is acceptable with regards to this Clause.

4.1.2 Heritage Conservation - Vicinity of Heritage Item

As discussed in the above body of this Report, the subject site is located within the vicinity of two heritage items listed on Schedule 5 of Rockdale Local Environmental Plan 2011 being Primrose House, 190 Russell Avenue, Dolls Point (Item 190) and Cook Park, located immediately adjacent to the site (Item I168). Cook Park is a major open space on the edge of Botany Bay with distinctive Norfolk Island Pines and historical associations with early developers Saywell and Cook. Established in 1886

Cook Park provides evidence of the late 19th century development of the area as the creation of the park was in direct response to the expanding urbanisation. Aesthetically the park is significant in its role as defining the character of the suburb and the edge of Botany Bay.

Accordingly, the proposal was referred to Council's Heritage Advisor for review and comment. Council's Advisor has confirmed the following:

- *The subject development will not have an impact upon the heritage significance of Primrose House due to the distance between the two properties.*
- *The open space and landscape character of Cook Park is confined to its curtilage. The existing development along the Cook Park boundary with Russell Avenue is comprised of multi-unit residential flat buildings from the latter half of the 20th century. The properties along Cook Park have already been developed. The proposed development will be higher in density but will not impact the landscape character of Cook Park. The heritage significance of Cook Park will not be impacted by the proposed development.*

The proposal is deemed acceptable with regards to the provisions of this Clause.

4.1.3 Water Management

As discussed in the above body of this Report, the proposed development is deemed acceptable with regards to stormwater management with the proposed system deemed to have minimal impacts on Council's existing drainage network and in accordance with Council's Technical Specification - Stormwater Management.

Subject to recommended conditions, the provisions of this Clause are satisfied.

4.1.3 Flood Risk Management

This matter is discussed in depth under Clause 6.6 of the RLEP 2011 above.

Council's Strategic Asset Engineers have undertaken an assessment with regards to the flood risk management considerations and in particular, additional information provided by Cardno and dated 25 May 2018, which undertakes detailed flood modelling for the development relating to flood behaviour and pre- and post-development conditions. The investigation confirms that the post-development scenario is considered to not have a significant adverse impact on flood behaviour at neighbouring properties. On this basis, Council's Strategic Asset Engineers have confirmed the proposal satisfies provisions relating to flood risk management in accordance with the provisions of this Clause.

The proposed development is acceptable in this regard.

4.1.3 Groundwater Protection

Bulk excavation work to a depth of 6.0m is required for the proposed basement level construction, well below the identified groundwater table (less than 0.7m below natural ground level). As discussed under Clause 6.2 of the RLEP 2011 above, the application is accompanied by a Geotechnical Report, prepared by JK Geotechnics and dated 12 April 2017. The Report recommends certain mitigation works which are to be implemented during construction phase to minimise impacts to groundwater. This includes dewatering during construction phase and the implementation of a tanked basement level design.

Council's Development Engineer has determined the proposal satisfactory with regards to groundwater protection, subject to recommended conditions. The provisions of this Clause are satisfied.

4.1.4 Soil Management

Subject to standard conditions relating to general erosion and sediment control strategies, the potential for impact on adjoining land and surrounding waterways shall be minimised. The provisions of this Clause are therefore satisfied.

4.1.7 Tree Preservation

This matter is discussed in depth under the Vegetation SEPP above. The application and associated documentation, including the Arboricultural Impact Assessment Report, prepared by The Arborist Network, Reference No. CD1628B and dated 12 December 2017, was referred to Council's Tree Management Officer for review and comment.

The proposal, including the protection and retention of the large Oak tree in the south western corner of the site, is considered acceptable with regards to the provisions of this Clause by the relevant Officer.

4.1.9 Lot size and Site Consolidation - Residential flat buildings

Consolidated, the site achieves a primary frontage of 47.5 metres and hence satisfies the provisions of this Clause.

4.2 Streetscape and Site Context - Fencing

As detailed on the accompanying Elevational Plans and shown below, a feature fence and wall is proposed for the northern; eastern and southern allotment boundaries with a top wall height of RL+2.500 in accordance with Council's Flood Plain requirements and a 1m palisade feature fence on top. Fencing along the northern elevation incorporates a feature stone wall and signage (which shall be considered under the Codes SEPP) with individual apartment pedestrian entry points along northern; eastern and southern elevations. Soft landscaping is offered forward of fencing which responds appropriately to the sites spatial characteristics and legibility of the urban environment.

A 1.8m high boundary fence is proposed for the western allotment boundary.



Figure 6. Northern Elevation (fencing detail), Drawing No. DA.13, Revision A.

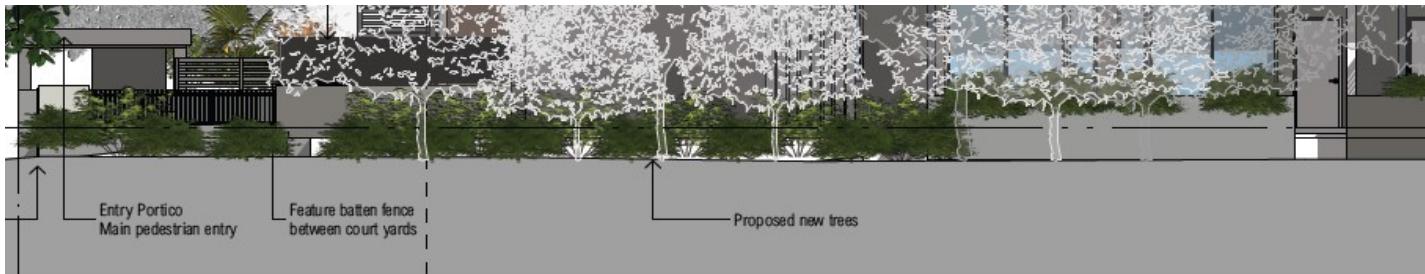


Figure 7. Western Elevation (fencing detail), Drawing No. DA.16, Revision A.

4.4.1 Energy Efficiency - Residential

As discussed in the above body of this Report, the application is accompanied by Multi Dwelling BASIX Certificate No. 862441M and dated Monday 20 November 2017. The Certificate demonstrates the proposed development satisfies the relevant thermal comfort, water and energy commitments as required by the SEPP BASIX and the provisions of this Clause. These commitments are also noted on the accompanying architectural plans.

The proposed development is acceptable in this regard.

4.4.2 Solar Access - Residential Flat Buildings and Shop Top Housing

Minimum solar access requirements under the DCP 2011 are superseded by those contained within the ADG and discussed in the above body of this Report. Additionally, the application is accompanied by Shadow Diagrams which demonstrate the proposed development will not have adverse shadow impacts to adjoining development. Whilst there is some additional shadows cast onto Cook Park, impacts are deemed minimal and acceptable in this regard.

4.4.3 Natural Lighting and Ventilation - Residential

The proposal incorporates minimum FCL's of 3.1m in accordance with the provisions of this Clause.

4.4.4 Glazing - General Controls

As confirmed in the accompanying BASIX Certificate, the development incorporates several glazing types including low and double glazed windows to mitigate energy loss and unwanted energy gains. Additionally, the Applicant submits that the highly articulated facade with recessive elements and deep balconies provides natural shading to each facade with the following additional design features used:

- *'Deep balconies that extend far enough to shade summer sun, but allow winter sun to penetrate living areas;*
- *Shadowing devices such as balconies; external louvres and planter boxes;*
- *Fixed screens to a portion of north facing windows;*
- *Vertical shadowing to east and particularly western facing windows; and*
- *Operable shadowing to allow adjustment and choice'.*

The proposed development is acceptable with regards to the provisions of this Clause.

4.4.5 Visual privacy

Visual privacy requirements under the DCP 2011 are superseded by those contained within the ADG and discussed in the above body of this Report. The proposal is determined to provide a reasonable level of visual privacy between the adjoining properties and is acceptable with regards to residential

development within an R4 - High Density Residential zone and therefore, the provisions of this Clause.

4.4.5 Acoustic privacy

The application is accompanied by an Acoustic Assessment, prepared by Renzo Tonin and dated 16 November 2017. The Report presents an assessment of noise intrusion into, and operational noise from the proposed residential. The following potential acoustic items were identified:

- Existing traffic noise along Russell Avenue;
- Noise generated from the existing mechanical plant on neighbouring buildings intruding into the proposed development;
- Noise emission from the proposed mechanical plant impacting neighbouring buildings; and
- Noise and vibration generated from construction activities and associated equipment impacting neighbouring buildings.

The Report contains a set of recommendations which are imposed on the draft Notice of Determination to ensure that predicted noise levels remain in accordance with Australian Standard AS 2436; Councils Codes and Policies and other related pieces of legislation.

4.5.1 Social Equity - Housing Diversity and Choice

The development offers the following unit mix:

Unit mix	DCP Requirement	Proposed	Compliance
1 bedroom	10-30%	4 x 1 bedroom = 11%	Yes
2 bedroom	50-75%	13 x 2 bedroom = 36%	No
3 bedroom or more	10-20%	19 x 3 bedroom = 53%	No
Adaptable	10%	4 = 11 %	Yes

The Applicant submits the following with regards to the numerical non-compliance:

- *'The proposal will provide a public benefit in terms of removal of outdated, non-compliant and unattractive buildings which are no longer suitable for the occupants housing needs and will be replaced by a high quality, well designed building;*
- *The apartment mix has been informed by research of the local housing market and is considered appropriate given the sites location and the undersupply of owner occupier three-bedroom apartments in the area;*
- *The apartments have been specifically designed for the ageing demographic of Dolls Point and surrounding suburbs to downsize from their existing homes without having to leave their community or support network. The vacated homes resulting from local residents downsizing creates an opportunity for young families to move into the area'.*

Council has previously supported variations to the DCP unit mix requirement where the Applicant has suitably demonstrated market demand requires as such. The variation is deemed acceptable in this instance.

4.5.2 Social Equity - Equitable Access

The application is accompanied by an *Accessibility Design Review*, prepared by ABE Consulting and dated 11 December 2017. The Report provides an assessment of the proposal in relation to Part D3, Clause F2.4 and Clause E3.6 Deemed-to-Satisfy requirements of the BCA 2015; the DDA; relevant housing provisions of the Rockdale DCP 2011, and pertinent Australian Standards. The Report concludes that the development can readily achieve compliance with these provisions and therefore satisfies the provisions of this Clause also.

4.6 Parking Rates Residential Flat Buildings

Parking for the residential flat development shall be wholly contained within the two level basement car park, accessible via a new crossover within the Russell Avenue frontage. The existing crossover shall be removed. The development provides the following parking mix:

Unit mix	DCP Requirement	Proposed	Compliance
4 x 1 bedroom	1 space/1 bedroom unit	4	Yes
13 x 2 bedroom	1 space/2 bedroom units	13	Yes
19 x 3 bedroom or more	2 spaces/3 bedroom units	38	Yes
Visitors	1 space/5 units	7	Yes
Bicycle	1 space/10 units	4	Yes
Motorcycle	1 space/15 dwellings	3 x spaces in Basement Level 2	Yes

The development satisfies the parking requirements of the DCP 2011.

The development also provides the following accessible parking spaces deemed satisfactory by Council's Development Engineer:

Accessible and Ambulant Parking	DCP Requirement	Proposed	Compliance
Residents	1 space/adaptable unit	4 x accessible	Yes
Visitor	At least 1 visitor space accessible	1 x accessible space in Basement Level 1	Yes

4.6 Car Park Location and Design

The proposed development incorporates a 5.5m wide vehicle footway crossing at the north western allotment corner fronting Russell Avenue. Two way movement is accommodated between all levels and where not achieved, convex mirrors are provided, with the application accompanied by a swept path analysis and detail confirming the design is in accordance with AS2890.1. Council's Development Engineer has confirmed, subject to conditions, the provisions of this Clause are satisfied.

4.6 Vehicles Enter and Exit in a Forward Direction

Forward entry and exit is achieved in accordance with the provisions of this Clause.

4.6 Driveway Widths

Council's Development Engineer has confirmed the 5.5m width of the access driveway complies with the provisions of Council's Technical Specifications and therefore is satisfactory with regards to this Clause.

4.6 Basement Parking - Residential Flat Buildings

All parking provided to satisfy Council's DCP 2011 requirements are wholly contained within the proposed basement levels in accordance with the provisions of this Clause. Additionally, the parking access and arrangements have been assessed and demonstrated compliance against the requirements of AS2890.1:2004 with reference to Class 1a residential facilities in addition to parking requirements for angled parking.

4.6 Design of Loading Facilities

Council's Technical Specifications require that an SRV loading and unloading space is to be provided

within the site. The Applicant has sought a variation to this based on the following:

- *The site is situated in an area which is subject to flood and the development therefore requires flood mitigation measures to be incorporated into the design of the driveway;*
- *Driveway crest levels and head height clearances required under the relevant Australian Standards cannot be achieved and/or is not practicable within the basement level;*
- *There are adequate on-street parking spaces along the site frontage to enable servicing to be conducted on street; and*
- *Council has previously permitted a similar scale development in Ramsgate Beach by the same applicant to be serviced on street.*

In addition to the above, should Council consider at-grade loading facilities, the reduction in landscaped areas would have a significant streetscape and amenity impact for both residents and the surrounding community. At-grade facilities would also require an additional driveway crossing, posing potential vehicular and pedestrian conflicts. The variation is deemed acceptable on the basis of the above and supported in this instance.

4.6 Car Wash Facilities

One (1) car wash facility is provided within the proposed Basement Level 1.

4.7 Air Conditioning and Communication Structures

Plans do not depict the location of proposed residential air conditioning units. Accordingly, a condition is imposed on the draft Notice of Determination requiring the units to be obscured from public view should they be provided. Subject to conditions, the development is acceptable with regards to this Clause.

4.7 Waste Storage and Recycling Facilities

The application is accompanied by a Waste Management Plan, prepared in accordance with Council's Technical Specifications and acceptable in this instance. In relation to the ongoing waste management, servicing is proposed to be undertaken on-street as per the existing site arrangements. The Applicant seeks a variation to the provisions of this Clause on the basis of the following:

- The site is flood affected and the development incorporates a minimum driveway level of RL 2.50 AHD in accordance with the flood advice letter issued by Council;
- This limits the access ramp into the basement to a grade of 1:4 (25%), exceeding the maximum grade of 1:6.5 for a commercial vehicles;
- Access by a commercial service vehicle therefore, cannot be achieved.

Service areas are provided within the basement car park and it will be the responsibility of the building manager to move bins from the basement to the kerb for collection and return. As this aligns with the general context of the surrounding area, the variation is supported in this instance.

4.7 Service Lines/Cables

The proposed development includes the provision of a substation as the existing electrical infrastructure within the surrounding area is operating at maximum capacity. The Applicant's consultant electrical engineer had investigated the upgrading of the existing substation, however, has been advised by Ausgrid that this unfeasible due to its age. As such, a new substation is required having additional capacity for future development and additional load requirements.

Typically, a new substation would be required to be located forward of the site along the northern allotment boundary. The Applicant submits the location of such infrastructure will detract from the

architectural significance of the proposal and will have a less than desirable impact upon the streetscape. An existing substation is located on the eastern side of Waradiel Creek, currently screened from view by landscaping (refer below).



Figure 8. Image of existing substation (Supplied)

Council had previously advised that discussions regarding the location of the substation be addressed during DA stage. The proposal has been referred to Council's Development Manager for review and comment who has confirmed Council has no objection to the relocation of the proposed substation. Works relating to its location remains the Applicant's concern and risk. Council will incur no cost to deliver the outcome for the Applicant and there is no connection with the VPA which has already been executed.

4.7 Laundry Facilities and Drying Areas

The development provide internal laundry facilities to each residential unit in accordance with the provisions of this Clause. A condition is imposed on the draft Notice of Determination requiring a by law to restrict the use of balconies for clothes drying purposes. The proposed development is therefore satisfactory with regards to the provisions of this Clause.

4.7 Letterboxes

Letterboxes are discreetly integrated into the development fronting Russell Avenue in accordance with the provisions of this Clause.

4.7 Hot Water Systems

A condition is imposed on the draft Notice of Determination which requires hot water systems on balconies of dwellings to be encased in a recessed box with the lid/cover designed to blend with the development. All associated pipe work is to be concealed. Subject to conditions, the proposed development is acceptable with regards to this Clause.

7.6 177 Russell Avenue, Dolls Point

The site is subject to a site specific DCP and an assessment against the development standards contained therein demonstrates compliance has been achieved.

7.6 Development setbacks

The building footprint is established in accordance with site specific building setbacks as per the following figures:

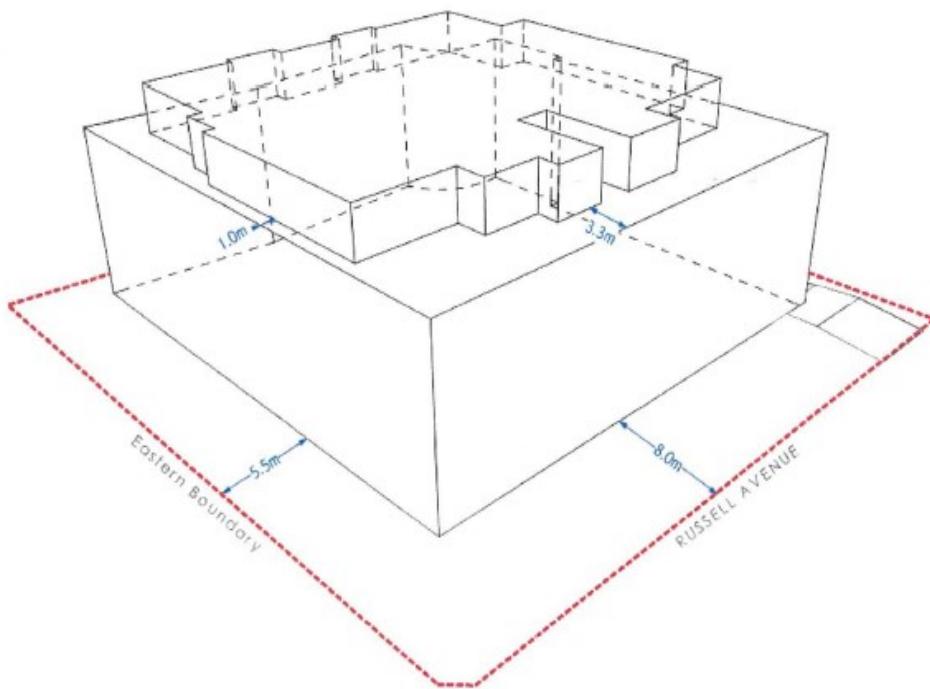


Figure 9. Compliant primary and side setbacks

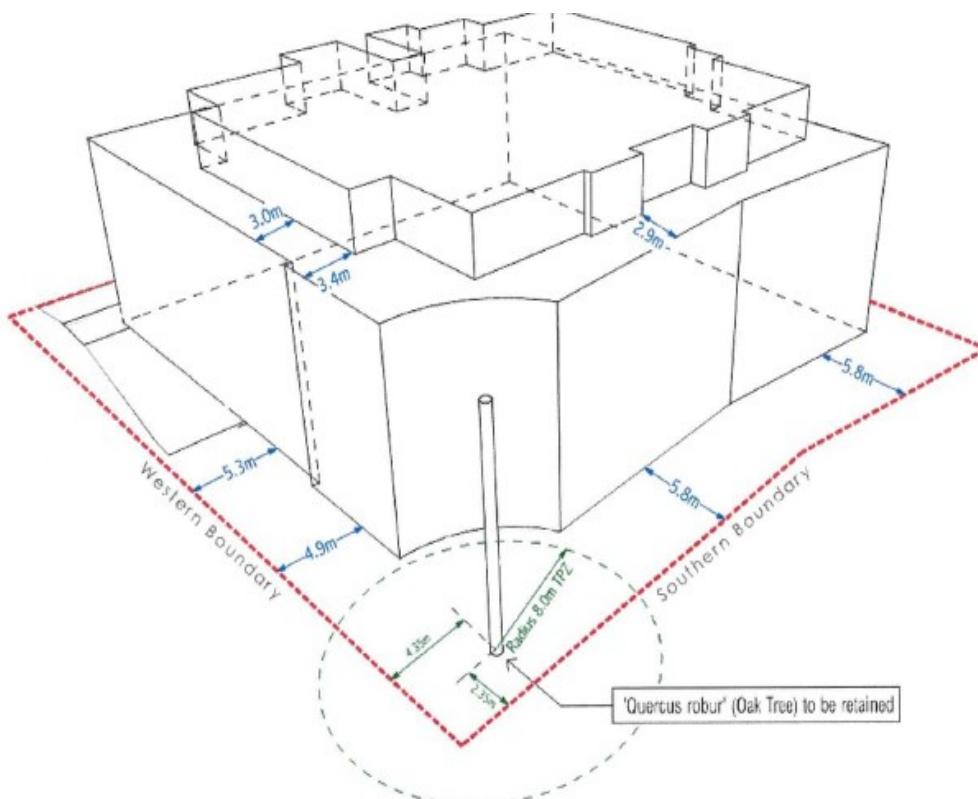


Figure 10. Compliant side and rear setbacks

7.6 Building Height – Storeys

The proposed development complies with the maximum number of storey levels above the flood planning level (RL 2.500) being five (5). Additionally, Level 5 is provided with increased setbacks as

shown in Figures 9 and 10 above with an additional 3.3m primary setback from the floor below.

7.6 Landscaped area and deep soil

The proposed development complies with the minimum landscaped area to be no less than 35% of the site area. Additionally, no less than 20% of the site area is to be deep soil planting. Deep soil zones are located around the perimeter of the site to create a landscaped interface with adjacent public spaces.

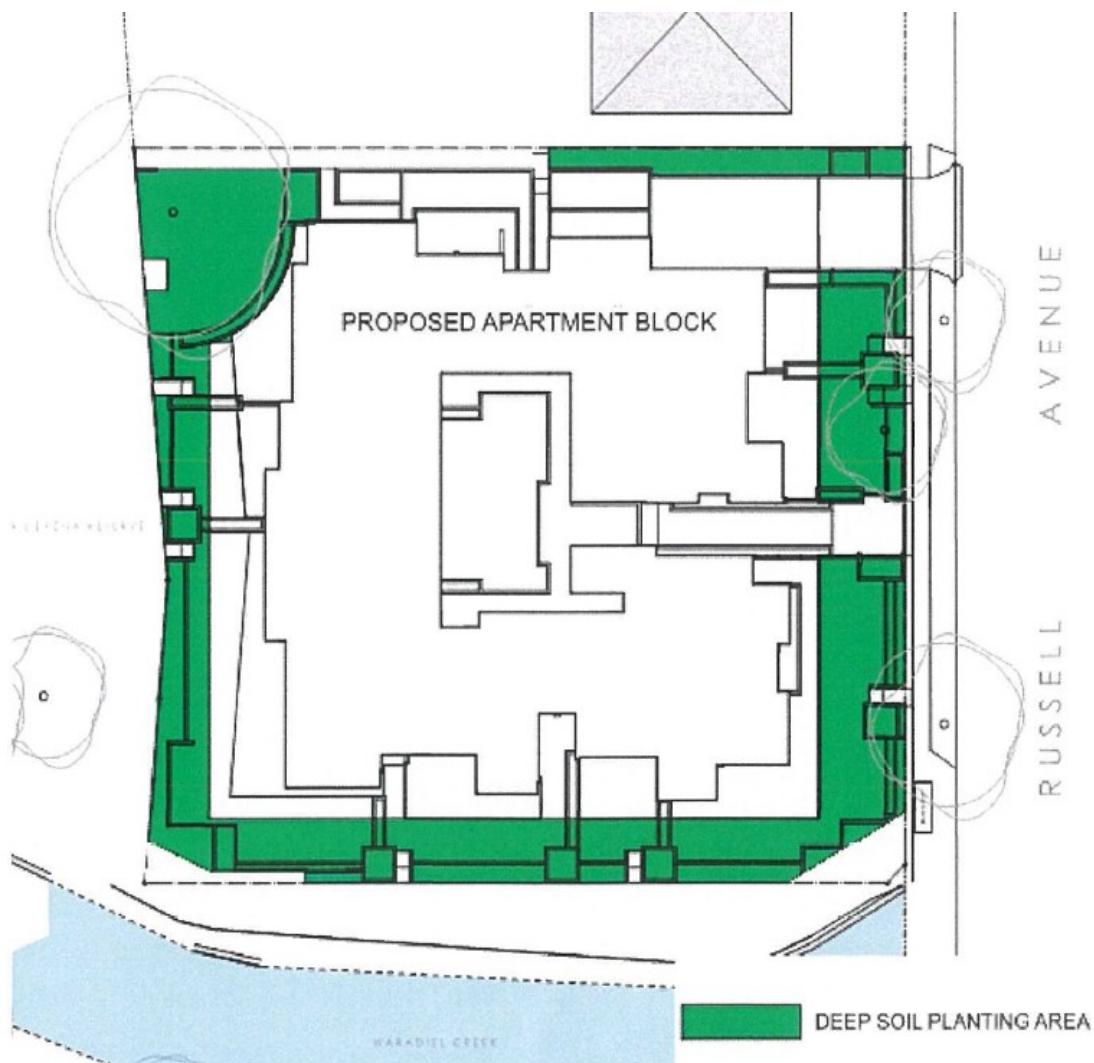


Figure 11. Quantum and indicative location of deep soil planting.

7.6 Building Design

The proposed development incorporates direct access to and from ground floor residential units to the public spaces which they adjoin. Perimeter fencing is also of an open style to promote casual surveillance with soft landscaping incorporated to offer privacy whilst maintaining casual surveillance.

S4.15C(1)(a)(iiia) - Planning Agreement or Draft Planning Agreement

A Voluntary Planning Agreement (VPA) was executed on 4 May 2018, the Parties of which are Bayside Council and the War Widows' Guild of Australia NSW Limited. The subject of the VPA includes the payment of a monetary Development Contribution and the dedication of land to enable the future construction of a pedestrian path and cycleway adjacent to the eastern allotment boundary.

Condition 8 of the draft Notice of Determination requires the works to be executed prior to the issue of the first Occupation Certificate in respect of the Development listed in Schedule 3 of the VPA.

S4.15(1)(a)(iv) - Provisions of regulations

The proposed development is not inconsistent with the relevant provisions of the *Environmental Planning and Assessment Regulation*, 2000.

4.15(1)(b) - Likely Impacts of Development

The proposed development provides a positive planning outcome by generating the following public benefits outlined below:

Social Impact

The NSW State Government adopted the *Eastern City District Plan* in March 2018. Favourable consideration of the development will result in the net generation of six (6) residential units or 82 bedrooms which assist in meeting the 0-5 year housing supply target (2016-2021) for the Bayside LGA, which is 10,150 dwellings in total.

Construction

Standard conditions are imposed relating to construction works, including restrictions on hours.

Public Domain

The proposed development will not impede upon pedestrian access for Russell Avenue or the adjoining Waradiel Creek and/or Peter Depena Reserve.

Utilities

All utilities remain available to the site. Potential impacts are deemed negligible, rather, the development will provide for a new Ausgrid substation which will have additional capacity for future development or additional future load requirements to service the existing homes and units in the area, as well as any upgrade works to Le Beach Hut.

Access, Traffic and Transport

Sufficient off street parking facilities are provided for vehicles within the site. The traffic generated from the proposed development is determined to pose negligible impacts to the surrounding street network in terms of traffic flow efficiency; road safety and residential amenity. The site is located in close proximity to local bus services also with one located forward of the property boundary.

Urban Renewal

The proposed development will encourage urban renewal within the established suburb through the replacement of the existing and ageing buildings with an appropriate built form, benefiting the broader locality by enhancing and improving both the site and Russell Avenue streetscape.

Reference is also made to the VPA executed on 4 May 2018 which incorporates a range of public benefits including land dedication and monetary contributions to improve existing and provide new community infrastructure for the local community.

S4.15(1)(c) - Suitability of the site

All matters relating to the suitability of the site for the proposed development, have been considered in the assessment of the application. Recommended conditions of consent are imposed on the draft Notice of Determination in accordance with relevant referral outcomes. There remains no known major physical constraints; environmental impacts; natural hazards or exceptional circumstances that would hinder the suitability of the site for the proposed development.

S4.15(1)(d) - Public submissions

The proposal was notified and advertised in accordance with the provisions of Rockdale DCP, 2011, and Regulations, 20000, and eight (8) submissions were received, one (1) of which is a duplicate. One (1) submission neither accepts or rejects the proposal; two (2) submissions relate to the draft DCP and one (1) submission relates to both the draft DCP and the proposal. Issues raised in the submissions are discussed below.

The PP and draft DCP have been adopted by Council and the matter cannot be considered further in the assessment of the subject application.

Issue 1: *Draft DCP*

Comment: Objections were raised in relation to the draft DCP which was prepared, exhibited and endorsed as a result of the PP. The draft DCP and its provisions do not relate to the application and therefore not a consideration in this regard.

Issue 2: *Protection of the Oak Tree located in the south western corner of this site.*

Comment: This matter is discussed in depth in the above body of this Report and deemed satisfactory under Vegetation SEPP discussions and Part 4.1.7 Tree Preservation of the DCP 2011. Prior to the design of the development, the applicant engaged a level 8 arborist to undertake an assessment of the site and the Oak Tree to ensure its long term health both during and after the construction of the proposed development. The recommendations for its retention and protection are imposed as a condition on the draft Notice of Determination.

Issue 3: *Building Height*

Comment: Concerns were raised regarding the overall building height. This is discussed under Clause 4.3 of the RLEP 2011 assessment above and deemed satisfactory with respect to both the numerical provisions and objections which support them. Some objections included the development not being in '*keeping with the low level residential*' nature of the surrounding development in which reference is made to both the site and its surrounds as zoned R4 - High Density Residential under the RLEP 2011.

Issue 4: *Setting a precedent for the future development in the area*

Comment: The Applicant offers the following response with respect to concerns the subject development will set a precedent for future development in the area:

- *Discussions with Council regarding the development site goes back over two years;*
- *Undertaking a 16+ month process with Council which culminated in the approval of the PP on 13 December 2017. This process included the preparation of the PP; extensive community consultation regarding the PP; the preparation, notification and execution of VPA to ensure local community benefits; an assessment of the proposals merits by the Bayside Planning Panel; and preparation of the site specific DCP;*
- *The unique location of the site and its proximity to Peter Depena Reserve with only one adjoining neighbour to the west will not set a precedent for the area.*

Issue 5: Overshadowing

Comment: Overshadowing has been examined under the SEPP 65 and ADG assessment in the above body of this report. Accompanying Shadow Diagrams demonstrate the development does not overshadow any habitable rooms at the western adjoining residential development No. 173 Russell Avenue and does not cast a shadow on either the land or the building at No. 171 Russell Avenue at any point. The proposed development has demonstrated to be satisfactory with regards to solar access

requirements under the ADG and DCP 2011.

Issue 6: Setbacks

Comment: This matter is examined and deemed satisfactory in accordance with the site specific DCP under Part 7.6 of DCP 2011. Additionally, side setbacks are up to 1.5m in excess of the standard setback provisions under Part 5 of the DCP 2011 for residential flat development. The rear setback has demonstrated to be consistent with the prevailing rear setbacks along the southern side of Russell Avenue as shown in the figure below.



Figure 12. Assessment of the existing and proposed rear setbacks along the southern side of Russell Avenue (Supplied).

Issue 7: Access to private landscaped areas

Comment: Private landscaped areas are accessible from ground floor level residential units with a level transition excluding 100mm required for waterproofing.

Issue 8: Bulk and scale

Comment: Concerns were raised regarding the apparent bulk and scale of the development which is discussed under the SEPP 65 assessment above. The applicant submits the '*predominant horizontal elements of the facade; the carefully designed articulation of the building and the tiered landscaping effectively screening the podium level required by Council's Flood Plain controls will ensure the building is in keeping with the bulk and scale of the streetscape*'.

This matter is deemed satisfactory under the Section 4.15 assessment of the *Environmental Planning and Assessment Act, 1979*.

Issue 9: The number of proposed apartments on the site

Comment: The proposed development is 100% compliant with applicable density controls for the site, including those subject of Amendment 18 to the RLEP 2011. Unit mix requirements under the RDCP 2011 are suitably justified in the above body of this Report and deemed acceptable in this regard.

Issue 10: *Traffic and Parking*

Comment: Concerns were raised regarding traffic and parking impacts. The design of the basement level parking in accordance with the *Traffic and Parking Assessment*, prepared by PTC, which confirms compliance with all relevant Australian Standards and legislative requirements.

Issue 11: *Bayside Council to undertake a cost benefit analysis on the project*

Comment: Reference is made to the VPA which has allocated \$450,000 for upgrade works to Peter Depena Reserve and the dedication of land for a future bike path to benefit the local community. This is imposed as Condition 8 on the draft Notice of Determination which requires works to be executed prior to the issue of the first Occupation Certificate for the development.

Issue 12: *Surveying of Dolls Point Residents*

Comment: There is no requirement for surveying of residents to occur under the *Environmental Planning and Assessment Act, 1979*, nor *Environmental Planning and Assessment Regulations, 2000*. Nonetheless, both Helm and Council have undertaken various community consultation processes including both notification and advertising for both the PP and DA providing the community with ample opportunity to comment on the proposal. No further consideration is required in this regard.

S4.15(1)(e) - Public interest

The application has been assessed in accordance with the relevant provisions of the *Environmental Planning and Assessment Act, 1979*; which requires an assessment against the provisions of the following:

- *State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development and the associated Apartment Design Guidelines*;
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*;
- *Rockdale Local Environmental Plan, 2011*;
- *Rockdale Development Control Plan, 2011*.

The development complies with the relevant provisions contained within each of the above listed environmental planning instruments and applicable development control plan. It is considered the proposal has merit, remains in the public interest and is recommended for approval on this basis.

S7.11 Contribution towards provision or improvement of amenities or services

Council's S7.11 Contributions Planner has confirmed that a Contribution Payment of \$116,025.68 is payable in accordance with Council's Policy and accordingly, imposed as a condition on the draft Notice of Determination. This calculation includes the 17/18 indexation, but will be indexed again on 1 July 2018 if payment has not been received.

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.	Drawn by	Dated	Received by Council
Architectural Plan Set			
Ground Level, Drawing No. DA.05, Revision A	PCA Architects	24.11.17	15.12.17
Level 1, Drawing No. DA.06, Revision A	PCA Architects	24.11.17	15.12.17
Level 2, Drawing No. DA.07, Revision A	PCA Architects	24.11.17	15.12.17
Level 3, Drawing No. DA.08, Revision A	PCA Architects	24.11.17	15.12.17
Level 4, Drawing No. DA.09, Revision A	PCA Architects	24.11.17	15.12.17
Roof Level, Drawing No. DA.10, Revision A	PCA Architects	24.11.17	15.12.17
Basement Level 1, Drawing No. DA.11, Revision B	PCA Architects	23.04.18	23.04.18
Basement Level 2, Drawing No. DA.12, Revision B	PCA Architects	23.04.18	23.04.18
Elevations 1, Drawing No. DA.13, Revision A	PCA Architects	24.11.17	15.12.17
Elevations 2, Drawing No. DA.14, Revision A	PCA Architects	24.11.17	15.12.17
Elevations 3, Drawing No. DA.15, Revision A	PCA Architects	24.11.17	15.12.17
Elevations 4, Drawing No. DA.16, Revision A	PCA Architects	24.11.17	15.12.17
Section A.A, Drawing No. DA.17, Revision A	PCA Architects	24.11.17	15.12.17
Section B.B, Drawing No. DA.18, Revision A	PCA Architects	24.11.17	15.12.17
Materials and Finishes, Drawing No. DA.38, Revision A	PCA Architects	24.11.17	15.12.17

Pre-Adaptable Units, Drawing No. DA.39, Revision A	PCA Architects	24.11.17	15.12.17
Post-Adaptable Units, Drawing No. DA.40, Revision A	PCA Architects	24.11.17	15.12.17
Entry Driveway, Drawing No. DA.41, Revision A	PCA Architects	24.11.17	15.12.17
Landscape Plan Set			
Landscape Plan - Ground Level, Drawing No. MBD_17RA_02, Issue E	Myles Baldwin Design	01.05.18	07.05.18
Irrigation Plan, Drawing No. MBD_17RA_10, Issue A	Myles Baldwin Design	26.04.18	07.05.18
Engineering Plan Set			
Stormwater Services Ground Floor Plan, Drawing No. C05, Revision DA7	AJ Whipps Consulting Group	27.04.18	07.05.18
Basement 1 Floor Plan, Drawing No. C04, Revision DA4	AJ Whipps Consulting Group	24.04.18	07.05.18
Basement 2 Floor Plan, Drawing No. C03, Revision DA5	AJ Whipps Consulting Group	24.04.18	07.05.18
Erosion and Sediment Control Plan, Drawing No. C01, Revision DA3	AJ Whipps Consulting Group	13.12.17	15.12.17
Erosion and Sediment Control Details, Drawing No. C02, Revision DA1	AJ Whipps Consulting Group	08.12.17	15.12.17
Level 1 Plan, Drawing No. C06, Revision DA3	AJ Whipps Consulting Group	13.12.17	15.12.17
Level 2 Plan, Drawing No. C07, Revision DA2	AJ Whipps Consulting Group	13.12.17	15.12.17
Level 3 Plan, Drawing No. C08, Revision DA2	AJ Whipps Consulting Group	13.12.17	15.12.17
Level 4 Plan, Drawing No. C09, Revision DA2	AJ Whipps Consulting Group	13.12.17	15.12.17
Roof Plan, Drawing No. C10, Revision DA2	AJ Whipps Consulting Group	13.12.17	15.12.17
Details Sheet, Drawing No. C11, Revision DA1	AJ Whipps Consulting Group	12.12.17	15.12.17

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

maintained in accordance with BASIX Certificate Number 862441M and dated Monday 20 November 2017 other than superseded by any further amended consent and BASIX certificate.

Note: Clause 145(1)(a1) of the Environmental Planning & Assessment Regulation 2000 provides: A certifying authority must not issue a construction certificate for building work unless it is satisfied of the following matters: -

- (a1) that the plans and specifications for the building include such matters as each relevant BASIX certificate requires.

Note: Clause 154B(2) of the Environmental Planning & Assessment Regulation 2000 provides: "A certifying authority must not issue a final occupation certificate for a BASIX affected building to which this clause applies unless it is satisfied that each of the commitments whose fulfilment it is required to monitor has been fulfilled."

Note: For further information please see <http://www.basix.nsw.gov.au>.

6. 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.
7. 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 S4.55 application and approval under the EP&A Act.
8. A Voluntary Planning Agreement (VPA) in accordance with c.f. Section 93F of the *Environmental Planning and Assessment Act, 1979*, providing payment of a monetary Development Contribution and the dedication of land to enable the future construction of a pedestrian path and cycle way adjacent to the Land was executed on 4 May 2018. These works shall be executed prior to the issue of the first Occupation Certificate in respect of the Development in accordance with Schedule 3 of the VPA.

Development specific conditions

The following conditions are specific to the Development Application proposal.

9. 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.
10. Temporary dewatering of the site to enable the construction of the subsurface structure shall not be carried out unless a permit has been issued pursuant to the Water Management Act 2000, and, in the case where water is to be pumped into the public road, a permit has been issued pursuant to the Roads Act 1993.
11. The off-street parking areas associated with the subject development shall be designed strictly in accordance with AS2890.1 and AS2890.6.

Prior to issue of the construction certificate

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

12. 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 \$13,197.00. 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.

13. 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.

14. A Section 7.11 contribution of \$116,025.68 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 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 7.11 contributions plan in the following manner:

Open Space	\$63,264.33
Community Services & Facilities	\$11,046.38
Town Centre & Streetscape Improvements	\$5,711.31
Pollution Control	\$14,165.60
Plan Administration and Management	\$730.08
Local Infrastructure and Facilities Contribution	\$21,107.98

Copies of Council's Section 94 (Section 7.11) Contribution Plans may be inspected at Council Customer Service Centre, Administration Building, 444-446 Princes Highway, Rockdale.

15. In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance or owner builder's permit in force in accordance with Part 6 of that Act, that such a contract or permit is in place.

16. Prior to the issue of the Construction Certificate, the approved plans must be submitted to Sydney Water Tap in™ online service to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met.

Sydney Water's Tap in™ online service is available at:

<https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>

17. The subsurface structure shall be designed with a waterproof retention system (ie 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 "floatation" (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.

18. As the basement floor 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) That the all recommendations contained in the Geotechnical Report prepared by JK Geotechnics and dated 12 April 2017 and Acid Sulfate Soil Assessment Report prepared by EIS Investigation Services and dated 19 April 2017 shall be implemented.
 - (b) Provide a certificate that the construction certificate plans are satisfactory from a geotechnical perspective and
 - (c) Prepare a Construction Methodology report demonstrating that the proposed construction methods (including any excavation, and the configuration of the built structures) will have no adverse impact on any surrounding property and infrastructure. The report must be submitted with the application for a Construction Certificate for the relevant stage of works.
 - (d) Inspect the works as they progress. The Inspections are to occur at frequencies determined by the geotechnical engineer.
 - (e) 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.

19. The design of stormwater drainage facilities shall be undertaken in accordance with Council technical specifications for the design of stormwater management facilities, and the principles of Water Sensitive Urban Design (WSUD). The stormwater management system is to meet the targets as follows;

Stormwater Pollutants	Outcome
Gross Pollutant	90%
Total suspended solids (TSS)	80%
Total Phosphorus (TP)	55%
Total Nitrogen (TN)	40%

20. Prior to the issue of the Construction Certificate for the approved development, A Flood Risk Management Plan, prepared by a qualified practicing Civil Engineer must be provided to the satisfaction of the Certifying Authority. Flood impacts on the site shall be assessed for the 100 year ARI and Probable Maximum Flood (PMF) storm

events. The Plan must make provision for the following:

- Recommendations on all precautions to minimise risk to personal safety of occupants and the risk of property damage for the total development.
- Types of materials to be used to ensure the structural integrity of the building to immersion and impact of velocity and debris.
- Flood warning signs/depth indicators for areas that may be inundated.
- A flood evacuation strategy.

21. Prior to the issue of a Construction Certificate for the approved development, all proposed connections to Sydney Water channel shall be approved by Sydney Water and all connections shall be completed to the satisfaction of Sydney Water.
22. Any part of the proposed building located adjacent to the existing pipeline/ channel shall be constructed in a way that would not affect the structural integrity of the asset.
23. A dedicated car wash bay is required. A tap shall be provided. A sign shall be fixed saying 'Car Wash Bay'. The runoff shall be directed and treated as per Rockdale Technical Specification Stormwater Management. Details shall be provided with the plans accompanying the Construction Certificate to the satisfaction of the Certifying Authority.
24. All surface runoff shall be directed through a proprietary oil and sediment filtration system prior to discharge. Details of the pit type, location, performance and manufacturer's maintenance and cleaning requirements shall be submitted and approved prior to the issue of the construction certificate.

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

25. Prior to the issue of the Construction Certificate, detailed drainage design plans for the management of stormwater are to be submitted to Principal Certifying Authority for assessment and approval. Design certification, in the form specified in Rockdale Technical Specification Stormwater Management, and drainage design calculations are to be submitted with the plans. Council's Rockdale Technical Specification Stormwater Management sets out the minimum documentation requirements for detailed design plans. Stormwater management requirements for the development site, including the final discharge/end connection point, must comply with Rockdale Technical Specification Stormwater Management.

Due to the site being located at the catchment outlet point, On Site Detention is not required to be provided

26. Prior issue of Construction Certificate for the approved development, the approved Landscape Plan shall be submitted to Council for assessment. The amended Landscape Plan shall address the following:
 - The area adjacent to Waradiel Creek alongside the eastern allotment boundary shall be planted with mainly natives. (Refer to Council's Technical Specifications - Landscape, Coastal Areas Plant list and Indigenous plant list, <https://www.rockdale.nsw.gov.au/development/Pages/pdf/Development/TS-Landscape.pdf>.)
 - There shall be an increase number of native plants with between 70% to 80% of planting species to be indigenous.
 - The eastern allotment boundary area between fences and public domain (including groundcovers under *Magnolia grandiflora*) shall be planted with a broad variety of native grasses, rushes and hedges: *Juncus kraussii*, *Baumea articulata*, *Carex appressa*, *Dianella brevipedunculata*, *Dianella caerulea*,

- The area between property fence and boundary along south and eastern boundaries shall also include some native shrubs or small trees
- Revised plans shall replace *Hedera helix* with native groundcovers; *Lomandra "Tanika"*, *Dianella caerulea 'Brezze'*, *Hibbertia scandens*, *Viola hederacea*, *Ajuga reptans*, *Casuarina 'Cousin It'*.
- The approved common open space on Podium shall remove the two (2) *Hp*, *Harepullia pendula* in planter box adjacent to dining area of Unit G.07 and replace with medium deciduous trees (Recommended *Lagerstroemia indica* or *Fraxinus 'Aurea'*) to allow sun and light access to living area in winter of units G.07.

Planter boxes constructed over the concrete slab shall be built in the accordance with the following:

- Soil depths shall be in accordance with the Part 7.5 Special Precincts, 177 Russell Avenue Dolls Point, Control 1 of Landscape Area and Deep Soil. The base of the planter must be screened to ensure drainage to a piped internal drainage outlet of a minimum 90mm diameter with no low points elsewhere in the planter. There are to be no external weep holes;
- A concrete hob or haunch shall be constructed at the internal joint between the sides and base of the planter to contain drainage to within the planter;
- Planters are to be fully water waterproofed and sealed internally with a proprietary sealing agent and applied by a qualified and experienced tradesman to eliminate water seepage and staining of the external face of the planter. All internal sealed finishes are to be sound and installed to manufacturer's directions prior to back filling with soil. An inspection of the waterproofing and sealing of edges is required by the Certifier prior to backfilling with soil;
- A drainage cell must be supplied to the base and sides of the planter to minimise damage to the waterproof seal during back filling and facilitate drainage. A proprietary brand filter fabric and backfill with an imported lightweight soil suitable for planter boxes compliant with AS 4419 and AS 3743. Install drip irrigation including to lawns;
- Finish externally with a suitable paint, render or tile to co-ordinate with the colour schemes and finishes of the building.

27. The preservation of existing vegetation will continue to provide a natural landscaped buffer to the proposed built form. A Tree Preservation Order applies to existing Oak to be retained on site and on Council's land, accordingly they are required to be retained and protected. The property owner is also required to ensure the protection and preservation of trees on adjoining properties, in close proximity to the proposed development and/or property boundaries. Any tree removals, canopy pruning or trimming of large tree roots (40mm diameter or more) requires the written consent of Council's Tree Preservation Officer under separate application.

A suitably project Arborist (AQF level 5 or greater) is to be engaged to advice on compliance with conditions of consent relating to the protection of trees at the site and to supervise the installation and maintenance of tree protection measures and arboricultural monitoring program required by this consent and the approved arboricultural impact assessment. Evidence of engagement of a project arborist is to be submitted to and approved by Council prior to the issue of a Construction Certificate for the approved development.

28. Prior to the issue of a Construction Certificate for the approved development, a hydraulic grade line analysis shall be undertaken regarding the proposed trunk

drainage pipe that is proposed to be connected to the channel to mitigate overland flow stormwater runoff. The analysis shall take in to consideration the 1% AEP flood level of the connection point (The Stormwater Channel) and must demonstrate that the pipe and pit system proposed will mitigate the impact of overland flow upstream. A reflux valve/flap shall be proposed within the property to mitigate backwater effects.

No stormwater pits are to be located in lands that are to be dedicated to Council as part of the VPA.

Prior to commencement of works

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

29. A dilapidation survey shall be undertaken of all properties and/or Council infrastructure, including but not limited to all footpaths, kerb and gutter, stormwater inlet pits, and road carriageway pavements, in the vicinity which could be potentially affected by the construction of this development. Any damage caused to other properties during construction shall be rectified. A copy of the dilapidation survey and an insurance policy that covers the cost of any rectification works shall be submitted to the Accredited Certifier (AC) or Council prior to Commencement of Works. The insurance cover shall be a minimum of \$10 million.
30. 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.

31. 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.

Copies of the CMP and TMP shall be submitted to Council

32. 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.

33. 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.

34. Prior to the commencement of work, Tree Protection Zones must be established in accordance with AS4970-2009 (Protection of trees on Development Sites) with protective fences at least 1.8 metres high erected around each tree which is required to be retained in accordance with the recommendations and Tree Protection Guidelines in the Arboricultural Impact Assessment Report by The Arborist Network dated 12 December 2017 . The protective fences shall consist of chain wire mesh temporary fence panels securely mounted and braced to prevent movement, shall be in place prior to the commencement of any work on site and shall remain until the completion of all building and hard landscape construction. Excavations for services, waste bins, storage of materials and equipment, site residue, site sheds, vehicle access or cleaning of tools and equipment are not permitted with the Tree Protection Zones at any time. A Project Arborist must be appointed to certify the implementation of Tree Protection measures and supervise works within the Tree Protection Zones in accordance with the recommendations and Tree Protection Guidelines in the Arboricultural Impact Assessment Report.

35. Prior to the commencement of any work on site, a sign shall be placed in a prominent position on each protective fence identifying the area as a Tree Protection Zone and prohibiting vehicle access, waste bins, storage of materials and equipment, site residue and excavations within the fenced off area.

36. 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.

37. (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.

38. 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.

39. 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.

40. 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.

41. 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 Licensed Liquid Waste Transporter. It is an offence under the provisions of the Protection of the Environment Operations Act 1997 to pollute the stormwater system.

42. 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.

43. All waste generated on site shall be disposed of in accordance with the submitted Waste Management Plan.

44. 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.

45. 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.
46. 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.
47. All contractors shall comply with the following during all stages of demolition and construction:
 - A Waste Container on Public Road Reserve Permit must be obtained prior to the placement of any waste container or skip bin in the road reserve (i.e. road or footpath or nature strip). Where a waste container or skip bin is placed in the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
 - A Road Opening Permit must be obtained prior to any excavation in the road reserve (i.e. road or footpath or nature strip). Where excavation is carried out on the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
 - A Hoarding Permit must be obtained prior to the erection of any hoarding (Class A or Class B) in the road reserve (i.e. road or footpath or nature strip). Where a hoarding is erected in the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.

- A Crane Permit must be obtained from Council prior to the operation of any activity involving the swinging or hoisting of goods across or over any part of a public road by means of a lift, hoist or tackle projecting over the footway. Permits can be obtained from Council's Customer Service Centre.
- A current Permit to Dewater or Pump Out a site must be obtained prior to the discharge of pumped water into the road reserve, which includes Council stormwater pits and the kerb and gutter. Permits can be obtained from Council's Customer Service Centre.

48. 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.

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

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

An all weather drive system or a vehicle wheel wash, cattle grid, wheel shaker or other appropriate device, shall be installed prior to commencement of any site works or activities, to prevent mud and dirt leaving the site and being deposited on the street. Vehicular access is to be controlled so as to prevent tracking of sediment onto adjoining

roadways, particularly during wet weather or when the site is muddy. Where any sediment is deposited on roadways it is to be removed by means other than washing and disposed of appropriately.

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

- viii. Any noise generated during construction of the development shall not exceed limits specified in any relevant noise management policy prepared pursuant to the Protection of the Environment Operations Act, 1997 or exceed approved noise limits for the site.
- 50. 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.
- 51. The English Oak (*Quercus robur*) located in the south western corner of the site and the existing Lophostemon and Tristaniopsis street trees located on the nature strip at the front of the site shall not be removed or pruned, including root pruning, without the written consent of Council in the form of a Permit issued under Council's Development Control Plan 2011. All other existing site trees may be removed.
- 52. Where drainage or paving works are proposed to be constructed in the area below the dripline of trees, the proposed works and construction methods must not damage the tree. Where either the trees or works were not shown in detail on the approved plans, then written approval of the Project Arborist must be obtained.
- 53. Underground Services such as pipelines or cables to be located close to trees, must be installed by boring or by such other method that will not damage the tree rather than open trench excavation. The construction method must be approved by Council's Tree Management Officer.
- 54. Existing soil levels within the drip line of trees to be retained shall not be altered without the written approval of the Project Arborist.
- 55. Existing soil levels within the drip line of trees to be retained shall not be altered without reference to Council's Tree Management Officer.
- 56. Building materials, site residue, machinery and building equipment shall not be placed or stored under the dripline of trees required to be retained.
- 57. All recommendations contained in the Arboricultural Impact Assessment Report by the Arborist Network dated 12 December 2017 shall be implemented and complied with.

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.

- 58. An Occupation Certificate shall be obtained in relation to the approved works prior to any use or occupation of the building.
- 59. 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.

60. All excess excavated material, demolition material, vegetative matter and builder's rubbish shall be removed to the Waste Disposal Depot or the Regional Tip prior to final inspection.
Note: Burning on site is prohibited.

61. All landscape works are to be carried out in accordance with the approved landscape plans prior to the issue of an Occupation Certificate for the approved development. The landscaping is to be maintained to the approved standard at all times.

62. 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.

63. 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".

64. 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.

65. The width of the double driveway at the frontage boundary shall be a maximum of 6 metres.

66. All off-street car spaces shall be provided in accordance with the submitted plan and shall be sealed and line marked to The Relevant Australian Standards

67. 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.

68. The noise reduction measures specified in the *Acoustic Assessment for Development Application*, prepared by Renzo Tonin Associates and dated 16 November 2017, shall be validated by a Certificate of Compliance prepared by the acoustic consultant and submitted to the Certifying Authority prior to the issue of an Occupation Certificate. If Council is not the PCA, a copy shall be submitted to Council concurrently.

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

70. 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.

71. 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.

72. The development shall comply with Rockdale Development Control Plan (DCP) 2011, and the Planning Considerations and Development Controls listed in the Flood Advice letter issued by Council on 24 February 2016

Roads Act

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

- construction of a concrete footpath along the frontage of the development site excluding areas adjacent to the existing bus stop ;
- construction of a new fully constructed concrete vehicular entrance;
- removal of the existing concrete vehicular entrance/s, and/or kerb laybacks which will no longer be required;
- construction of kerb and gutter, excluding areas adjacent to the existing bus stop.

74. 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.

75. Any driveway works to be undertaken in the footpath reserve by a private contractor requires an "Application for Consideration by a Private Contractor" to be submitted to Council together with payment of the application fee. Works within the footpath reserve must not start until the application has been approved by Council.

76. 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).

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. All asbestos fibre demolition material and asbestos dust shall be handled, stored and removed in accordance with the relevant legislation and guidelines including:

- Work Health and Safety Act 2011
- Work Health and Safety Regulation 2011
- Code of Practice for the Safe Removal of Asbestos [NOHSC: 2002 (2005)]
- Code of Practice for the Management and Control of Asbestos in Workplaces [NOHSC: 2018 (2005)]
- Protection of the Environment Operations (Waste) Regulation 2005

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

e. Hazardous and/or intractable wastes arising from the demolition process shall be removed and disposed of in accordance with the requirements of the relevant statutory authorities (NSW WorkCover Authority and the NSW Environment Protection Authority), together with the relevant regulations, including:

- Work Health and Safety Act 2011
- Work Health and Safety Regulation 2011
- Protection of the Environment Operations (Waste) Regulation 2005.

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

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

g. The water from the rainwater tank should not be used for drinking, Sydney Water

shall be advised of the installation of the rainwater tank.

- h. The removal, cleaning and disposal of lead-based paint shall conform with the requirements of the NSW Environment Protection Authority's guideline - "Lead Alert - Painting Your Home".
- i. All site works shall comply with the occupational health and safety requirements of the NSW WorkCover Authority.
- j. 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.