

COUNCIL ASSESSMENT REPORT

Panel Reference	2018SCL67
DA Number	DA-2018/196
LGA	Bayside Council
Proposed Development	Integrated Development - Demolition of existing structures and construction of 10 storey mixed use development including 182 dwellings, 2 show room tenancies, 3 level basement parking with access via Charles Street and Stratum subdivision into two lots
Street Address	130-140 Princes Highway & 7 Charles Street, Arncliffe
Applicant/Owner	Combined Projects (Wickham St) Pty Ltd
Date of DA lodgement	7 August 2018
Number of Submissions	12 submissions & 1 petition comprising 36 signatures
Recommendation	Approval subject to conditions
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	Development with a CIV of >\$30M
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> • Environmental Planning & Assessment Act 1979, Part 4 – Development Assessment • Environmental Planning & Assessment Regulation 2000, Part 6 – Procedures relating to Development Applications • Section 7.4 – Planning Agreements of EPA Act 1979 • State Environmental Planning Policy (State and Regional Development 2011 - Schedule 7) • State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development & Apartment Design Guide • State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 • State Environmental Planning Policy BASIX 2004 • State Environmental Planning Policy (Infrastructure) 2007 • State Environmental Planning Policy No. 55 – Remediation of Land • Rockdale Local Environmental Plan 2011 • Rockdale Development Control Plan 2011
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> • Architectural Set • Statement of Environmental Effects • Clause 4.6 – Exception to Development Standards (FSR & Height of Building)
Report prepared by	Fiona Prodromou – Senior Development Assessment Planner
Report date	October 2019

Summary of s4.15 matters Have all recommendations in relation to relevant s4.15 matters been summarized in the Executive Summary of the assessment report?	Yes
Legislative clauses requiring consent authority satisfaction Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? <i>e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP</i>	Yes
Clause 4.6 Exceptions to development standards If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	Yes

<p>Special Infrastructure Contributions</p> <p>Does the DA require Special Infrastructure Contributions conditions (S7.24)?</p> <p><i>Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions</i></p>	<p>No</p>
<p>Conditions</p> <p>Have draft conditions been provided to the applicant for comment?</p> <p><i>Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report</i></p>	<p>Yes</p>

BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number:	DA-2018/196
Date of Receipt:	3 August 2018
Property:	7 Charles Street, ARNCLIFFE (Lot 50 DP 1228056) 130 Princes Highway, ARNCLIFFE (PT 1 DP 314129) 140 Princes Highway, ARNCLIFFE (Lot 23 DP 1228044)
Owner:	Combined Projects (Wickham St) Pty Ltd
Applicant:	Combined Projects (Wickham St) Pty Ltd
Proposal:	130-140 Princes Highway & 7 Charles Street, ARNCLIFFE NSW 2205 - Integrated Development - Demolition of existing structures and construction of 10 storey mixed use development including 182 dwellings, 2 show room tenancies, 3 level basement parking with access via Charles Street and Stratum subdivision into two lots
Recommendation:	Approved
No. of submissions:	12 submissions & 1 petition comprising 36 signatures
Author:	Fiona Prodromou
Date of Report:	18 November 2019

Key Issues

The subject site is located within the Arncliffe Banksia Priority Precinct, which was rezoned by the then NSW Department of Planning on 12th October 2018. The site was rezoned from B6 - Enterprise Corridor and R2 - Low Density Residential to B4 - Mixed Use and R4 - High Density Residential, as were neighbouring and adjoining sites within the subject street block.

The subject site directly adjoins an existing 7-10 storey mixed use building to the north comprising 234 units and 6 commercial tenancies. This development was also completed by Deicorp, the developer for the subject site. It is noted that the adjoining development was the subject of a site specific Planning Proposal, prior to the rezoning of the locality.

The proposal is the first application within the subject street block bound by the Princes Highway, Wickham, Charles and Kyle Streets to proceed on the basis of the new planning controls.

The application was subject to the Design Excellence requirements of Clause 6.14 of the RLEP 2011 and was considered by the Design Excellence Review Panel (DERP). The DERP supported the scheme subject to compliance with Council's requirements in relation to the large commercial floor plate for showroom and/or similar uses which is one of the requirements under Section 7.7 of Council's DCP 2011.

Given the industrialised nature and use of the subject site, the application was accompanied by a Detailed Site Investigation (DSI) Report and Remediation Action Plan (RAP). Submitted documents stipulate that contaminant concentrations are evident within soils on the site, including but not limited to zinc, copper, nickel, asbestos and other hydrocarbons. The documents conclude that the site can be made suitable for the proposed development via the implementation of remediation works described in the RAP. The applicants consultant raised concerns with respect of potential site groundwater contamination on the subject site. The RAP concluded that a second round of groundwater sampling was required, in order to confirm/deny the aforementioned.

Given that SEPP 55, requires the consent authority to be satisfied that the site is suitable for the proposed uses prior to determination, the proposal has been conditioned to require additional investigations of groundwater as required by the submitted RAP, following the demolition of buildings to slab and prior to any other work on site. The secondary sampling will be required to be submitted to Council for review and concurrence prior to the removal of any slabs, further excavation or construction on the site.

Should additional investigations reveal that groundwater is unsuitable, a suitable site specific risk assessment including the assessment of potential soil vapour intrusion shall be completed by the applicant, and an application to amend the DA must be lodged with Council for any design amendments required to make the basement suitable for the proposed residential/commercial uses.

The proposal comprises a variation to both the FSR and Height standards applying to the subject site.

The proposed development seeks to vary the maximum height limit on site by 0.1m to 2.66m (8.5% maximum), to certain areas within the development on site, including a portion of the southern / eastern walls & windows of units A9.04 / A9.05 / A9.06, portion of roof above unit C9.03, parapet of Wing A & C and lift overruns at rooftop level. The height variation as proposed, is supported in this instance for the reasons outlined within this report.

The proposed FSR variation is of a technical nature only. Further discussion is provided within this report. The FSR variation is supported in this instance for the reasons outlined within this report.

The proposal indicates a minor variation to the building separation requirements of the Apartment Design Guide with respect of the eastern setback of balconies to units C4.03, C5.03, C6.03, C7.03 in Wing C, as these balconies are setback 6.2m from the eastern boundary in lieu of 9m + required. Additionally, terraces to units A0.02, B0.03, C0.06, C0.01 at ground level do not comply with the required 15sq/m overall area as required. The proposal has been conditioned to resolve the aforementioned appropriately with the addition of privacy screens and for terraces to the aforementioned units being increased in size.

The proposal further demonstrates proposed variations to the requirements of Rockdale DCP 2011 with regard to unit mix, solar access to adjoining undeveloped properties directly to the south, percentage of retail floor space and floor to ceiling height of showroom tenancies provided within the development. These matters have been discussed within this report and are worthy of support.

The development application has been notified in accordance with Council's Development Control Plan 2011. A total of 12 submissions & 1 petition comprising 36 signatures were received in relation to the proposed development.

The proposal has been the subject of extensive design process, and is considered to provide a positive contribution to the Arncliffe precinct. The proposal is recommended for approval subject to imposition of recommended conditions as attached to this report.

Recommendation

1. That the Sydney Eastern City Planning Panel, exercising the functions of the Council as the consent authority pursuant to s4.16 of the Environmental Planning and Assessment Act 1979 approves a variation to both the building height and floor space ratio prescribed by Clause 4.3 - Height of Buildings and Clause 4.4 - Floor Space Ratio of the Rockdale Local Environmental Plan 2011, as it is satisfied that the applicant's request has adequately addressed the matters required to be demonstrated by cl4.6 of that Plan, and the proposed development would be in the public interest as it is consistent with the objectives of those standards and objectives for development within the B4 - Mixed Use and R4 - High Density Residential zones.
2. That development application DA-2018/196 for the demolition of existing structures and construction of 10 storey mixed use development including 182 dwellings, 2 show room tenancies, 3 level basement parking with access via Charles Street and Stratum subdivision into two lots at 130-140 Princes Highway & 7 Charles Street, Arncliffe be APPROVED pursuant to s4.16(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report.
3. That the objectors be notified of the decision of the Sydney Eastern City Planning Panel.

Background

History

7 August 2018

DA submitted to Council.

15 August 2018

Letter sent to applicant requesting DA be withdrawn as proposal was prohibited under the then R2 low density residential zone.

19 August - 24 September 2018

Public notification of proposal. A total of 12 submissions & 1 petition comprising 36 signatures, have been received by Council, opposing the proposed development

25 October 2018

Briefing of Regional Panel

27 February 2019

14 day letter to applicant requesting amended plans, raising concerns including but not limited to, height, FSR, lack of Clause 4.6 - Exception to Development Standards, Building Separation, Solar Access, Internal Storage, Cross Ventilation, non compliance with DCP controls particularly Building Setbacks to Princes Highway and Floor to Ceiling Heights to Ground Floor Commercial Level, Public Domain and Landscape Design and lack of detail on State Government Public Infrastructure Contributions.

20 March 2019

Review by Design Review Panel

3 June 2019

Amended plans submitted to Council

20 June 2019

Email to applicant advising further modifications to scheme required. Issues raised on 27 February not entirely addressed.

23 August 2019

Final amended plans submitted for review.

Proposal

The proposal seeks to undertake the demolition of existing structures and construction of a 10 storey mixed use development comprising 182 dwellings (64 x 1 bed / 106 x 2 bed / 12 x 3 bed), 2 show room tenancies fronting the Princes Highway, 3 level basement parking with vehicular access via Charles Street to the rear of the property. The proposal further seeks to stratum subdivide the site into two lots to separate the residential (Lot 1) and commercial (Lot 2) components of the development.

In more detail the proposal comprises as follows;

Basement 3

98 residential car spaces, 2 motorbike spaces, 16 bicycle racks, residential storage cages, 3 x lift cores, associated pedestrian and vehicular circulation.

Basement 2

77 residential (including 19 adaptable) car spaces, 3 visitor car spaces, 12 motorbike and 8 bicycle spaces, residential storage cages, 3 x lift cores, associated pedestrian and vehicular circulation.

Basement 1

Physically separated loading / unloading bay with 12.5m diameter turntable, residential and commercial waste storage rooms, service and plant rooms, 33 visitor car parking spaces, 19 commercial car spaces, full height fencing physically delineates between visitor and commercial car parking areas, dedicated car wash bay, associated pedestrian and vehicular circulation.

Ground Level

Vehicular access via Charles Street, sandstone clad entry walls 450mm high, 1.1m - 2.3m wide planter adjoining driveway & southern common side boundary with 9 Charles Street, 4.5m - 5.2m wide planter adjoining driveway & northern common side boundary with 5 Charles Street. A range of groundcovers, plants and trees are proposed within the aforementioned landscaped areas, including consistent tree plantings 'Elaeocarpus Eumundii' (Native Quandong - mature height of 10m) adjoining northern side of driveway and 'Waterhousea Floribunda' (Weeping Lilly Pilly - mature height of 8m) adjoining the southern side of the driveway entry.

Two substations surrounded by decomposed granite are proposed 21m in from the front property boundary of 7 Charles Street, adjoining the common northern boundary of the site with 5 Charles Street.

A total of 10 x *Lophostemon confertus* (Queensland Brushbox Native - mature height 15m) are proposed to be planted along the Princes Highway frontage of the site. The development is setback 6m - 6.6m from the front property boundary. A fire hydrant booster is located adjoining the south western common side boundary, fronting the Princes Highway and enclosed in a booster cupboard. A gas meter cupboard adjoins the north eastern side boundary and fronts the Princes Highway, enclosed in a cupboard.



The ground level of the development comprises 2 x showroom tenancies fronting the Princes Highway, being 310sq/m and 450sq/m in overall area. These tenancies have a clear floor to floor height of 6.85m. The primary residential entry for the development is via the Princes Highway, the residential lobby is 7.8m in width and provided with an awning above for weather protection. Amenities including toilets and separate goods lifts are provided for the showroom tenancies.

A total of 11 residential units are provided at ground level each with their respective private open spaces. Adjoining POS of units are a number of planter boxes with screen planting to assist in delineating private and communal space. Pedestrian pathways and adjoining planter boxes with landscaping are provided along the side boundaries of the site with fire egress to the Princes Highway. Three lift cores and associated fire stairs are provided on site.

In the easternmost portion of the site, a large 603sq/m deep soil communal area is provided for future users of the site. This communal space is provided with dense medium to advanced native screen & tree planting to the perimeter including deciduous trees to mitigate scale and increase biodiversity, an entry arbour, pergola structure with bbq facilities and seating, large central turfed lawn area providing an opportunity for active and passive recreation, informal passive play area with circuit, sandstone stepping stones, slide set and cascading timber decking.



A secondary passive communal open space is provided in the north eastern corner of the site, this is above the basement level and illustrated above. This space is provided with perimeter planting, timber and concrete seating areas, mounded planter beds, ramp for access, synthetic turf nook for passive recreation and feature tree and landscape planting.

Level 1

12 residential units with adjoining private open space areas, communal corridors and foyers, lift / stair access, sprinkler water tank, toilet facilities for showroom uses, building manager room and void space to the showroom tenancies at ground level, fronting the Princes Highway.

Level 2 & 3 (per floor)

21 residential units with adjoining private open space areas, communal corridors and foyers, lift / stair access.

Level 4 / 5 / 6 / 7

20 residential units with adjoining private open space areas, communal corridors and foyers, lift / stair access.

Level 8

18 residential units with adjoining private open space areas, communal corridors and foyers, lift / stair access.

Level 9

19 residential units with adjoining private open space areas, communal corridors and foyers, lift / stair access.



Photomontage as viewed from Princes Highway



Photomontage - Rear of proposed development

Site location and context

The subject site is an irregularly shaped property comprised of eight lots, forming part of a larger site, identified as 130-140 Princes Highway & 7 Charles Street, Arncliffe. The site was recently rezoned as part of the State Government’s Arncliffe & Banksia Priority Precinct.

The site has a total frontage of 87.5m to the Princes Highway and 12.19m frontage to Charles Street. The site has a total area of 6041.7sq/m. The following lots form part of the proposed development site;

Address	Lot & DP	Site Area	Zone
140 Princes Highway	Lot 23 DP 1228044	461.1sq/m	B4 – Mixed Use
132 Princes Highway	Lot 22 DP 1228044	761sq/m	B4 – Mixed Use
	Lot 21 DP 1228044	776.8sq/m	B4 – Mixed Use
	Lot 20 DP 1228044	781.6sq/m	B4 – Mixed Use
	Lot 1 DP 126737	789.2sq/m	B4 – Mixed Use

	Lot 52 DP 1228056	622.8sq/m	R4 – High Density Residential
130 Princes Highway	Lot 1 DP314129	1166.4sq/m	B4 – Mixed Use
7 Charles Street	Lot 50 DP 1228056	682.8sq/m	R4 – High Density Residential

As noted above, the site traverses two zones, B4 Mixed Use & R4 High Density Residential & each zone is subject to a specific height and FSR requirements. B4 – Mixed Use (4736.1sq/m site area) R4 – High Density Residential (1305.6sq/m site area).

Along the frontage of the site to the Princes Highway are a number of existing vehicular crossings, Telstra pits, hydrants and a power pole in front of 132 Princes Highway.

The site is currently occupied by a number of single and two storey buildings. An existing smash repair business operates at 132 Princes Highway and an electrical wholesaler is located at 140 Princes Highway. To the rear, at 7 Charles Street is a two storey detached dwelling house. An existing Telstra telecommunications exists within the rear of 132 Princes Highway.

The topography of the site is irregular. The site has a cross fall from south (i.e. 25RL) to north (i.e. 22RL) of up to 3m. 132 Princes Highway also falls to the rear by up to 4m. i.e. 24RL at front boundary and 19.5RL rear boundary of Lot 52 DP 1228056. The property at 7 Charles Street is also positioned lower than 130 Princes Highway directly to its rear, i.e. 23.5RL along the front boundary to the Princes Highway and 16.7RL along the front boundary to Charles Street. This is a drop of up to 7m.



As existing, properties to the east within Charles Street comprise single and two storey dwelling houses, with 6 x single storey villas at 11-13 Charles Street, this property shares a common boundary with the subject site. To the south along Wickham Street are single storey detached and attached dwelling houses.

To the north adjoining the site is 108 Princes Highway, a recently completed 7-10 Storey mixed use development comprising 234 residential units, six (6) commercial units and basement car parking. This project was also undertaken by the applicant and was subject to a site specific Planning Proposal.

Opposite the subject site on the western side of the Princes Highway are a number of older style three

storey residential flat buildings. This property and surrounding sites have been rezoned for an increase in density as part of the Arncliffe Banksia Priority Precinct.

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 proposal includes excavation works for the construction of basement level car parking on site, which will transect the water-table and require temporary dewatering during the construction phase.

The proposal is therefore Integrated Development pursuant to S4.47 of the Environmental Planning and Assessment Act 1979, and requires approval from Water NSW.

WaterNSW has confirmed that the proposed development will encounter groundwater during the excavation process, and is subject to a Water Supply Work Approval under the Water Management Act 2000 for dewatering during the construction phase. If there is ongoing take of groundwater during the post construction phase, a Water Supply Work Approval and a Water Access Licence will be required.

Water NSW granted determination General Terms of Approval which have been included in the Draft Notice of Determination. The proposal is satisfactory in this regard.

S7.4 - Planning Agreements

Regional Panel Operational Procedures require Council to detail any proposed Voluntary Planning Agreement (VPA) and its relationship to the application under assessment.

In accordance with the provisions of Section 7.4 of the EPA Act 1979 (as amended), the developer has entered into a Voluntary Planning Agreement (VPA) with the Minister for Planning and Public Spaces, for the subject site, in order to provide for designated State Public Infrastructure as required by Clause 7.1 of Rockdale LEP 2011.

The VPA provides the following community benefits:

1. Contribution of \$9,119.00 per unit.
2. Bank Guarantee of \$1,650,539.00 or \$412,635.00 upon registration of VPA on title of property.

Through entering the VPA, the developer will not be excluded from S7.11 contributions, these remain payable to Council and the application has been conditioned appropriately.

This application has further been conditioned to ensure the consent operates in conjunction with the Voluntary Planning Agreement for the subject site. The proposal is satisfactory in this regard.

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:

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

The applicant has submitted a BASIX Certificate for the proposed development. The Certificate number is 941607M & the proposal results in reductions in energy and water consumption. A condition has been imposed on the consent to ensure that these requirements are adhered to.

State Environmental Planning Policy (Infrastructure) 2007

Clause 101 - Development with Frontage to Classified Road

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

The proposed development involves vehicular access to and from the site from Charles Street, a local road to the rear of the property, therefore not resulting in any vehicular openings or adverse traffic impacts onto the state road. Existing vehicular openings to Princes Highway are proposed to be removed and kerb / gutter reinstated.

Accordingly, the proposal has been sent to the Roads & Maritime Service (RMS). The authority responded on 10 September 2018 granting approval for the development subject to several conditions of consent, which have been imposed on the draft Notice of Determination. The application is consistent with the provisions of the SEPP and is acceptable in this regard.

Clause 102 - Impact of Road Noise or Vibration on Non-Road Development

The proposed development is a mixed use development incorporating substantial residential uses on site, on land in or adjacent to a road with an annual average daily traffic volume of more than 40,000 vehicles (based on the traffic volume data published on the website of the RMS) and that the consent authority considers is likely to be adversely affected by road noise or vibration. Accordingly, Clause 102 - Impact of road noise or vibration on non-road development, of SEPP Infrastructure is required to be considered as part of this assessment.

for residential use:

The consent authority must not grant consent to the development for residential use unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded:

- (a) in any bedroom in the building-35 dB(A) at any time between 10 pm and 7 am,*
- (b) anywhere else in the building (other than a garage, kitchen, bathroom or hallway)-40 dB(A) at any time.*

The proposal was accompanied by an Acoustic Report, prepared by Koikas Acoustics and dated 25/07/2018, which considered the potential impact of road noise on the proposed development.

The report concludes that the development will satisfy the noise level requirements as outlined in the SEPP, should the recommendations in the report be incorporated into construction. Accordingly, the recommendations have been incorporated as conditions in the draft Notice of Determination.

Clause 104 - Traffic Generating Development consistent with SEPP

The proposal is classified as 'traffic generating development' under Schedule 3 of State Environmental Planning Policy (Infrastructure) 2007. In accordance with clause 104(3) of the SEPP, RMS is required to be notified of the proposed development and any submissions provided by RMS are to be considered. In this regard, the proposed development was referred to RMS who did not raise any objections to the development within 21 days after the notice was given, in accordance with clause 104(3) of the SEPP.

The submitted Traffic Report states that there is no *"overall significant decrease in the performance of the local traffic network is anticipated as a result of the proposed development. There should be no warrant for any intersection upgrades as a result of traffic generated should this development be approved."* The report concludes that the proposal *"will not result in a significant increase in peak hour traffic generation"*.

The above is concurred by Councils Development Engineer and the proposed development is therefore not anticipated to have a detrimental impact upon the existing operation of the road network and is consistent with the provisions of the SEPP.

Clause 45 - Works within the Vicinity of Electricity Infrastructure

The application is subject to clause 45 of the SEPP as the development proposes works within the vicinity of electricity infrastructure and therefore in accordance with clause 45(2) the consent authority must give written notice to the electricity supply authority for the area in which the development is to be carried out, inviting comments about potential safety risks, and take into consideration any response to the notice that is received within 21 days after the notice is given.

Accordingly, the proposal has been sent to Ausgrid. As at September 2019 nil response was received, notwithstanding, standard conditions of consent have been imposed. As conditioned, the proposal is consistent with the provisions of the SEPP.

State Environmental Planning Policy (State and Regional Development) 2011

In accordance with Schedule 7, subclause (2) of the SEPP, the proposed development has a capital investment value of greater than \$30 million and accordingly is referred to the Regional Panel for determination.

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.

A portion of the site, being the lot identified as 7 Charles Street, contains trees within the rear of the site, that are subject to approval by Council under clause 4.1.7 of Rockdale Development Control Plan 2011, conferred by:

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

A total of seven (7) small trees are proposed to be removed from within the rear and front yard of the 7 Charles Street portion of the site as can be identified in the excerpt from the site survey below. The subject trees include 2 x Majestic Palms, 1 x Bangalow Palm, 1 x Olive, 1 x Mango, 1 x Macadamia, 1 x Bay tree are not considered to provide any particular biodiversity or cultural value.



An existing Tallowood street tree is located in front of 7 Charles Street, this mature tree is proposed to be retained and protected.

Proposed landscape planting for the entire site, will have a minimum of 70% of indigenous, water sensitive planting species as well as a mix of evergreen and deciduous trees to maximise solar access.

Large street trees will further be planted along the primary frontage of the site along the Princes Highway, to mitigate scale between the transit corridor and the development.

Council's Tree Officer does not raise any objections to the removal of limited existing trees on this portion of the site and standard conditions of consent are imposed to ensure landscaping is implemented on site in accordance with the plans to be approved.

Subject to compliance with the conditions of consent, the proposal is satisfactory in relation to SEPP (Vegetation in Non-Rural Areas) 2017 and Clause 4.1.7 of the Rockdale DCP 2011.

State Environmental Planning Policy No 55—Remediation of Land

The property is not identified in Council's records as being potentially contaminated. Notwithstanding the subject site is currently used for the purposes of mechanical repairs and panel beating and as such given the industrial activity occurring on the site, it is prudent to ensure the requirements of SEPP 55 are taken into consideration.

The application was accompanied by a Detailed Site Investigation (DSI) Report and Remediation Action Plan (RAP), both prepared by eiaustralia, both dated 21 January 2019. The documents stipulate that contaminant concentrations in soils on the site, including but not limited to zinc, copper, nickel, asbestos and other hydrocarbons. The documents conclude that the site can be made suitable for the proposed development via the implementation of remediation works described in this RAP.

Further to the above, concern was raised by eiaustralia with respect of potential site groundwater contamination on the subject site. The RAP concluded that a second round of groundwater sampling was required, in order to confirm/deny the aforementioned.

The proposal has been conditioned to require additional investigations of groundwater as required by the submitted RAP, following demolition of buildings to slab and prior to any other work on site. The secondary sampling will be required to be submitted to Council for review and concurrence prior to the removal of any slabs, further excavation or construction on the site.

Should additional investigations reveal that groundwater is unsuitable, a suitable site specific risk assessment including the assessment of potential soil vapour intrusion shall be completed by the applicant, and an application to amend the DA must be lodged with Council for any design

amendments required to make the basement suitable for the proposed residential/commercial uses.

Given the above, the proposal has been conditioned accordingly, to ensure remediation works are implemented on site in accordance with the RAP, and the site is deemed suitable for the development. The proposal complies with the requirements of the SEPP.

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 Design Excellence Review Panel (DERP) on 20th March 2019. The Panel supported the proposal, subject to modifications to ensure compliance with Councils DCP 2011 with regards to provision of sufficient showroom spaces with adequate floor to ceiling height at ground level, establishment of a podium with upper levels setbacks to the Princes Highway, compliance with Apartment Design Guide requirements for building separation, solar access and cross ventilation. Further comments were made by the panel with respect of landscaping, amenity and separation of commercial / residential uses in the development.

An assessment has been undertaken below.

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 DERP stated as follows with respect of the proposal.

"The Panel considers that the proposal is generally consistent with the area's desired future character subject to:

- *Compliance with the DCP in relation to the built form setbacks*
- *Revision to the public domain treatment to be compliant with the DCP*

The Panel notes the adjoining RFB is inconsistent with the future desired character and should not be used as a precedent for all future developments along the Princes Highway in this precinct. The panel accepts that some flexibility can be afforded to new development adjacent to this RFB in order to achieve an effective transition between the existing RFB and the forms established desired future character, that flexibility should not extend to simply extending the RFBs non-compliances, especially on long sites where there is adequate site area to establish effective transitions."

Comment: Original plans did not comply with the required podium height, building or public domain setbacks to the Princes Highway frontage of the property. Following a redesign the development now complies entirely with respect of the aforementioned.

The proposal as designed is consistent with Councils intended future desired character and vision for the precinct. Whilst the proposed building form differs from the existing surrounding low density residential context, it is reiterated that the immediately surrounding area, and that opposite has been rezoned to facilitate an increase in density and height, which is likely to occur in the immediate future. Adjoining sites within the rezoned area remain undeveloped to their full potential. Current planning controls permit residential flat buildings and shop top housing developments to a height of 26.5m and 31m and FSR of 2.2:1 & 2.5:1 respectively. This can accommodate development of a height, bulk, mass and scale akin to the proposal.

The proposed development is deemed to be satisfactory with regards to this principle.

Principle 2 – Built Form and Scale

The Design Excellence Review Panel was generally supportive of the built form and scale subject to the resolution of the following:

- *"The panel supports a six storey street frontage, however the building form above this level must be set back in accordance with the DCP"*

Comment: Revised plans have recessed the top levels of the development fronting the Princes Highway. The revised scheme now complies with the building setback requirements of Part 7.7 - Arncliffe & Banksia of Rockdale DCP 2011.

- *'Rear setbacks are required in accordance with the ADG'*

Comment: Rear setbacks have been increased to achieve the visual and acoustic privacy objectives of the ADG (3F). Further discussion is provided below and the proposal is deemed satisfactory as designed and conditioned with regards to building separation.

- *'Internal corridors and lift lobbies must be provided with natural light'*

Comment: The revised scheme illustrates the provision of large operable windows to common lobby areas, which ensure that natural ventilation and solar access can be provided to communal circulation spaces within the development.

- *'Adequate passive solar screening to North East and North West windows is to be provided.'*

Comment: Elevations have been revised in response to the above comment, in order to provide three varying types of screening to north eastern and north western windows and balconies of the development. Screens proposed include laser cut sliding panel screens, vertical and horizontal louvres. This matter is now resolved.

- *'Commercial tenancies are to be provided with a 7000mm floor to ceiling height for adaptability of their future use in accordance with the DCP, noting that the applicant did not provide a valid justification for departure from this requirement.'*

Comment: Plans have been revised to remove the 6 x small sized retail tenancies and provide 2 x large scale (310sq/m & 450sq/m) showroom tenancies fronting the Princes Highway, with a clear floor to floor

height of 6.85m. Whilst this is a variation of 0.15m, the proposal results in an internal floor to ceiling height of 6.55m for these tenancies. As designed, noting the variation, the ground level showroom spaces are capable of future adaptation for a number of uses. Tenancies also have the ability to be adapted to provide a mezzanine level within the rear of the tenancy should this be required by future users. As designed the proposal is deemed to be satisfactory.

- *'Solar access should, as a minimum, be compliant with the ADG'*

Comment: Revised plans demonstrate compliance with the solar access requirements and objectives of the Apartment Design Guide. A total of 127 of 182 units (70%) achieve a minimum of 2 hours of solar access in midwinter.

- *'Separation of commercial and residential uses is required, shared lifts, lobbies, corridors and vehicular interfaces are not supported.'*

Comment: Revised plans introduce separate lifts from basement level 1 to ground level for proposed showroom tenancies on site. Fencing is proposed to physically delineate between residential / commercial car parking components within basement level 1. Additionally, plans illustrate five (5) residential units at ground floor level which appear to share a lobby with the proposed showroom tenancies. i.e. Units B0.01 / B0.02 / B0.03 / A0.01 / A0.02. Two of these units (B0.01 & B0.02) comprise secondary independent access from communal open space areas. The proposal will be conditioned to require that units B0.03 / A0.01 / A0.02 are also provided with independent separate access from their terraces to offer future residents an alternative choice of entry.

The proposal provides for a compliant built form, with an appropriate and well resolved design response to the Princes Highway, given the extensive frontage of the site. The building is appropriately modulated and articulated to break the mass and length of the facade, presenting a street wall development for a height of 6 storeys with the top 3 levels recessed, in order to reduce the visual prominence and bulk of the development. This ensures an appropriate scale of development to the Princes Highway, and compatibility with future adjacent development.

The design of the proposed building form is considered to achieve the future desired character of the precinct, as envisaged by the current planning controls. The DRP was generally supportive of the proposed bulk and scale, subject to the modifications recommended, which were adhered to by the applicant in the revised scheme. The proposed building form as designed is satisfactory with respect of context and future desired neighborhood character. The proposal is satisfactory with regards to this principle.

Principle 3 – Density

The Design Excellence Review Panel stated that the *'proposal's density is generally consistent with the area's desired future character subject to the comments above being addressed. The panel notes that the transfer of GFA from R4 zoned land onto B4 properties may not be accepted and the arrangement of the built form and scale of the proposal may need to be altered.'*

Comment: The matter of FSR has been addressed further in this report. It is considered that the density as proposed is satisfactory and reflective of the desired future character of the precinct. The layout of the development has been modified to ensure that the proposal generally complies with the building separation requirements and objectives of the Apartment Design Guide. The development seeks to

avoid building bulk within the south eastern portion of the site, this provides an appropriate buffer to neighbouring properties.

The proposed density is satisfactory.

Principle 4 - Sustainability

The Panel noted 'the proposal does not achieve the minimum requirements for solar access under the ADG. As a minimum, the proposal must achieve compliance with the ADG for solar access and for cross ventilation. The proposal should be compliant with the submitted Wind Report.

The Proposal provides only the minimum standards required of any development, with very limited ESD initiatives proposed. ESD elements to consider would include compliance with the imminent revised BASIX controls, a consistent urban tree canopy to Princes Highway, provision or nomination of accessible and usable spaces for photovoltaic panels within the proposal, electric car charge stations within the basement parking and rainwater harvesting for use in landscape.'

Comment: The revised scheme complies with the requirements of the Apartment Design Guide with respect of solar access and cross ventilation. The passive solar design of the proposal is appropriate with solar access maximised to the proposed dwellings, their balconies and communal open spaces given the orientation of the site and building design.

With respect of the recommendations of the Wind Report, as outlined in Part 4.47 of this report, the proposal has been conditioned to ensure they are illustrated upon construction certificate drawings, prior to the issue of the construction certificate and implemented on site.

Further to the above, energy efficiency with respect of the proposal has been appropriately addressed by the revised BASIX certificate submitted. The proposal incorporates rainwater tank usage on site for irrigation of communal areas, car washing and further seeks to install water efficient taps, toilets, shower heads and dishwasher units. The proposal incorporates substantial tree planting on site and appropriately manages stormwater via both an on site detention and pump system as proposed. A Section J report was submitted with the application, which further details construction measures to be implemented on site in order to achieve compliance with National Construction Code requirements.

The proposal is considered to be satisfactory with regards to sustainability measures proposed.

Principle 5 – Landscape

The Panel considers the landscape design proposal to be deficient in a number of key areas:

- *'Provision of, and compliance with, the proposed future character with the public domain and streetscape interface to Princes Highway, in accordance with the DCP, including large scale canopy trees at 8000mm centres at 600Ltr sizing to non raised planter beds'*

Comment: Revised landscape plans illustrate the provision of 10 x 400L Lophostemon Confertus, spaced as required, within 1.2m depth of soil at grade. The proposal has been conditioned to require that the aforementioned trees be increased to the required 600litre pot size.

- *'The provision of podium level planter beds at only 450mm is not considered sufficient or adequate for long term planting establishment and tree health. Podium level planting should incorporate planter beds for trees with soil depths compliant with the ADG, regardless of whether this requires excavation into rock.'*

Comment: Revised landscape plans indicate planters with a minimum depth of 0.6m at podium level. This depth of soil is sufficient so as to facilitate the establishment shrubs, as noted by Table 5 - Minimum soil standards for plant types and sizes of the Apartment Design Guide. The proposal has been conditioned to require a minimum soil depth of 800mm so as to facilitate the planting of small trees 6-8m in height within the podium communal open space area.

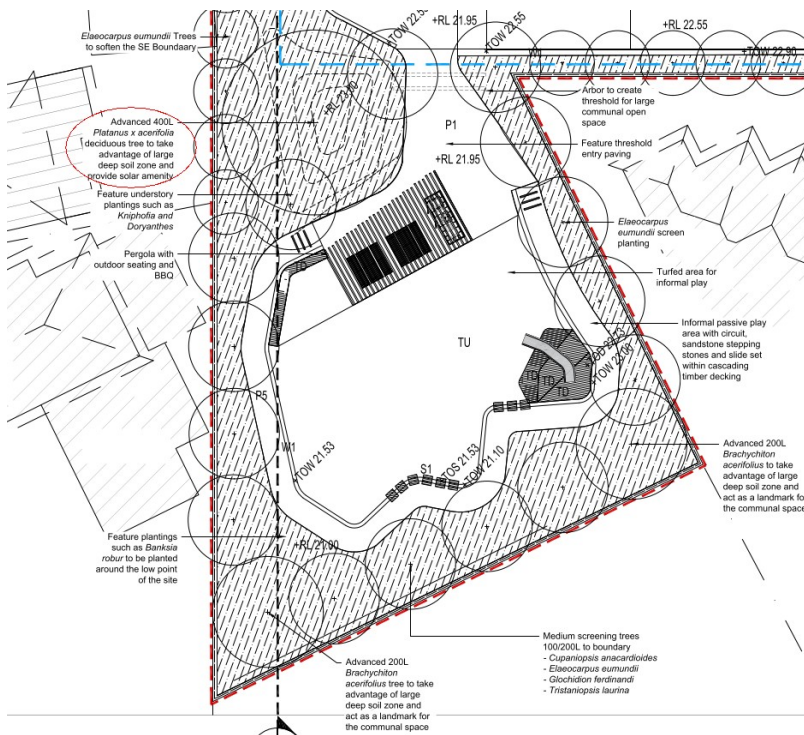
- *'The landscape design is currently an arrangement of a series of connected pathways and small passive communal spaces, with one large open lawn deep soil area to the rear. The design lacks provision of anywhere for large group communal gathering that includes BBQ facilities and active amenities with an internal layout that is zoned for a series of different uses.'*

Comment: Revised landscape plans incorporate a pergola structure, with associated bbq and seating areas within the south eastern pocket of deep soil, provided as communal space for future residents. This space has been redesigned to incorporate an expansive area of natural turf, a play circuit along the outer edge, sandstone stepping stones and slide set within cascading timber decking. This space provides variety for future users, and is designed to ensure social interaction, particularly for families with children.

The north eastern communal space as designed and previously referred to above, is designed to incorporate passive recreation nooks which are scattered to create breakout spaces for residents. This design seeks to create a balance between intimate spaces and lush planting. Cascading timber seating decks mitigate level differences whilst creating comfortable spaces for interaction of future residents.

- *'The Deep Soil area to the rear is only provisioned with three large scale canopy trees and the panel considered this space can accommodate more large and medium sized trees.'*

Comment: Table 5 - Minimum soil standards for plant types and sizes of the Apartment Design Guide, defines 'large trees' as '12m - 18m high, up to a 16m crown spread at maturity'. Revised landscape plans indicate a range of medium sized trees within the south eastern communal deep soil area within the rear portion of the site. Trees as proposed are defined medium in size and include but are not limited to 8m high Tuckeroo, 10m high native quandong, cheese tree, kangaroo grass and a 12m high Illawarra flame tree. One (1) large tree is proposed within this deep soil area on site, being 1 x Platanus x acerifolia (London Plane Tree) as circled in red below with a mature height of 15m.



Given the above, the proposal has been conditioned to require landscape plans to be revised, prior to the issue of the construction certificate, to incorporate a greater number and variety of large deciduous trees within this deep soil area on site, in order to maximise amenity and solar access on site.

- *'Demonstration that the communal landscape areas will remain compliant with solar access requirements of the ADG if adjacent sites are developed in a reasonable and compliant manner, ensuring that these sites are not subject to unreasonable and inequitable constraints.'*

Comment: A total of 2114.3sq/m of communal open space area is provided on site. This is equivalent to 35% of the site area. Two large expanses of communal area are provided on site, these are oriented appropriately to the north and east of the building proposed and will achieve direct sunlight in the AM period in midwinter.

Communal open spaces on site are located appropriately, with consideration having been given to the potential redevelopment and overshadowing impacts of adjoining sites once redeveloped. Given rear building setbacks likely required for redevelopment of adjoining sites i.e. 6m +, shadow impacts onto communal open space areas on site will be limited. The proposal is satisfactory in this regard.

Further to the above, plans illustrate that the proposal complies with and exceeds the deep soil requirement (minimum 422.8sq/m) of the ADG, via the provision of 603sq/m of deep soil on the subject site in the south eastern communal open space area on site. This area will facilitate the planting of a range of landscaping including groundcovers, shrubs and large trees capable of a mature height of up to 15m.

The proposal incorporates well designed and oriented communal open space areas on site, which are attractively designed and landscaped so as to provide amenity for future occupants. i.e. visual amenity, shade, equitable access, opportunities for social interaction etc. The proposal incorporates automated irrigation to ensure the health and survival of landscaped areas.

The proposal is satisfactory with respect of this principle.

Principle 6 – Amenity

The Panel notes that *'there should be further modelling of the solar access, to the built form and communal open spaces, that takes into account a complying development on adjacent sites (height and DCP setbacks/equivalent setbacks) in order to demonstrate that the solar access can be achieved over the long term, as adjacent sites are developed, without imposing inequitable setbacks on adjacent development.'*

Comment: Consideration has been given to the redevelopment of adjoining sites. Setbacks as provided and as required upon neighbouring sites have been considered. The proposal will retain suitable solar amenity and not adversely constrain the redevelopment of neighbouring sites.

In general with respect of the proposed development, unit layouts are well designed, with appropriately dimensioned living areas and private open spaces. The configuration, layout and design of units, their overall size, spaces & rooms are practical and will allow future users to furnish their homes in a variety of ways. Appropriate storage is also provided within units, with supplementary at basement level. Security parking is provided at basement level with direct lift access. Sufficient and well designed communal open space is provided within the development, which will encourage social interaction and maximise amenity for future occupants. The proposal is satisfactory in regards to this principle.

Principle 7 - Safety

The Panel did *"not support the shared interface between commercial and residential uses and does not consider that the current arrangement provides for a positive relationship within the site. Separation of commercial and residential uses is required, shared lifts, lobbies, corridors and vehicular interfaces are not supported."*

Comment: The above has been resolved as previously discussed within Principle 2. The proposal has been conditioned to ensure monitored security cameras are incorporated at residential / vehicular entries & within basement levels & to require the provision of clear directional signage to advise users of security measures in place. With respect to the development overall, the proposal provides for an easily identifiable, prominent & generous residential lobby from the Princes Highway frontage of the development, with showroom tenancies comprising their own individual and distinguishable entries.

Residential apartments & car parking areas on site will be accessible via a secure electronic system. Common areas will be well lit with clearly defined legible pathways. The proposal is satisfactory with regards to this principle.

Principle 8 - Housing Diversity and Social Interaction

The panel supported the proposal in relation to this principle.

Comment: The proposal provides for a varied range and size of units within the development in an accessible area close to public transport and facilities, and is capable of accommodating a varied demographic and different household types. The proposal provides communal facilities on site which are designed to encourage social interaction. The assessing officer is supportive of the proposal in regards to this principle.

Principle 9 – Aesthetics

The Panel considers that the building exhibits good design in relation to aesthetics.

Comment: The proposal incorporates a varied palette of colours and materials to including but not limited to, face brick with express concrete edges, laser cut screen to balconies to ensure sun control and privacy, metal cladding to side walls to provide variation of materials, dark grey metal cladding to upper levels to differentiate from the brick base and provide a lighter weight top to the building and continuation of off-form concrete and face brick to the rear of the building broken up with some metal cladding rather than painted render.

Materials as proposed are satisfactory, and the aesthetic design of the proposal is well resolved. These materials will provide a modern, contemporary, high quality and visually appealing development on site. The proposal is satisfactory in regards to this principle.

c. the Apartment Design Guide

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

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

CLAUSE	DESIGN CRITERIA	COMMENTS	COMPLIES
3D - Communal Open Space	25% (1510.2sq/m) Site Area 50% Direct sunlight to principle useable part of COS for min 2 hours between 9am - 3pm midwinter	2,114sq/m (35.4%) combined at ground level within two separate spaces Solar access to deep soil COS area adjoining Building C receives sufficient solar access in midwinter	Yes
3E - Deep Soil Zone	7% (422.8sq/m) site area	603sq/m	Yes

3F - Visual Privacy	Building Height	Habitable rooms & balconies	Non habitable rooms	See discussion below	Yes – as designed & conditioned
	Up to 12m (4 storey)	6m	3m		
	Up to 25m (5-8 Storey)	9m	4.5m		
	Over 25m (9+storey)	12m	6m		
4A – Solar & Daylight Access	Living rooms + POS of at least 70% (127 of 182) apartments receive min 2hrs direct sunlight b/w 9am & 3 pm mid-winter			127 of 182 (70%) apartments receive 2 hours direct sunlight in mid-winter	Yes
	Max 15% (28 of 182) apartments receive no direct sunlight b/w 9am & 3pm mid-winter			25 of 182 (13.7%) units receive nil sun in midwinter	Yes
4B – Natural Ventilation	Min 60% (110 of 182) of apartments are naturally cross ventilated in the first nine storeys of the building.			The proposed development provides 61% (100) of the apartments are naturally ventilated from levels ground to 8.	Yes
	<p>Ten storeys or > are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.</p> <p>Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.</p>			<p>Level 9 is deemed to comply with cross ventilation, balconies cannot be fully enclosed.</p> <p>Unit depth does not exceed 18m</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>

4C – Ceiling heights	Minimum ceiling heights:			Ground and partial first floor ceiling height is 6.55m. All residential floors 2.7m & 2.4m respectively in habitable / non habitable areas	Yes
	Habitable	2.7m			
	Non-habitable	2.4m			
	Mixed use	3.3m ground & first floor			
4D – Apartment size and layout	Unit	Min area		1 bed – 50sq/m to 70sq/m 2 bed – 75sq/m to 100sq/m 3 bed – 100sq/m – 110sq/m	Yes
	1 bed	50m²			
	2 bed	70m²			
	3 bed	90m²			
4E – Private open space and balconies	Dwelling	Min area	Min depth	Ground Level Terraces to both 1 and 2 bedroom units range from 10sq/m to 38sq/m. Upper Levels 1 bed – 8sq/m - 20sq/m 2 bed – 10sq/m - 23sq/m 3 bed – 12sq/m - 24sq/m	Partial – Proposal conditioned to require terraces to units A0.02, B0.03, C0.06, C0.01 be increased to a minimum of 15sq/m as required by the Apartment Design Guide.
	1 bed	8m²	2m		
	2 bed	10m²	2m		
	3+ bed	12m²	2.4m		
	Ground level, podium or similar - POS provided instead of a balcony: min area 15m² and min depth of 3m.				Yes
4F – Common circulation and spaces	Max apartments off a circulation core on a single level is eight. 10 storeys and over, max apartments sharing a single lift is 40.			Development serviced by 3 separate lift cores. Core A - 1 lift per 6 units per level Core B - 2 lifts per 10 units per level Core C - 2 lifts per 3-5 units per level	Yes

4G – Storage	Dwelling	Storage Volume	Sufficient storage provided within residential dwellings	Yes
	1 bed	6 cubic metres		
	2 bed	8 cubic metres		
	3 bed	10 cubic metres		

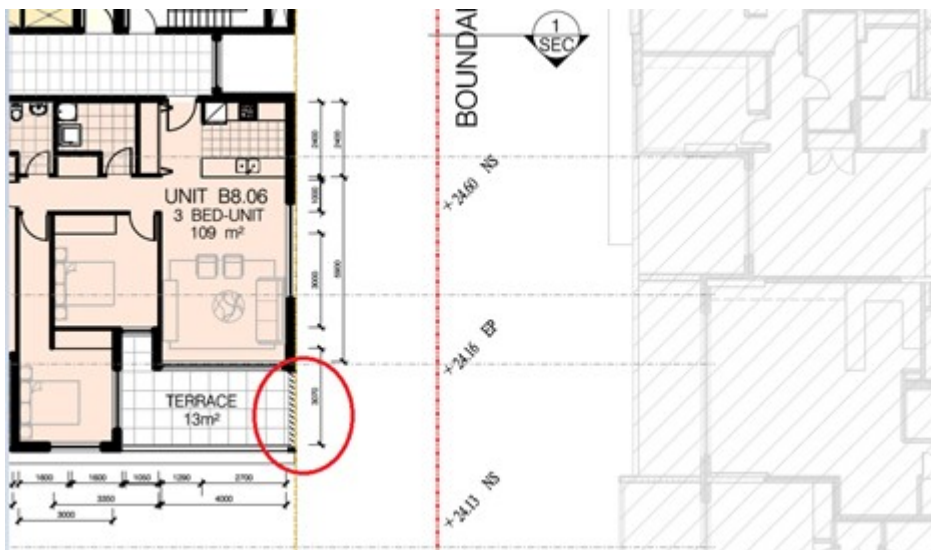
3F – Visual Privacy

The proposal provides varying building setbacks to side and rear boundaries as follows. Whilst these may illustrate a technical non compliance with the building separation requirements of the ADG, the objectives and intent of the requirement are achieved either via design as proposed, or condition as recommended and detailed below.

Northern & Southern Setbacks of Building Wing A & B

- ☐ All levels - 4.5m side setback from blank walls / highlight windows to adjoining northern development. This is satisfactory as designed.
- ☐ Levels 7 – 9, Wing B - Plans indicate the provision of privacy louvres to the north eastern side of balconies to units B7.06, B8.06, B9.06.

The proposal has been conditioned to ensure privacy screens to aforementioned units are implemented during construction, to maximise visual amenity between proposed and existing habitable areas of northern neighbouring dwellings which are 10m apart i.e. 4.5m as proposed northern setback + 6m setback on adjoining northern site.



Southern Setback of Building Wing C

- ☐ Ground – Level 3 – Plans indicate a southern side setback of 7.59m – 9.69m to blank walls & highlight windows. This is satisfactory as designed.
- ☐ Level 4 to 7 – 9.18m – 17.3m. This is satisfactory as designed.
- ☐ Level 8 - 9 – 12m – 17.3m. This is satisfactory as designed.

Northern Setback of Building Wing C

- ☐ All levels – Plans indicate a northern side setback of 27.5m – 31.4m to habitable rooms, windows and balcony spaces. This is satisfactory as designed.

Eastern Setback of Building Wing C

□ Ground – Level 7 – Plans indicate an eastern side setback of 6m – 9.3m to highlight windows of bedrooms / living areas and balcony spaces.

The proposal will be conditioned to require full height fixed privacy screens to the eastern side of balconies to units C4.03, C5.03, C6.03, C7.03 as these balconies are setback 6.2m from this eastern boundary in lieu of 9m + required by the ADG. As conditioned, sightlines from these balconies will be limited and adverse privacy impacts to future potential development to the east will be unlikely.

□ Level 8 – 9 – Plans indicate an eastern side setback of 9.3m – 10m to highlight windows of bedrooms and living areas. Balconies to units at this level are setback in excess of 12m from this boundary. This is satisfactory as designed.

Given the above, the proposal is considered to satisfy the objectives of Part 3F - Visual Privacy of the Apartment Design Guide and the proposal is appropriate in this regard.

Rockdale Local Environmental Plan 2011

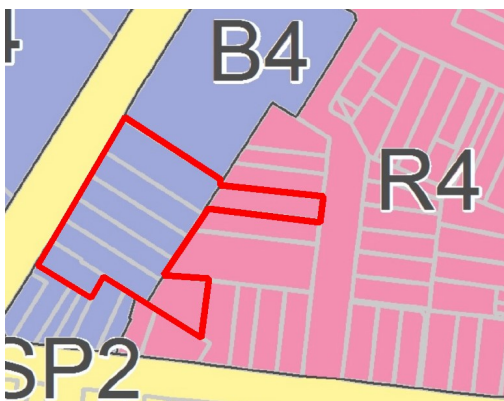
Relevant clauses	Compliance with objectives	Compliance with standard/provision
2.3 Zone R4 High Density Residential	Yes	Yes - see discussion
2.3 Zone B4 Mixed Use	Yes	Yes - see discussion
2.6 Subdivision - consent requirements	Yes	Yes - see discussion
2.7 Demolition requires consent	Yes	Yes
4.3 Height of buildings	Yes	No - see discussion
4.4 Floor space ratio - Residential zones	Yes	No - see discussion
4.6 Exceptions to development standards	Yes	Yes - see discussion
6.1 Acid Sulfate Soil - Class 5	Yes	Yes - see discussion
6.2 Earthworks	Yes	Yes - see discussion
6.4 Airspace operations	Yes	Yes - see discussion
6.11 Active Street Frontages	Yes	Yes - see discussion
6.12 Essential services	Yes	Yes - see discussion
6.14 Design excellence	Yes	Yes - see discussion
Part 7 Intensive urban development areas	Yes - see discussion	
7.1 Arrangements for designated State public infrastructure	Yes	Yes - see discussion
7.2 Public utility infrastructure	Yes	Yes - see discussion
7.3 Relationship between Part and remainder of Plan	Yes	Yes

2.3 Zone R4 High Density Residential

The proposal seeks to provide a "Road" and "Private Open Space" area on that part of the site zoned R4 - High Density Residential, in order to facilitate vehicular access to the proposed development and accomodate an area of communal private open space for the future residents of the development.

Both uses as proposed are permissible with consent and shall provide facilities which meet the day to day needs of residents.

Accordingly, the proposed uses are satisfactory with regards to the objectives and requirements of the R4 - High Density Residential zone.



2.3 Zone B4 Mixed Use

The proposal seeks to accommodate, "Commercial Premises", "Shop Top Housing" and a "Residential Flat Building" upon that part of the site identified as B4 - Mixed Use. Proposed uses are permissible within the zone subject to consent.

Proposed uses are deemed satisfactory with regards to the objectives and requirements of the subject zone.

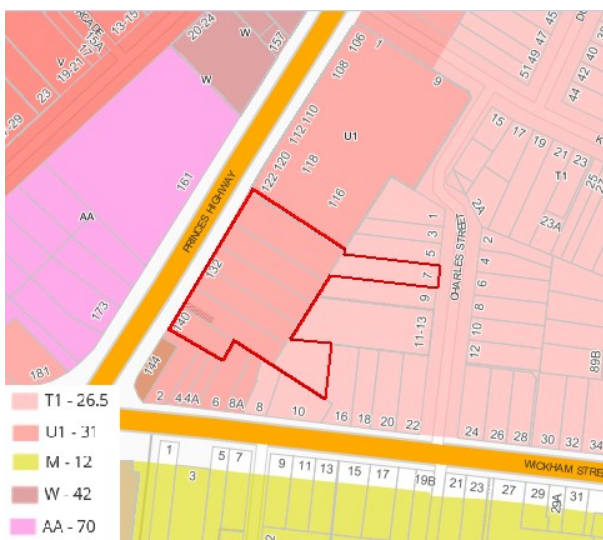
2.6 Subdivision - consent requirements

The proposal seeks to undertake the stratum subdivision of the development into two (2) lots, being residential and commercial components. Standard conditions are imposed to facilitate the aforementioned. The proposed subdivision is satisfactory in relation to this clause.

4.3 Height of buildings

The subject site benefits from a split height standard across the site as follows;

- B4 zoned sites - 31m
- R4 zoned sites - 26.5m



The proposal illustrates a maximum height as follows;

Location	Proposed Height	Complies	Variation
Lift Overrun A	33.66m	No	2.66m
Parapet to A Wing	31.27m - 31.6m	No	0.27m – 0.6m
Lift Overrun B	32.41m - 32.23m	No	1.23m - 1.41m
Parapet to B Wing	30.72m - 31.0m	Yes	Nil
Lift Overrun C	31.1m - 31.66m	No	0.1m – 0.66m
Parapet to C Wing	31m - 31.84m	Partial	0.84m
Portion of southern / eastern walls & windows of units A9.04 / A9.05 / A9.06	31.56m	No	0.56m
Roof above unit C9.03	31.64m	No	0.64m



As can be seen above, a portion of the development exceeds the permissible height standard by 0.1m to 2.66m overall. This is a variation of up to 8.5% of the standard for a small portion of the development as proposed.

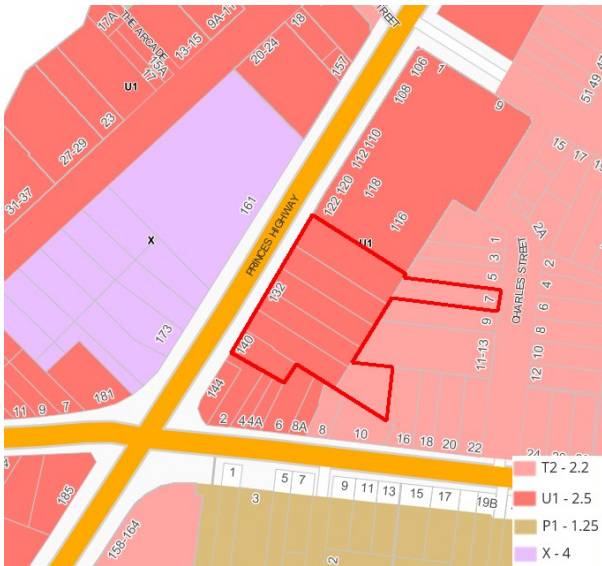
The applicant has submitted a clause 4.6 variation to development standard in relation to the proposed exceedance. The above has been addressed within Clause 4.6 of this report.

4.4 Floor space ratio - Residential zones

The subject site benefits from a split FSR standard across the site as follows;

- B4 zoned sites (4736.1sq/m site area) - 2.5:1 (11,840.25sq/m permissible GFA)
- R4 zoned sites (1305.6sq/m site area) - 2.2:1 (2,872.32sq/m permissible GFA)

The above permits a combined maximum gross floor area of 14,710sq/m across the property.



Given there is a split FSR across the site, it is important to note that Clause 4.5(3) of RLEP 2011, noted below, FSR is not calculated for individual lots, rather it is calculated for the site as a whole.

(3) Site area In determining the site area of proposed development for the purpose of applying a floor space ratio, the site area is taken to be;

- (a) if the proposed development is to be carried out on only one lot, the area of that lot, or*
- (b) if the proposed development is to be carried out on 2 or more lots, the area of any lot on which the development is proposed to be carried out that has at least one common boundary with another lot on which the development is being carried out.*

Notwithstanding the above which defines site area as including all lots forming the site, the provisions of Clause 4.4(2) specify;

(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.

When calculated in accordance with the provisions of Clause 4.4(2), the proposed FSR is as follows;

- B4 zoned sites (4736.1sq/m site area) - 3.1:1 (14, 702sq/m GFA, equivalent to 2861.75sq/m surplus GFA, being 0.6:1 (24%) FSR variation)
- R4 zoned sites (1305.6sq/m site area) - Nil

When calculated in accordance with the provisions of Clause 4.5(3), the proposed FSR is as follows;

- A total gross floor area of 14,702sq/m across all lots of the entire site and subsequently an FSR of 2.43:1. This is compliant with the permitted 2.5:1, yet exceeds the 2.2:1 standard which also applies to the site.

Given the above, the proposal therefore demonstrates a technical non compliance on the B4 portion of the site subject to the 2.5:1 FSR standard, given the 0.6:1 exceedance noted above.

The technical variation is a direct consequence of the proposed transfer of permissible GFA from the R4 to the B4 portion of the site given the irregularity of the development site, split FSR and zoning of the

property and design of the proposed development which distributes all GFA entirely upon B4 zoned land.

The applicant has submitted a clause 4.6 variation to development standard in relation to the proposed exceedance. The above has been addressed within Clause 4.6 of this report and the proposal is satisfactory with regards to the objectives of both subject zones which apply to the site.

4.6 Exceptions to development standards

Clause 4.6 allows a variation to a development standard subject to a written request by the applicant justifying the variation by demonstrating:

(3)(a) that compliance with the standard is unreasonable or unnecessary in the circumstances of the case, and

(3)(b) that there are sufficient environmental planning grounds to justify the variation.

In considering the applicant's submission, the consent authority must be satisfied that:

(i) the applicant's written request is satisfactory in regards to addressing subclause (3) above, and

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives of the relevant zone.

5(a) The consent authority must also consider whether contravention of the development standard raises any matter of significance for State or Regional environmental planning, and

5(b) the public benefit of maintaining the development standard.

Consideration has been given to a number of Land & Environment Court judgements in the assessment of the application, which specifically relate to variations of development standards.

In *Wehbe v Pittwater Council* [2007] NSW LEC 827 (Wehbe), the Land and Environment Court set out 5 different ways in which an objection to a development standard may be well founded.

Consideration has also been given to the Land and Environment court judgement *Four2Five v Ashfield Council* [2015] NSWLEC 90 where it was established that justification was required in order to determine whether the development standard was unreasonable or unnecessary on grounds other than whether the development achieved the objectives of the development standard. Consideration is to be given to the particular site circumstances of the proposal.

Finally, consideration has further been given to *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, which seeks to ensure that the applicants request adequately addresses clause 4.6 and whether the proposed contravention is in the public interest.

FSR Variation Sought

As previously outlined within this report, the subject site benefits from a split FSR standard across the site as follows;

- B4 zoned sites (4736.1sq/m site area) - 2.5:1 (11,840.25sq/m permissible GFA)
- R4 zoned sites (1305.6sq/m site area) - 2.2:1 (2,872.32sq/m permissible GFA)

The above permits a combined maximum gross floor area of 14,710sq/m across the property.

When calculating the FSR in accordance with the 'site area' definition as per Clause 4.5(3) of RLEP 2011, including all lots of the "site" the proposal comprises a total gross floor area of 14,702sq/m across all lots and subsequent FSR of 2.43:1. This is compliant with the permitted 2.5:1, yet exceeds the 2.2:1 standard which also applies to the site.

When calculating the FSR in accordance with the provisions of Clause 4.4(2), "*The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map*" the proposed FSR is as follows;

- B4 zoned sites (4736.1sq/m site area) - 3.1:1 (14, 702sq/m GFA, equivalent to 2861.75sq/m surplus GFA, being 0.6:1 (24%) FSR variation)
- R4 zoned sites (1305.6sq/m site area) - Nil

Given the above, the proposal therefore demonstrates a technical non compliance on the B4 portion of the site subject to the 2.5:1 FSR standard, given the 0.6:1 exceedance noted above.

The technical variation is a direct consequence of the proposed transfer of permissible GFA from the R4 to the B4 portion of the site given the irregularity of the development site, split FSR and zoning of the property and design of the proposed development which distributes all GFA entirely upon B4 zoned land.

Applicants FSR Justification

A summary of the applicants key arguments supporting the additional FSR are as follows:

- *The variation is technical in nature only in so much as the development proposal does not exceed the intensity of development envisaged under the planning controls for the site as a whole, and for that part of the site where the proposal exceeds the permitted FSR, ironically there are no buildings.*
- *The proposal does not include any development on Lots 50 and 52, other than a driveway, some landscaping, a substation and boundary fencing. All proposed GFA is situated on Lots 1 and 20 – 23.*
- *The proposal does not exceed the maximum GFA permitted on the site, taking into account the two different FSR standards.*
- *The objectives of the development standard are achieved, notwithstanding non-compliance with the standard.*
- *As the proposal effectively avoids building envelopes on Lots 50 and 52, it thereby generates greater separation between future development on adjoining lots. Greater separation is strongly associated with minimising a variety of potential environmental effects.*
- *The distribution of the building mass toward the Princes Highway maximises the amenity of the the residentially zoned land at the rear which for the most part is occupied by generous areas of landscaped open space.*
- *The proposal promotes objects (c) and (g) of the Environmental Planning & Assessment Act being the orderly and economic use and development of land and good design and amenity of the built environment.*
- *The proposal is consistent with the objectives of the development standard and the objectives of the R4 – High Density Residential zone.*
- *The use of Lot 50 for vehicular access purposes, and Lot 52 for common open spaces, optimises the number of dwellings which can be achieved on Lots 1 and Lots 20 – 23.*

- *In effect, Lot 50 and 52 enable the delivery of what would be considered a high density development on Lots 1 and Lot 20 – 23. Whilst Lot 50 and 52 are proposed for vehicular access and communal open space purposes, this does not inhibit other adjoining lots also zoned R4 from achieving high density developments. Sufficient space remains on all lots adjoining either Lot 50 or 52 to accommodate a high density form of redevelopment.*
- *Varying the development standard as proposed by this application, will not result in any outcome which would be prejudicial to planning matters of state or regional significance. This is largely because the proposal does not exceed the maximum GFA permitted on the development site.*
- *There is no public benefit in maintaining strict compliance with the development standard given that there are no unreasonable impacts that will result from the variation to the FSR standard. Rather, there are better outcomes for and from the development as a result of the variation sought. As stated earlier, the variation is arguably technical in nature only, given the FSR on a site by site basis is complied with. The total allowable GFA for the entire development site, is also not breached.*
- *Compliance with the development standard would be unreasonable and unnecessary in the circumstances of this development.*
- *There are sufficient environmental planning grounds to justify the contravention.*
- *The proposed development, notwithstanding the variation, is in the public interest and there is no public benefit in maintaining the standard.*

FSR Discussion

The applicants request has adequately addressed the provisions of Clause 4.6(3)(a) and (b). Following a review of the application, the FSR variation as proposed is deemed appropriate for the following reasons:

a) The variation is of a technical nature only and is acceptable given all building bulk, scale and mass is positioned upon lots zoned B4 - Mixed Use, with the proposed FSR standard applicable to the entire site being complied with.

b) The two R4 zoned parcels of land are proposed to comprise vehicular access to the site, landscaping, substations, communal open space and boundary fencing only. These features do not constitute gross floor area and their use as proposed is satisfactory given the intended design and function of the proposed development.

c) Locating the building bulk and mass in the proposed locations on site increases building separation and minimises potential amenity impacts with future adjoining development on neighbouring lots.

d) The development of the site in the manner proposed is entirely consistent with the objectives of the B4 & R4 zones. The proposal provides a variety of housing and accommodates the housing needs of the community within a high density residential environment and further provides facilities i.e. vehicular access and communal open space provision which meets the day to day needs of residents.

e) The transfer of GFA from R4 to B4 zoned lots, facilitates the provision of a large deep soil area on site, which will function as a communal open space area for residents, thus providing not only environmental but amenity benefits on site and to neighbouring properties. This will maximise amenity and benefit the lifestyle needs of future occupants.

- f) The proposal is consistent with the objectives of Clause 4.4 FSR, as the scheme does not result in adverse environmental effects upon the use or enjoyment of adjoining properties, is located close to public infrastructure including retail premises within the Arncliffe Town Centre and transport nodes namely Arncliffe Railway Station, and provides for an appropriate visual relationship in an area which is anticipated to undergo transformation given the recent zoning changes in the Arncliffe Banksia precinct.
- g) The transfer of GFA as proposed, does not result in an unreasonable impact on surrounding properties as discussed previously within this report.
- h) The proposal will allow the development of the site in accordance with its environmental capacity and the development is considered to be within the public interest.
- i) The proposal is consistent with the aims of Rockdale Local Environmental Plan 2011 which seek to maintain and improve residential amenity.
- j) The proposal is generally consistent with the requirements, aims and objectives of SEPP 65, was supported by the Design Review Panel, demonstrates Design Excellence and complies with the Apartment Design Guide.

Height Variation Sought

As discussed within Clause 4.3 - Height of Building, the majority of the height of the proposed development to the rooftop level complies with the applicable 31m height standard, however a portion of the southern / eastern walls & windows of units A9.04 / A9.05 / A9.06, roof above unit C9.03, portion of the parapet to building wing A & C and three lift overruns as proposed exceed the permissible height standard by 0.1m to 2.66m overall. This equates to 0.3% to 8.5% variation of the standard for a small portion of the development as proposed.

Applicants Height Discussion

A summary of the applicants key arguments supporting the additional Height are as follows:

- *The proposed height is compatible within its existing and future context and will not result in any adverse impacts to surrounding properties.*
- *The proposal is compliant with the general built form objectives of the DCP. A 6m street setback is provided with a further 3m setback above the 6th storey to the Princes Highway which will ensure satisfactory sky exposure and daylight to buildings, key areas and the public domain.*
- *The variation of the height limit occurs on the Princes Highway frontage furthest from the transition to a slightly lower height limit.*
- *The proposed building height is also consistent with DA/2015/6/A relating to adjoining site at 108 Princes Highway*
- *The habitable floor space is predominantly contained below the maximum building height line with the variation limited to the lift overruns, and a small extent of the roof parapets across the site. The variation is not a means of achieving additional development yield on the site or an additional floor level but is a site-specific design response. In addition, the variation is partly a result of the provision of a double-storey 6.85m commercial showroom on the ground floor as required by the RDCP.*
- *The variation of the height control also does not cause any loss of privacy for neighbouring*

properties given no windows are located above the height limit. Conversely, it improves privacy given generous separation is achieved between existing and/or proposed building envelopes.

Height Discussion

The applicants request has adequately addressed the provisions of Clause 4.6(3)(a) and (b). Following a review of the application, it is deemed that the height variation as proposed is appropriate for the following reasons:

- a) The proposed area of height non compliance is not considered to result in a mass, size or scale of development that is incompatible with the future desired character of the precinct.
- b) The proposal as designed does not generate adverse overshadowing impacts which are directly correlated or contributable to the portions of the development subject of the height exceedance. Solar amenity to the public domain, nor adjoining sites is not compromised as a result of the proposed non-compliance with the height standard. Shadows arising as a result of the proposed development are discussed in detail further in this report.
- c) The proposal is consistent with the principles of SEPP 65 and the Apartment Design Guide with respect of Context & Neighbourhood Character, Built Form and Scale and Density, ,
- d) The proposal is consistent with the aims of the Apartment Design Guide with respect of 2C - Building Height.
- e) The proposal is consistent with the objectives of Clause 4.3 - Height of Buildings of Rockdale LEP 2011.
- f) The scale and nature of the non compliance is unlikely to set an undesirable precedent given the size, scale and locational circumstances of the subject site.
- g) Lift overruns are recessed substantially from the edge of the proposed development on site and are not visually discernable from neighbouring properties or the public domain.
- h) The proposal has been designed to consider and relate to the topography of the subject site. The ground floor level of the development has been stepped to align with the natural fall of the property and accomodate the natural landform, so as to minimise height exceedance as far as practicable.
- i) The scheme is consistent with the objectives of the B4 Mixed Use zone.
- j) The proposal was supported by the Design Review Panel and has been noted as demonstrating Design Excellence. The parapet components form part of the overall design of the development and contribute to the aesthetic appeal of the development.

Given the above, the consent authority can be satisfied that the provisions of clause 4.6(4) have been achieved and that the clause 4.6 is well founded. The FSR & Height standard in the circumstances of this case are considered to be unreasonable and unnecessary and the proposed variations are supported on the basis of the above by the assessing officer.

6.1 Acid Sulfate Soil - Class 5

Acid Sulfate Soils (ASS) – Class 5 affects the property. However, development consent is not required as the site is not within 500 metres of adjacent Class 1, 2, 3 or 4 that is below 5 AHD.

6.2 Earthworks

The proposal involves extensive excavation within the site to accommodate the basement levels. The impacts of the proposed earthworks have been considered in the assessment of this proposal. Conditions of consent have been imposed in the draft Notice of Determination to ensure minimal impacts on the amenity of surrounding properties, drainage patterns and soil stability. The proposal meets the objectives of this clause.

6.4 Airspace operations

The subject site is affected by the 51 Obstacle Limitation Surface. The proposed development has a maximum height of 57.7RL and was subsequently referred to Sydney Airports and the Civil Aviation Safety Authority (CASA) given it proposes to penetrate the airspace above.

Sydney Airport & CASA provided Council with a response, approving the proposed height, subject to standard conditions. The recommended conditions have been included in the draft Notice of Determination.

6.11 Active Street Frontages

The frontage of the subject site to the Princes Highway, is land identified as Active Street Frontage as per the provisions of this clause.

The frontage of the subject site to the Princes Highway is designed to provide large floor plate commercial spaces with potential for mezzanine levels. These spaces provide clear, direct and level access to and from the public domain and within the development.

The proposal provides an active street frontage to the Princes Highway and thus satisfies the requirements and objectives of this Clause.

6.12 Essential services

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

6.14 Design excellence

As per the provisions of this clause, development consent must not be granted to development to which this clause applies unless the consent authority considers that the development exhibits design excellence.

The Design Excellence clause applies to the proposal and requires that the development deliver the highest standard of architectural, urban and landscape design. Pursuant to sub-clause 5(a), development consent must not be granted unless a design excellence panel reviews the development and the consent authority takes into account the findings of the panel.

The proposed development was considered by Councils Design Excellence Panel on 20 March 2019. At this meeting, the Design Excellence Panel made the following recommendation:

Reccomendation

- *The Panel recommends that the above changes be made and be referred to the Council for further consideration.*

Reccomendation – Design Excellence

- *The Panel recommends that the recommended changes/refinements be made and that the amended proposal be referred to the Council for further consideration to demonstrate that Design Excellence has been achieved in accordance with Clause 6.14 or RLEP 2011.*

Given the above, and the modifications undertaken to the development, as discussed within the SEPP 65 / ADG section of this report, it can be stated that the proposal exhibits design excellence and the provisions & objectives of this clause have been satisfied.

Part 7 Intensive urban development areas

Details in regards to the satisfaction of this Part are provided below.

7.1 Arrangements for designated State public infrastructure

Pursuant to Section 7.1 of the Rockdale LEP 2011, the applicant is required to ensure that satisfactory arrangements are made for the provision of designated State public infrastructure before the development of land for the purposes of residential accommodation is approved to satisfy needs that arise from development on the land, but only if the land is developed intensively for urban purposes. The current proposal includes an intensive urban redevelopment of the land. The state public infrastructure under this provision includes state and regional roads, bus interchanges and bus lanes, regional open space and social infrastructure (such as schools, hospitals, emergency services and facilities for justice purposes).

In addition, certification from the Secretary of the Department of Planning is required in writing to be submitted to Council confirming that satisfactory arrangements have been made to contribute to the provision of designated State public infrastructure in relation to the land on which the development is to be carried out.

On 19 November 2019 the Acting Deputy Secretary of Place and Infrastructure Greater Sydney at the department issued a "Satisfactory Arrangements Certificate" and advised that satisfactory arrangements are in place for the provision of State public infrastructure. In this regard, a planning agreement applies and the applicant has satisfied Council in respect to section 7.1 of the RLEP 2011.

7.2 Public utility infrastructure

Pursuant to Section 7.2 of the Rockdale LEP 2011, the applicant is to ensure Council is satisfied that any public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when required. Such infrastructure includes water, power, sewerage etc.

The applicant has submitted to Council details of the provision of services to the subject site including the provision of water, power and sewerage. Accordingly, the applicant has satisfied Council in relation to Section 7.2 of the RLEP 2011 and the proposal is acceptable in this regard.

S4.15(1)(a)(ii) - Provisions of any Draft EPI's

No relevant proposed instruments are applicable to this proposal.

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
4.1.4 Soil Management	Yes	Yes
4.1.5 Contaminated Land	Yes	Yes
4.1.9 Lot size and Site Consolidation - Mixed use	Yes	Yes - see discussion
4.1.9 Lot size and Site Consolidation - isolated sites	Yes	Yes - see discussion
4.4.2 Solar Access - Residential Flat Buildings and Shop Top Housing	Yes	No - see discussion
4.4.7 Wind Impact	Yes	Yes - see discussion
4.5.1 Social Equity - Housing Diversity and Choice	Yes	No - see discussion
4.5.2 Social Equity - Equitable Access	Yes	Yes - see discussion
4.6 Parking Rates - Shop-top Housing	Yes	Yes - see discussion
4.6 Parking Rates - Retail Premises	Yes	Yes - see discussion
4.6 Car Park Location and Design	Yes	Yes
4.6 Vehicles Enter and Exit in a Forward Direction	Yes	Yes
4.6 Basement Parking - General	Yes	Yes
4.6 Driveway Widths	Yes	Yes
4.6 Traffic - Classified Roads	Yes	Yes
4.6 Access to Parking	Yes	Yes - see discussion
4.6 Design of Loading Facilities	Yes	Yes - see discussion
4.6 Car Wash Facilities	Yes	Yes - see discussion
4.6 Pedestrian Access and Sustainable Transport	Yes	Yes
4.7 Air Conditioning and Communication Structures	Yes	Yes
4.7 Waste Storage and Recycling Facilities	Yes	Yes - see discussion
4.7 Service Lines/Cables	Yes	Yes - see discussion
4.7 Laundry Facilities and Drying Areas	Yes	Yes
4.7 Letterboxes	Yes	Yes
4.7 Hot Water Systems	Yes	Yes - see discussion
5.3 Mixed Use - Retail	Yes	No - see discussion
7.7 Arncliffe & Banksia	Yes	Yes
7.7.1 Introduction	Yes	Yes
7.7.2 Vision and Principles	Yes	Yes - see discussion
2 - The Princes Highway Arncliffe and Banksia	Yes	Yes - see discussion
4 - Cahill Park Neighbourhood	Yes	No - see discussion
7.7.3 Public Domain	Yes	Yes - see discussion
3.1 Street network and design	Yes	Yes - see discussion
3.2 Public domain and open space network	Yes	Yes - see discussion

Relevant clauses	Compliance with objectives	Compliance with standard/provision
3.3 Landscape Setbacks	Yes	Yes - see discussion
Princes Highway Landscape Setback Objectives		Yes - see discussion
Residential Streets		Yes - see discussion
7.7.4 Built Form	Yes	Yes - see discussion
4.1 Building Setbacks		Yes - see discussion
4.2 Street Wall Heights		Yes - see discussion
4.3 Active Frontages		No - see discussion

4.1.9 Lot size and Site Consolidation - Mixed use

The provisions of this clause require a minimum frontage width of 18m for mixed use development. The subject site has a primary frontage of 87.5m to the Princes Highway and satisfies the provisions of this clause.

4.1.9 Lot size and Site Consolidation - isolated sites

The proposal does not result in the isolation of adjoining properties, that could not otherwise be redeveloped.

4.4.2 Solar Access - Residential Flat Buildings and Shop Top Housing

Rockdale DCP 2011 requires that living rooms and private open spaces for at least 70% of apartments in a development and adjoining properties should receive a minimum of 3 hours direct sunlight between 9am and 3pm in midwinter.

The proposed redevelopment is the first proposed in the subject street block within a newly rezoned area of properties identified as the Arncliffe Banksia Priority Precinct to be considered against the new zone as established by the NSW State Government.

It is important to note that there are nil residential units directly adjoining the site to the east, south or west, only to the north, north east at 108 Princes Highway Arncliffe. Given the orientation of this adjoining development, the proposal does not overshadow this property or existing building.

Given the orientation of the site, existing adjoining low to medium scale development adjoining the site to the east and south, consideration has been given to the potential shadow impacts of the proposal upon the future redevelopment of these directly adjoining properties fronting Charles and Wickham Streets.

Given the massing, scale, building setbacks and lack of building forms on part of the subject site, in conjunction with the information derived from the submitted shadow diagrams, it is evident that the midwinter shadows arising as a result of the proposed development will not result in undue adverse amenity impacts onto future potential high rise residential development which are achievable on adjoining lots. It is noted that the proposed development complies with ADG building setback as required.

Evidently shadow diagrams illustrate that single storey detached residential dwelling houses at 6, 8, 8A & 10 Wickham Street, and their private open spaces, located directly to the south of the subject site will be overshadowed by the proposed development. It is important to note that the proposed development has been designed to position the bulk of the development along the Princes Highway and away from

the rear and side boundaries. It is reiterated that these properties were recently rezoned from R2 - Low Density to B4 - Mixed Use & R4 - High Density residential and the immediately surrounding area is currently in transition from a low to high density built form, as is the future desired character of the precinct.

As noted in *The Benevolent Society v Waverley Council [2010] NSWLEC 1082*, Commissioner Moore stated "even at low densities there are sites and buildings that are highly vulnerable to being overshadowed. At higher densities sunlight is harder to protect and the claim to retain it is not as strong."

Given the above, the proposal is satisfactory in regard to the objectives of this clause.

4.4.7 Wind Impact

The application was accompanied by a Wind Report, prepared by Wind Tech, dated July 2018. The report concludes that potentially adverse wind effects can be ameliorated through the treatment of the development in the following manner;

- *The retention of the proposed canopies along the Princes Highway frontage of the site.*
- *The proposed planter areas located along the perimeter of the communal open spaces are populated with densely foliating vegetation such as trees or shrubs/hedge planting.*
- *The inclusion of effective wind mitigation elements in the form of densely foliating vegetation, screens, pergolas etc. within and around the corner areas of the eastern wing (C) and areas intended for short duration stationary activities such as outdoor seating etc.*
- *Eastern balcony on Level 6 of the Eastern Wing (C). Option 1: The inclusion of 1.5m high impermeable balustrades along the perimeter edge. Densely foliating vegetation in the form of shrubs or hedge planting capable of growing to a height of at least 1.5m may be used as an alternative to the impermeable balustrade. Option 2: The inclusion of impermeable or porous screens; at least 2m high, extending out from the eastern building façade; ideally at the corners of the building.*
- *North-eastern corner balconies on Levels 7 to 9 of the Eastern Wing (C): The inclusion of impermeable or porous screens; at least 2m high, along one of the exposed perimeter edges.*

Subject to the inclusion of the above mentioned recommended strategies, the proposed development is anticipated to comprise suitable wind conditions for various outdoor trafficable areas within and around the site. The proposal has been conditioned accordingly and the development satisfies the provisions of this clause.

4.5.1 Social Equity - Housing Diversity and Choice

The proposal is required to provide the following unit mix as per the provisions of this clause.

<i>Control</i>	<i>Requirement</i>	<i>Proposed</i>	<i>Complies</i>
10%-30% Studio - 1 bed	19 - 55	64 x 1 bed	No (+9)
50%-75% 2 bed	91-137	106 x 2 bed	Yes
10% - 20% 3 bed	19 - 37	12 x 3 bed	No (-7)

The proposal indicates a non compliance with regards to the provision of both 1 and 3 bedroom units

on site. Notwithstanding the above, the proposal provides for a varied range and size of units within the development in order to cater for a varied demographic and different household types. As such the proposed development satisfies the objectives of the requirement and is satisfactory in this regard.

4.5.2 Social Equity - Equitable Access

As per the requirements of this clause a minimum of 10% (19) of residential units within the development are required to be provided as adaptable units. A total of 19 units (C1.02, C2.02, C3.02, C4.02, C5.02, C6.02, C7.02, C8.02, C9.02, B2.04, B3.04, B4.04, B5.04, B6.04, B2.03, B3.03, B4.03, B5.03, B6.03) are proposed to be adaptable within the development. The proposal complies with the subject requirement.

Further to the above, equitable access is provided to, within and throughout the development including basement car parking levels, ground level retail spaces and communal open space areas allowing equitable access for persons with a disability / mobility impairment. Accessible car parking spaces and amenities are also provided.

An Access Report prepared by Morris Goding Access Consulting dated 29 August 2019 concludes;

"The proposed drawings indicate that accessibility requirements, pertaining to external site linkages, building access, common area access, sanitary facilities and parking can be readily achieved. It is advised that MGAC will work with the project team as the scheme progresses to ensure appropriate outcomes are achieved in building design and external domain design."

The proposal has been conditioned to ensure the recommendations of the Access Report are adhered to. As conditioned, the proposal is consistent with the requirements and objectives of this clause.

4.6 Parking Rates - Shop-top Housing

Whilst the subject site is located within 800m of Arncliffe Railway Station, the applicant has opted to provide car parking on site in accordance with the rates required by Rockdale DCP 2011. Accordingly, the following minimum parking is required for the development.

- Residential - 194 spaces
- Visitor - 37 spaces
- Car wash - 1 space

The proposal complies with the above stated parking numbers and is satisfactory with regards to the requirements and objectives of this clause.

4.6 Parking Rates - Retail Premises

As per the provisions of this clause, 1 car space is required for each 40sq/m of commercial space proposed. Accordingly a total of 19 car spaces are required for the commercial component of the development. Plans illustrate the provision of 19 commercial spaces within basement level 1 and the proposal complies with the requirements of this clause.

4.6 Access to Parking

Plans illustrate the physical segregation of residential and commercial car parking spaces and loading areas on site via security shutters and full height fencing.

Car parking spaces for persons with a disability / mobility impairment are appropriately located in close

proximity to lifts or access points.

The proposal is satisfactory in this regard and complies with the requirements of this clause.

4.6 Design of Loading Facilities

Plans illustrate the provision of a 12.5m diameter turntable provided on site to facilitate forward entry and exit of larger vehicles, including delivery, garbage and removalist trucks. Adequate head height clearance is provided and the proposal is satisfactory with regards to the provisions of this clause.

4.6 Car Wash Facilities

A dedicated car wash bay is provided within basement level 1 of the development, this bay is appropriately located and has been conditioned to ensure it is provided with floor waste and water connections. The proposal satisfies the requirements of this clause.

4.7 Waste Storage and Recycling Facilities

Appropriately sized and located waste storage areas are proposed in basement level 1 of the development. Commercial and residential waste storage areas are separated with sufficient facilities proposed. Consideration has been given to the provision of a bulk waste store for future residential occupants, garbage chutes are provided at upper levels, as is provision for a recycling bin at each level.

Given the design of the development and limitations with respect of vehicular access from Charles Street, garbage collection will occur on site, sufficient head height clearance is provided, along with a 12.5m diameter turntable provided to facilitate forward entry and exit of larger vehicles.

The proposal is satisfactory with regards to the provisions of this clause.

4.7 Service Lines/Cables

Plans illustrate the provision two substations adjoining the common northern side boundary of 7 Charles Street and the proposed private road accessing the site.

Plans further indicate the provision of an enclosed fire hydrant booster adjoining Showroom tenancy 1 and the Princes Highway frontage of the site. The fire hydrant booster is screened with doors to match the proposed finishes of the development. The proposal is satisfactory in this regard.

4.7 Hot Water Systems

Plans do not depict the location of gas hot water plant. As such the proposal has been conditioned to ensure that should individual instantaneous gas hot water systems be required for residential units, that they be recessed into the built form and designed to blend into the building. The proposal as conditioned would therefore be consistent with the requirements of this clause.

5.3 Mixed Use - Retail

As per the requirements of this clause a minimum of 10% (1470sq/m) of the development shall be provided as commercial floor space. Plans illustrate the provision of a total of 5.1% (760sq/m) of commercial floor space at ground level, fronting the Princes Highway.

Whilst this is a variation to the requirements of this clause, it is noted that the proposal provides an

active street frontage to the Princes Highway with the entire width of the site in this location being provided for commercial purposes. The proposal is considered to provide sufficient commercial space within the precinct, and it is further stated that mezzanine levels could be accommodated within the development at a future date, resulting in a further 120sq/m in tenancy 1 and 300sq/m within tenancy 2, which would ultimately increase the figure above to 8%.

Given the above, the proposal is considered to be satisfactory with respect of the objectives of this clause.

7.7.2 Vision and Principles

The vision for the Arncliffe and Banksia Precincts is to create *“vibrant, attractive and connected communities, where people live and work, with great access to public transport, community facilities, new open spaces, shops and local services.”*

Section 7.7 of the Special Precincts that relates to Arncliffe and Banksia has numerous objectives which include the following:

- A. To create vibrant Town Centres that provide for the daily needs of the local and wider community;
- B. To provide a wide range of opportunities for different types of employment generating activities to meet local and regional needs;
- C. To provide high quality and a wide range housing choice;
- D. To promote the Princes Highway as a key regional employment and economic corridor;
- E. To ensure that new residential development provides a high level of amenity by adequately responding to the local and environmental context;
- F. To ensure a safe, connected, permeable and legible public domain that caters for the accessibility of pedestrians and cyclists;
- G. To promote the development of new buildings that display design excellence through a design review panel for buildings over 3 storeys and a competitive design process for buildings over 12 storeys;

The current proposal involves a mixed use development with an active street frontage which is consistent with the structure plan and above objectives in Section 7.7 of Council's DCP 2011.

The subject site is located within the Special Precincts listed below, and consideration of the relevant requirements is provided:

- 2.1 - The Princes Highway Arncliffe; and
- 4 - Cahill Park

2 - The Princes Highway Arncliffe and Banksia

The subject site is located within the Special Precinct - 2.1 *"The Princes Highway Arncliffe"*. Relevant matters for this proposal to demonstrate general compliance with the desired future character, land use, built form and public domain controls of this section of RDCP 2011 for the Princes Highway in Arncliffe include:

- *Integrate boulevard tree planting along the Highway that reinforces the location of the Arncliffe Town Centre;*
- *Allow provision of destination commercial spaces and showrooms that are highly visible from passing vehicles;*

- *Large format commercial uses at lower levels;*
- *Building height controls should allow for generous 7m floor to floor heights for ground level showroom uses. These spaces might comprise a small mezzanine;*
- *Residential levels located above lower commercial levels with visual and acoustic separation from busy road frontage*
- *6 metre setback on sites adjoining Princes Highway. Proposed landscape improvements include significant boulevard tree planting and the creation of a dual footpath that allows for the staged delivery of the setback and continued pedestrian access during transition.*

The proposal generally complies with the above, however a minor variation is proposed to the required 7m floor to floor height for ground level showroom tenancies. The proposal indicates the provision of a 6.85m floor to floor height at ground level. This is a variation of 0.15m, yet results in an internal floor to ceiling height of 6.55m for these tenancies.

As designed, noting the variation proposed, the ground level showroom spaces are capable of future adaptation for a number of uses. Tenancies also have the ability to be adapted to provide a mezzanine level within the rear of the tenancy should this be required by future users.

Public access is provided to these showroom tenancies from the Princes Highway, staff access from the rear and visitor / staff parking is provided within basement level 1. Two goods lifts and separate loading / unloading areas are designated within level B1 in order to separate the commercial and residential components of the site. At level 1 of the development, public amenities are also provided for future users / visitors.

Given the above, the proposal is considered to be satisfactory and facilitates the desired future outcome for the precinct.

4 - Cahill Park Neighbourhood

The subject site is located within the Cahill Park Neighbourhood under Part 7 Special Precinct of Council's DCP 2011. The provisions of the DCP for the subject site specifically require;

- *Primarily residential development.*
- *Large format commercial development at the lower levels of development adjoining Princes Highway.*
- *8 storey development (including a double height commercial ground floor) adjoining the Princes Highway.*
- *Street wall height of 6 storeys, with a 3 metre setback to the upper levels over 6 storeys.*
- *6 metre landscape setback on sites adjoining Princes Highway.*
- *4.5 metre side setback within this neighbourhood.*

As proposed, the development incorporates a 10 storey building on site, which appears as a 9 storey development fronting the Princes Highway, given the double height floor to ceiling showrooms provided at ground level to the Princes Highway. Whilst the proposal does not strictly comply with the number of storeys referred to by this part i.e. 8, the matter of height has previously been addressed in this report and the overall height and number of storeys as proposed are considered to be satisfactory.

The development provides a 6 storey podium, with a 3m + setback to upper levels, as required by the provisions of this clause and further complies with the required side setbacks stated above. Deep soil zones are provided along the frontage of the property to facilitate street tree planting within an

expanded verge for the public domain.

The proposal is deemed to satisfy the objectives of this part and is consistent with the future desired character of the precinct.

7.7.3 Public Domain

The relevant parts of Part 7.7.3 'Public Domain' of RDCP 2011 include 'Street Network and Design', 'Princes Highway Landscape Setback Objectives' and 'Residential Streets' which are addressed separately below:

3.1 Street network and design

Council's DCP states that the objectives for the street network and design controls are as follows:

- A. To strengthen the landscape character and quality of the precincts through street tree planting;*
- B. To encourage improvements to the amenity of the Princes Highway corridor through better landscaping and improved facilities for pedestrians and cyclists;*
- C. To provide for improved and safer street crossings for pedestrians throughout the precincts;*
- D. To enhance the precincts permeability including new and improved through site links and connections to adjacent areas outside the Precinct; and*
- E. To create an attractive and comfortable streetscape for pedestrians and cyclists that comprises of consistent and high quality paving, street furniture, street tree planting, bike stands and bike racks.*

The proposal is consistent with the street network requirement in providing the landscaped 6m front setback along the Princes Highway.

The proposal incorporates street tree planting along the Princes Highway frontage of the site and incorporates paving to delineate the wider verge and assist in softening the development, improving the amenity of the Princes Highway, enhancing the precinct and creating an attractive and comfortable streetscape for pedestrians.

The design and layout of the tree planting will reinforce the above objectives and improve the streetscape for pedestrians and cyclists with high quality paving, street furniture and facilities.

The proposal satisfies the above objectives and is acceptable in respect to the street network and design.

3.2 Public domain and open space network

As previously discussed, it is reiterated that the proposal provides a 6m ground level building setback as required in order to facilitate landscaping and street trees along the Princes Highway frontage. The proposal is satisfactory in this regard.

3.3 Landscape Setbacks

Refer to discussion below.

Princes Highway Landscape Setback Objectives

As per the requirements of this part, a landscaped corridor is required to be provided along the Princes Highway frontage of the site. A continuous 6m deep soil landscape setback is required, along with the provision of new street tree planting with a minimum 600L pot size planted 8 metre apart, in accordance with Council guidelines.

Landscape Plans illustrate the provision of the required 6m setback, which incorporates 10 x 400L Lophostemon Confertus, spaced as required, within 1.2m depth of soil. Porphyry cobble banding is proposed surrounding the trees, to break up public open space paving areas.

The proposed development expands the existing footpath width and verge as a result of the 6m provided front setback and provides an appropriately designed awning which is sufficiently setback to facilitate future tree grown and shall further ensure adequate weather protection for pedestrians.

Further to the above, the proposal has been conditioned to require existing overhead power lines to be removed and relocated underground.

It is noted that the DCP requires that 600L trees be planted, whilst the landscape plan proposes 400L trees. The proposal has been conditioned to require 600L trees.

The proposal is satisfactory with regards to the provisions of this part.

Residential Streets

The requirements of this part seek to undertake improvements to existing residential streets in order to increase canopy cover and improve neighbourhood amenity. Given the unique configuration of the site and its minimal frontage to Charles Street which is taken up via the proposed vehicular access to the site, there are design limitations in this regard.

Notwithstanding, the proposal seeks to retain and protect the existing Tallowood street tree directly on the nature strip in front of 7 Charles Street.

Given the above, the proposal is deemed satisfactory with regards to the requirements of this clause.

7.7.4 Built Form

Part 7.7.4 of RDCP 2011 is comprised of three sections, including 'Building Setbacks', 'Street Wall Heights' and 'Active Frontages' which have been addressed separately below:

4.1 Building Setbacks

As per the provisions of this part the development is required to provide a 6m building setback along the Princess Highway and incorporate street tree planting. As previously discussed, the proposal complies with the aforementioned and is satisfactory in this regard.

4.2 Street Wall Heights

The requirements of this part, require a 6 storey street wall development, with upper building levels setback a further 3m above street wall. The proposal complies with the street wall heights and differentiates the varying building elements in different materials and colours providing a textured built form that provides visual interest.

The proposal is satisfactory with the requirements of this part.

4.3 Active Frontages

The proposal is required to provide an active street frontage along the Princess Highway and a floor to floor height of 7m to accommodate a wide range of retail showroom and / or commercial uses.

As discussed previously within this report, the frontage of the subject site to the Princes Highway is designed to provide large floor plate commercial spaces with potential for mezzanine levels. The proposal provides for 2 showroom spaces, 310sq/m and 450sq/m in their respective sizes, with a 6.85m clear floor to floor height, which is sufficient in respect to the usability of the floor space and external appearance of the ground floor level.

The tenancies as designed are provided with clear, direct and level access to and from the public domain and within the development. Separate goods lifts to these spaces are provided at basement level, physically delineated commercial parking is provided with publicly accessible toilets provided at level 1.

The proposal provides an active street frontage and satisfies the requirements of this part. The proposal generally satisfies the remaining requirements of this clause which relate to locating ground levels at grade with finished footpaths, residential lobbies being located off the main street frontage and so on.

The proposal fails in only one requirements which stipulates that no residential uses be on the ground floor.

The proposal seeks to provide dwellings on the ground floor to the rear of the proposed commercial spaces and within the site. These dwellings are not unreasonable given the depth and configuration of the subject site, the activation of the primary Princess Highway frontage as proposed and the design of the proposed development.

Despite the variation, the proposal is consistent with the objectives of this part, and therefore is acceptable in this instance. Accordingly, the proposal complies with the requirements of this clause and is acceptable in this regard.

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

All relevant provisions of the Regulations have been taken into consideration in the assessment of this proposal.

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

The proposal was reviewed by the Bayside Traffic Development Advisory Committee on 5 September 2018. The Committee Recommendation was as follows;

- 1. That the developers be required to provide a traffic calming scheme in Charles Street including rubber cushion pads and the scheme to be referred to the Traffic Committee for consideration.*
- 2. That the splay of the driveway in Charles Street be widened to facilitate the turning of larger vehicles.*

The applicant was requested to provide additional information to address the above.

The applicant has adhered to the above and submitted the revised information to Council. It is proposed that rubber cushion pads be installed in two locations within Charles Street, as identified in yellow below. The proposal has been conditioned to require that the applicant obtain approval under the

Roads Act to implement the traffic calming scheme, prior to the issue of any Occupation Certificate.



Telecommunications Facility

As existing there is a telecommunications facility on site, which will be required to be removed in order to facilitate the proposed development. The applicant has confirmed that this facility will be decommissioned and removed from the site in order to facilitate the proposed development. The draft Notice of Determination incorporates a condition which requires that the facility be removed prior to the issue of the Occupation Certificate for the development.

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

The relevant matters pertaining to the suitability of the site for the proposed development have been considered in the assessment of the proposal. Additional conditions of consent are proposed to further minimise any impacts on neighbouring properties. There are no known major physical constraints, environmental impacts, natural hazards or exceptional circumstances that would hinder the suitability of the site for the proposed development.

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

The proposal was publicly notified in accordance with the provisions of Rockdale DCP 2011 from 19 August - 24 September 2018.

A total of 12 submissions & 1 petition comprising 36 signatures, were received by Council, opposing the proposed development. The issues raised include as follows.

Loss of solar access to 5 Charles Street, Arncliffe in midwinter and in September / Clothes lines on site will receive no sun

Comment: The matter of solar access has been addressed previously within this report. It is noted that 5 Charles Street is positioned to the north east of the subject site and the proposal does not overshadow this property. Shadows onto this property are cast by the existing development at 108 Princes Highway from 2pm onwards in midwinter.

Loss of privacy to 5 Charles Street, Arncliffe / Insufficient building separation to habitable rooms of 5 Charles Street, Arncliffe

Comment: The proposed development is in excess of 50m away from the existing dwelling at 5 Charles Street. This separation is considered to be sufficient so as not to result in adverse privacy impacts to

this neighbouring property.

Privacy and Acoustic impacts to 5 Charles Street given proposed driveway location

Comment: Side boundary fencing will be provided along the common side boundary of the proposed vehicular accessway with 5 Charles Street. Adjoining the vehicular accessway as discussed within this report is a range of landscaping which provides a buffer to this residential neighbour. It is not anticipated that vehicles entering and exiting the site will result in adverse visual or acoustic privacy impacts onto this neighbouring property.

Acoustic impact of extensive rear communal open space area to neighbouring residents has not been considered

Comment: The use of the development will remain primarily residential in nature as such it is not anticipated that noise levels arising from the use of the two areas of communal open space provided on site will be unreasonable within the high density residential precinct. It is further stated that a periphery landscape buffer is provided along the southern, eastern and northern boundary of the communal deep soil landscaped area on site, with adjoining Wickham & Charles Street properties, this will ensure users of this space are distanced away from common boundary fencing with neighbouring properties.

Adverse traffic impacts / Proposal will cause significant traffic in Charles and Duncan Streets / Errors identified in Traffic Report i.e. aerial images are incorrect, incorrect street names, omission of traffic counts at the intersection of Duncan and West Botany Streets etc. / Incorrect method of traffic counts i.e. peak periods of survey are inconsistent with RMS peak periods eg survey taken between 8am — 9am / 5pm — 6pm and RMS peak periods are 6am — 10am / 3pm — 6pm / Charles, Duncan & Wickham streets do not have capacity to accommodate for increased traffic.

Comment: Councils Development Engineer and Traffic Committee have undertaken an independent review of the proposal with respect to potential traffic generation. It is noted that north and south bound traffic from Charles Street is via Wickham Street and net traffic generation (existing vs proposed) will be a small increase during the peak AM and PM periods i.e. 13 and 10 respectively. The peak period survey times are the most critical within the RMS peak periods. Councils Engineer and the RMS have not raised objections with regards to traffic generation and the surrounding road networks are capable of accommodating the traffic likely to be anticipated by the proposed development.

Parking issues in Charles Street will be exacerbated i.e. overflow from businesses, airport staff, travellers, construction workers etc park in Charles Street & block driveways / Residents in Charles Street request a Resident Parking Scheme

Comment: This request has been forwarded to Councils Traffic Committee for consideration as it is beyond the scope of this application.

Development does not cater for heavy vehicles

Comment: The proposal incorporates a 12.5m diameter turn table on site, in order to accommodate and cater for larger vehicles including but not limited to garbage and delivery trucks and removalist vehicles.

Location of waste collection bay & use of driveway by garbage trucks will result in odours and

acoustic amenity issues to rear yard of 5 Charles Street / Waste should be collected from Princes Highway not Charles Street / Tip bins should be taken from Highway not Charles Street

Comment: The proposal incorporates waste storage areas on site within basement level 1. Waste collection shall occur on site, within the basement level and is unlikely to generate offensive odours or result in acoustic issues to neighbouring residential properties. Waste collection, both construction and ongoing, from the Princes Highway is not a possibility, given the classified nature of this RMS road.

Proposed driveway from Charles Street causes safety concerns for pedestrians & results in odour impacts from vehicle pollution

Comment: As recommended by Councils Traffic Development Advisory Committee, the proposal has been conditioned to require that speed control devices be installed by the developer along Charles Street, ensuring a maximum speed limit of 20 Km/hr within Charles Street in the near future.

Demolition should be accessed from Princes highway not Charles Street due to dust and noise issues

Comment: Demolition and waste collection from construction via the Princes Highway is not a possibility, given the classified nature of this RMS road. The proposal has been conditioned to minimise dust and acoustic disturbance to neighbours during construction.

Privacy and Overshadowing concerns to Wickham Street properties and their backyards

Comment: Building separation as proposed to Wickham Street properties and discussed previously within this report, is considered to be sufficient, in conjunction with blank walls and highset windows, so as not to result in undue privacy and overlooking impacts to Wickham Street properties and their backyards. The matter of overshadowing has previously been discussed in this report.

Using Charles Street for construction vehicles is not feasible as street is not of adequate size for trucks & causes safety risks / Inconvenience to residents and queuing of cars and trucks will result in Charles Street

Comment: Charles street is of sufficient width so as to be capable of being utilised for the purposes of access during construction. It is noted that Princes Highway is a classified road and access from this point is unlikely permitted by the RMS for construction. The proposal has been conditioned to require the preparation and implementation of a Traffic Management Plan, to maximise safety and manage traffic and truck movements during construction periods.

Owner of 5 Charles Street requests a high common boundary fence to be erected prior to work commencing on site and covers on the fence to prevent dust entering 5 Charles Street

Comment: It is reiterated that standard conditions of consent are imposed with respect of dust management during construction. Matters with respect of common boundary fences between private properties are to be negotiated between the owners of these sites.

Where is the telecommunications tower to be relocated on site

Comment: The existing telecommunications tower on the site will be decommissioned and removed

from the site. The proposal has been conditioned to ensure this occurs.

Not incorporating 5 Charles Street may potentially isolate the site and affect its development potential

Comment: The assessing officer does not concur with the above. 5 Charles Street can be amalgamated with two adjoining properties to the north as seen below and thus be redeveloped at a future date once this amalgamation occurs.



Concerns regarding structural integrity of neighbouring dwellings during redevelopment

Comment: Conditions of consent have been imposed, which require the applicant to undertake a dilapidation report and undertake measures to ensure the structural integrity of nearby dwellings have been imposed.

Site Analysis is outdated

Comment: Revised plans have been submitted to Council and an independent assessment undertaken by the assessing officer.

Documents submitted indicate 5 Charles Street forms part of the site this is incorrect and must be rectified.

Comment: Submitted plans do not indicate the above.

No urban design studies / modelling undertaken to identify the development potential of adjoining lots, which may be adversely affected by the configuration of the site and development. / Isolation of adjoining sites and their development potential has not been considered / Site isolation to Charles and Wickham Street properties

Comment: Consideration has been given to adjoining and neighbouring sites. An overview of these properties clearly indicates that they can be amalgamated and redeveloped independently. The proposed development site does not isolate adjoining lots.

Excessive and non-compliant height

Comment: The matter of height has been discussed previously within this report. The height of the proposal is appropriate and consistent with the future desired character of the area.

Prohibited use until zone changes

Comment: The subject site has been rezoned. The proposal is now permissible on the subject site.

6m front setback to Princes Highway is not complied with

Comment: The revised scheme now complies with the necessary building setbacks to the Princes Highway as required by Rockdale DCP 2011.

Acoustic impact of development once it is occupied is not ascertained

Comment: The primary use of the site and development is for residential purposes. It is not anticipated that adverse acoustic impacts, other than those anticipated or to be expected within a high density residential area, are likely to arise given the aforementioned.

Devaluation of neighbouring properties

Comment: There is no documentary evidence submitted to substantiate this claim. It is noted that neighbouring properties have recently been rezoned from R2 low density residential to either B4 Mixed Use or R4 High Density residential, as such the objection is unlikely.

Public transport, schools and local infrastructure are already exhausted

Comment: There is no documentary evidence submitted to substantiate this claim. It is reiterated that the proposal shall make contributions in addition to those s7.11 contributions levied by Council, in order to assist in providing designated State public infrastructure and facilities, being public facilities or services including but not limited to roads, bus interchanges, bus lanes, regional open space and social infrastructure and facilities such as schools, hospitals, emergency services and the like.

Inappropriate substation location in footpath of Princes Highway

Comment: Substations have been relocated to adjoin the proposed vehicular entry in Charles Street and are now located appropriately.

Redeveloping the whole street block would be a better option

Comment: The subject site is of sufficient overall area, dimensions and width so as to be developed independently.

Dust & asbestos particle impacts during construction to neighbouring properties, how will this be managed?

Comment: Conditions of consent have been imposed, which ensure that dust, asbestos and other such materials are removed and disposed from the site in accordance with relevant legislative requirements,

including but not limited to the Work Health and Safety Act 2011, Work Health and Safety Regulation 2011, Code of Practice for the Safe Removal of Asbestos, and without adverse impact to neighbouring properties with regards to dust and fibres.

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

The proposal has been assessed against the relevant planning policies applying to the site having regard to the objectives of the controls. As demonstrated in the assessment of the development application, the proposal will allow the development of the site in accordance with its environmental capacity. The proposed building is a high quality building that will add architectural value to the existing streetscape. Furthermore, the proposal does not create unreasonable impacts on surrounding properties. As such it is considered that the development application is in the public interest.

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

Relevant s7.11 contributions have been imposed in the draft Notice of Determination in order to ensure applicable payments are made as a result of the increase in residential density on site.

Civil Aviation Act, 1988

The site is within an area that is subject to the Civil Aviation (Building Controls) Regulations 1988 made under the *Civil Aviation Act, 1988*.

Civil Aviation (Building Control) Regulations 1988

The Regulations require a separate approval from the Civil Aviation Safety Authority if a building or structure exceeds a prescribed height limit.

Section 5 Prohibition of the construction of buildings of more than 50 feet in height in specified areas

The subject site is affected by the 51OLS. The proposed maximum overall building height at 57.7AHD required referral to CASA who imposed specific conditions of consent to ensure the safety of all air traffic in vicinity of the site. The recommended conditions have been included in the draft Notice of Determination.

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 No.	Drawn By	Dated	Received
Site Plan A-0500 Issue J	Architecture & Building Works	23/08/2019	03/09/2019
Basement Level 3 Plan A-0700 Issue J		23/08/2019	03/09/2019
Basement Level 2 Plan A-0800 Issue J		23/08/2019	03/09/2019
Basement Level 1 Plan A-0900 Issue J		23/08/2019	03/09/2019
Ground Floor Plan A-1000 Issue J		10/10/2019	11/10/2019
Level 1 Plan A-1100 Issue J		23/08/2019	03/09/2019
Level 2 Plan A-1200 Issue J		23/08/2019	03/09/2019
Level 3 Plan A-1300 Issue J		23/08/2019	03/09/2019
Level 4 Plan A-1400 Issue J		23/08/2019	03/09/2019
Level 5 Plan A-1500 Issue J		23/08/2019	03/09/2019
Level 6 Plan A-1600 Issue J		23/08/2019	03/09/2019
Level 7 Floor Plan A-1700 Issue K		30/09/2019	01/10/2019
Level 8 Floor Plan A-1800 Issue K		30/09/2019	01/10/2019
Level 9 Floor Plan A-1900 Issue K		30/09/2019	01/10/2019
Roof Plan A-1910 Issue K		30/09/2019	01/10/2019
Adaptable Unit Details A-5000 Issue J		23/08/2019	03/09/2019
Elevations 2 Issue K		30/09/2019	01/10/2019
Elevations 1 Issue K		30/09/2019	01/10/2019
Sections A-3000 Issue J		23/08/2019	03/09/2019
Relationship with Northern Neighbour A-3400 Issue J & Section BS1 / BS2		23/08/2019	03/09/2019
Driveway Profile A-3200 Issue J		23/08/2019	03/09/2019
Schedule Colours & Finishes Pn-17007		August 2019	03/09/2019
Draft Stratum Plans Sheet 1 of 5 to Sheet 5 of 5 Issue 4	Mark Andrew Surveyor	23 August 2018	03/09/2019
DA Landscape & Design Report [LR-DA001][10]	Scott Carver	01/10/2019	02/10/2019
LD-DA000 Rev 5 - Cover Sheet	Scott Carver	23/08/2019	03/09/2019
LD-DA100 Rev 9 - Ground Floor – General Arrangement Plan			
LD-DA101 Rev 8 - Detail Plan 1			
LD-DA102 Rev 8 - Detail Plan 2			
LD-DA200 Rev 5 – Typical Sections 01/02 Rev 5			
LD-DA201 Rev 5 – Typical Sections 03			

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 (941607M) other than superseded by any further amended consent and BASIX certificate.

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

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

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

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

6. Further alterations and/or additions to the subject building shall not be undertaken without first obtaining approval. This includes the fitting of any form of doors and/or walls.
7. A separate development application shall be submitted for the specific use/uses of the property. Additional conditions may be imposed on any such consent.

Note: Parking and loading provisions in a mixed use development may preclude certain uses.

8. Balconies shall not be enclosed at any future time without prior development consent.
9. 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.
10. Excavation, filling of the site (with the exception of the area immediately under the building envelope), or construction of retaining walls are not permitted unless shown on the approved plans and authorised by a subsequent construction certificate.
11. 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.
12. Mail boxes must be accessible along the street frontage of the property boundary in accordance with Australia Post Guidelines. Prominent house numbers are to be displayed, with a minimum number size of 150 mm in height for each number and letter in the alphabet.
13. All works are to be carried out in accordance with the integrated development conditions provided by Water NSW and listed in this consent.
14. Parking spaces shall be allocated to residential apartments / non-residential units in the development in the following manner and this shall be reflected in any subsequent strata subdivision of the development:

Allocated Spaces

Studio - 2 bedroom units - 1 space per unit

3 bedroom units - 2 spaces per unit

Commercial - 1 space per 40sq/m gross floor area

Non-Allocated Spaces

Residential Visitor Spaces - 1 space per 5 units

1 dedicated car wash bay

1 loading / unloading / garbage bay with 12.5m diameter turntable

2 x Commercial Van spaces adjoining goods lifts

Parking calculations that are not whole numbers must be rounded up to the nearest

whole number.

All residential visitor spaces, car wash bays and loading bays shall be labelled as common property on the final strata plan for the site.

Note: This parking allocation condition applies to any Strata Certificate issued with respect to a Consent issued in accordance with Section 4.18(1)(A) of the *Environmental Planning and Assessment Act 1979* or a Complying Development Certificate issued in accordance with Part 6 of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

15. Pumps attached to the development must be housed in a soundproof enclosure.

Development specific conditions

The following conditions are specific to the Development Application proposal.

16. The front windows of showroom tenancies fronting the Princes Highway shall be kept free of shelves, and a maximum of 15% of the window display area may be covered with promotional materials to ensure passive surveillance is maintained to and from the tenancies.
17. Parking spaces shall not be enclosed without further approval of Council. The enclosure of car spaces is not permitted unless the enclosure complies with the design requirements of AS2890.1.
18. The existing and future owners (Registered Proprietor) of the property will be responsible for the operation and maintenance of the detention system. The registered proprietor will:
 - (i) permit stormwater to be temporarily detained by the system;
 - (ii) keep the system clean and free of silt, rubbish and debris;
 - (iii) maintain, renew and repair the whole or parts of the system so that it functions in a safe and efficient manner, and in doing so complete the same within the time and in the manner specified in written notice issued by the Council;
 - (iv) carry out the matters referred to in paragraphs (ii) and (iii) at the proprietor's expense;
 - (v) not make any alterations to the system or elements thereof without prior consent in writing of the Council;
 - (vi) permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of emergency) to enter and inspect the land for compliance with the requirements of this clause;
 - (vii) comply with the terms of any written notice issued by the Council in respect to the requirements of this clause within the time stated in the notice.
19. The existing and future owners (Registered Proprietor) of the property will be responsible for the efficient operation and maintenance of the pump system.

The Registered Proprietor will:

- (i) permit stormwater to be temporarily detained and pumped by the system;
- (ii) keep the system clean and free of silt, rubbish and debris;

- (iii) maintain, renew and repair the whole or parts of the system so that it functions in a safe and efficient manner; and in doing so complete the same within the time and in the manner specified in written notice issued by the Council;
- (iv) carry out the matters referred to in paragraphs (ii) and (iii) at the proprietor's expense;
- (v) not make alterations to the system or elements thereof without prior consent in writing of the Council.
- (vi) permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of emergency) to enter and inspect the land for compliance with the requirement of this clause;
- (vii) comply with the terms of any written notice issued by the Council in respect to the requirements of this clause within the time stated in the notice.

20. All wastewater and stormwater treatment devices (including drainage systems, sumps and traps) shall be regularly maintained in order to remain effective. All solid and liquid wastes collected from the device shall be disposed of in accordance with the Protection of the Environment Operations Act, 1997.

21. Terms and Conditions of the Positive Covenant

The registered proprietor covenants as follows with the council in respect to the Maintenance of Loading Bay Turn Table System as shown on plans approved filed with DA-2018/196 by the Council (hereinafter called 'the system').

1. Registered Proprietor will

- a. Keep the system clean and free of rubbish and debris;
- b. Maintain, renew and repair the whole or parts of the system so that it functions in a safe and efficient matter;
- c. Carry out the matters referred to in paragraphs (b) and (c) at the proprietor's expense;
- d. Not make any alterations to the system or elements thereof without prior consent in writing of the Council;
- e. Permit the Council of its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of an emergency) to enter and inspect the system for compliance with the requirements of this clause;
- f. Comply with the terms on any written notice issued by the Council in respect to the requirements of this clause within the time stated on the notice.

2. In the event of the registered proprietor failing to comply with the terms of any written notice served in respect of the matters in Clause 1 the Council of its authorised agents may enter with all necessary equipment and carry out any work required to ensure the safe and efficient operation of the system and recover from the registered proprietor the cost of liaison with the proprietor and the cost of carrying out the work, and if necessary, recover the amount due by legal proceedings (including legal cost and fees) and entry of a covenant charge on the land under Section 88F of the Conveyancing Act 1919. In carrying out any work under this clause, the Council shall take reasonable precautions to ensure that the land is disturbed as little as possible.

Name of the Authority Empowered to Release, Vary or Modify Covenant:
Bayside Council

22. The use of the premises, building services, equipment, machinery and, ancillary

fittings shall not give rise to an “offensive noise” as defined under the provisions of the Protection of the Environment Operations Act, 1997.

23. The use of mechanical plant including air conditioners, fans, compressors, condensers, freezers, swimming pool or spa pumps (whether commercial or domestic) shall not cause sound pressure levels in excess of the criteria given in the NSW Industrial Noise Policy – 2000.
24. 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.
25. The visible light reflectivity from building materials used on the façade of the building shall not exceed 20% and shall be designed so as not to result in glare that causes any nuisance or interference to any person or place. A statement demonstrating compliance with these requirements shall be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate for the relevant stage of works.
26. Bicycle parking facilities shall be designed in accordance with AS2890.3:1993.
27. The off-street parking areas associated with the subject development shall be designed strictly in accordance with AS2890.1 and AS2890.6.
28. All proposed lights shall comply with the Australian Standard AS4282 - 1997 "Control of the Obtrusive Effects of Outdoor Lighting". In this regard, the lighting of the premises shall be directed so as not to cause nuisance to the owners or occupiers of adjacent/adjoining premises or to motorists on adjoining or nearby roads.
29. In order to ensure the design quality excellence of the development is retained:
 1. A registered architect is to have direct involvement in the design documentation, contract documentation and construction stages of the project;
 2. The design architect is to have full access to the site and is to be authorised by the applicant to respond directly to the consent authority where information or clarification is required in the resolution of design issues throughout the life of the project;
 3. Evidence of the design architect's commission is to be provided to Bayside Council prior to issue of the Construction Certificate.

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

30. The external walls of the building including attachments must comply with the relevant requirements of the National Construction Code (NCC). Prior to the issue of a Construction Certificate and Occupation Certificate the Certifying Authority and Principal Certifying Authority must:
 - a. Be satisfied that suitable evidence is provided to demonstrate that the products and systems (including installation) proposed for use or used in the construction of external walls, including finishes and claddings such as synthetic or aluminium composite panels, comply with the relevant requirements of the NCC; and
 - b. Ensure that the documentation relied upon in the approval processes include an appropriate level of detail to demonstrate compliance with the NCC as proposed and as built.

31. Prior to the issue of the Construction Certificate for the relevant stage of works, the following details shall be submitted to the Principal Certifying Authority in relation to the awning over the Princes Highway frontage:
- i. Detailed design plans and specifications, including structural details and,
 - ii. Design certificate.

The awning shall be designed by a Chartered Professional Engineer (Structural). Awning design shall comply with following requirement of Rockdale Development Control Plan section 5.3:

- a) minimum soffit height of 3.3m;
- b) maximum fascia height of 600mm;
- c) minimum setback from edge of kerb of 600 mm;
- d) maximum step of 900mm on sloping sites, which must not compromise environmental protection.

Following completion of the installation of the awning a certificate from a Chartered Professional Engineer (Structural) shall be submitted to Bayside Council stating that the awning has been constructed in accordance with the design plans and specifications.

Subject to compliance with the requirements above, Bayside Council grants approval pursuant to Section 138 of the Roads Act 1993. Council's approval remains whilst the structure is in place and the structural stability of the awning is not compromised. Maintenance of the awning is the responsibility of the owner of the land.

32. (2) The Final Landscape Plan shall be generally in accordance with the approved Landscape Plan prepared by Scott Carver, dated 6th September and comprise detailed landscape construction documentation (plans and specifications) to be submitted to, and approved by Bayside Council's Landscape Architect prior to the issue of the Construction Certificate. The landscape documentation shall include, but not be limited to:
- (a) A planting plan at 1:100 showing all plant locations/groupings and plant centres/species. There is to be a dense layered planting scheme consisting of trees, shrubs and groundcovers in all of these areas.
 - (b) Elevated planter box sectional details and drainage details. All planter box depths and dimensions shall be in accordance with Council's DCP and capable of supporting medium and large trees.
 - (c) Landscape setback along Princes Highway. Provide 10 x 600L Lophostemon Confertus, spaced 8m apart, planted within 1.2m depth of soil and installed in tree grates, along the Princes Highway frontage of the site. Trees shall be installed with watering pipe, and with tree guards or stakes as per Council specifications. Trees shall be planted in deep soil in a continuous bed, minimum 3.5 meters wide. The planter shall be only broken up with pavers in entry lobby and shops entrances. The planter bed shall include feature shrubs and groundcovers: Beschorneria yuccoides, Doryanthus excelsa, Lomandra longifolia Tanika, Dianella caerulea, Hibbertia scandes, Liope muscari, Philodendron Xanadu, or other underplanting approved by Council. A minimum 2.1 meters wide footpath shall be included

between planter bed and building facade. Pavement, furniture and lighting within the landscape setback and public domain shall be as specified in Arncliffe and Banksia Public Domain Plan and technical Manual.

- (d) Pavement, furniture and lighting within the landscape setback and public domain shall be as specified in Arncliffe and Banksia Public Domain Plan and technical Manual.
- (e) Elevated planter box sectional details and drainage details to be shown on plans. All planter box depths and dimensions shall be in accordance with Council's DCP and capable of supporting medium and large trees. All relevant levels and top of walls will be included in landscape plan for assessment.
- (f) Planter box located along boundaries shall be minimum 800mm soil depth to allow trees and screen planting.
- (g) The front setbacks to Charles Street and Princes Highway to be consistent with the adopted Public Domain Plan for the precinct.
- (h) A Landscape Maintenance Schedule shall be submitted that covers a 12 month period to provide a guide to the landowner or occupier on how to best maintain the constructed landscaped areas; and include the following information: shrub pruning/trimming (frequency, plant requirements); Fertilising and pest control (soil testing, types, rate, frequency); Mulching, weeding and soil improvement (frequency, materials); Irrigation (checks, adjustments); tree maintenance (fertilising, mulching, tree stakes adjustments, special tree requirements); Maintenance of hard landscape elements (paving, edges, walls, pergolas, seats, and planter box walls); and planter boxes/roof gardens/green wall (specialised maintenance requirements).
- (i) Irrigation prior Occupation Certificate. To ensure satisfactory growth and maintenance of the landscaping, a fully automatic drip irrigation system is required in all landscaped areas in the site. The system shall be installed by a qualified landscape contractor and provide full coverage of planted areas with no more than 300mm between drippers, automatic controllers and backflow prevention devices, and should be connected to a recycled water source. Irrigation shall comply with both Sydney Water and Council requirements as well as Australian Standards, and be maintained in effective working order at all times.
- (j) If sandstone is present anywhere within the site where landscape / tree planting is proposed or required in conditions of consent, excavation to a minimum 1.4 meters depth and with adequate volume to support large trees is required (refer to ADG as a guide). These areas must be backfilled with imported soil/compost, water holding additive and fertiliser. Backfill soil mix specifications shall be detailed and submitted to Council for approval. Lightly compact the soil to ensure all voids around rootballs are filled and that no air pockets are retained. Backfill soil shall not be placed over the top of the tree rootballs. The top of the rootball and plant stem must be kept level with the top of the

backfill. Drainage from these areas to be provided where be required.

- (3) Prior Occupation certificate all planter boxes constructed over a concrete slab shall be built in accordance with the following requirements:
 - (a) Ensure soil depths in accordance with Council's Landscape DCP. The base of the planter must be screeded to ensure drainage to a piped internal drainage outlet of minimum diameter 90mm, with no low points elsewhere in the planter. There are to be no external weep holes.
 - (b) A concrete hob or haunch shall be constructed at the internal join between the sides and base of the planter to contain drainage to within the planter.
 - (c) Planters are to be fully 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 backfilling with soil. An inspection of the waterproofing and sealing of edges is required by the Certifier prior to backfilling with soil.
 - (d) Drainage cell must be supplied to the base and sides of the planter to minimize damage to the waterproof seal during backfilling and facilitate drainage. Apply 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.
 - (e) Finish externally with a suitable paint, render or tile to co-ordinate with the colour schemes and finishes of the building.
 - (f) All planter boxes shall be irrigated, and shall have the required depth to sustain the proposed planting.
- (4) Prior Occupation Certificate any proposed play equipment shall be in accordance with Australian Standards for Play Equipment and Surfacing, set out in AS 4422:2016 and AS 4685:2017.
- (5) Prior to the release of the construction certificate all landscape and construction documentation shall comply with Arncliffe and Banksia Public Domain Plan & Technical Manual.
- (6) Prior to the issue of a Construction Certificate, the applicant shall submit a Frontage Works Application. Public domain landscape improvements plan shall be submitted for approval by Council. The Plan shall be undertaken by a suitably experienced Landscape Architect and shall include but not be limited to new street tree planting, footpath paving (segmental/other), street tree pit treatments and tree guards, street furniture, in ground landscaping, irrigation, lighting. The Plan shall be in accordance with Arncliffe and Banksia Public Domain Plan & Technical Manual, Council's City Identity Program, Landscape DCP and any other Council specification or requirement. Civil drawings shall be included detailing levels and detailed footpath construction sections in accordance with Council's Engineering Services requirements. Contact Council's Landscape Architect for further details of specific requirements in preparation of the plan.

- (7) All trees proposed within the site have to be supplied in a pot size not less than 100 Litres. Trees provided shall conform to NATSPEC guide.
- (8) All street trees have to be supplied in a pot size not less than 200 Litres. Trees supplied shall be healthy and vigorous, free of pest and disease, free from injuries. Trees provided shall conform to NATSPEC guide.
- (9) An experienced Landscape Contractor shall be engaged to undertake all landscaping public domain work and shall be provided with a copy of both the approved landscape drawing and the conditions of approval to satisfactorily construct the landscape to Council requirements. The contractor shall be engaged weekly for a minimum period of 52 weeks from final completion of landscaping for maintenance and defects liability, replacing plants in the event of death, damage, theft or poor performance. After that time regular and ongoing maintenance is required.
- (10) Landscape Completion / Certification: Prior to the issue of the relevant stage of the Occupation Certificate, the following must be complied with:
 - (a) All landscape works are to be carried out in accordance with the approved final Construction Certificate landscape plans for the approved development. The landscaping is to be maintained to the approved standard at all times.
 - (b) A Landscape Architect shall provide a report to the certifying authority (with a copy provided to Council, if Council is not the principal certifier) stating that the landscape works have been carried out in accordance with the approved CC landscape plans and documentation.
- (11) The existing Tallowood street tree located at the front of the property at 7 Charles Street is not to be removed or pruned, including root pruning, without the written consent of Council Tree Officer.

33. Loading / Unloading

- (A) All loading, unloading and transfer of goods to and from the loading bay and premises shall take place wholly within the property.
- (B) Loading areas are to be used only for the loading and unloading of goods, materials etc. not for any other purpose.
- (C) All loading and unloading activities for the ground level showroom tenancies within the development shall be limited to between 8am - 6pm Monday to Sunday. No loading and/or unloading for retail tenancies is permitted beyond these times.
- (D) The loading bay is to be maintained and coordinated by the building manager so as to ensure there is no conflict with respect to the collection of waste or loading/unloading of retail goods and residential vehicle movements.
- (E) The loading / unloading bay on site is to be made available for use by all retail and residential uses on site (including removalist vehicles).

34. Waste Disposal & Garbage Rooms

- (A) Services or utility systems shall not be located in the garbage room. Hot and cold water hose cocks shall be installed to the garbage room.

(B) All waste shall be collected from within the subject site within the approved loading / unloading bay.

(C) Waste shall be compacted at a maximum ratio of 2:1.

35. The Voluntary Planning Agreement, entered into between Combined Projects (Wickham Street) Pty Ltd (ACN 609 501 402) and Minister for Planning and Public Spaces (ACN 20 770 707 468) is to be implemented on site.
36. Substations required for the site shall only be located adjoining the vehicular access way of the development.
37. The design and construction of the off-street parking facilities shall:
 - Comply with Australian Standards, as follows:
 - AS/NZS 2890.1:2004
 - AS2890.2:2002
 - AS2890.3:1993
 - AS/NZS2890.6:2009

The following conditions apply to the provision of car parking on site and the adequacy of vehicular movements within the site:

- A dedicated 3.5m wide car wash facility shall be provided in accordance Rockdale Technical Specification – Stormwater Management, in relation to the minimum width and configuration of car wash bays.
- Provide bicycle parking facilities for residents that are class 1 or 2 in accordance with AS2890.3:1993. Bicycle parking facilities for residents shall not be Class 3 facilities.
- Comply with Council's Vehicular Entrance Policy in relation to the design of the access driveways, in particular the layout of the access driveways shall be provided in the form of a layback in the kerb and gutter.
- Internal height clearance shall be designed throughout the car park and access driveway in accordance with AS2890.1, AS2890.6 and commercial vehicle facilities shall be designed strictly in accordance with AS2890.2:2002.
- For parking with people with disabilities, the clearance above the parking bay shall be 2.5m minimum.
- Provision of a loading bay turn table shall be provided.
- The car parking areas must be well lit, well laid out and facilitate convenient manoeuvring into and out of spaces and should have a legible circulation pattern with adequate signage.
- In addition to the Council Refuse Collection loading bay, to make provision for two (2) VAN loading bay having direct access to lift lobbies within the basement, and be a minimum dimension of 5.4 m X 3.0 m, with an unrestricted height clearance of 2.3m.
- Bicycle parking facilities shall be designed in accordance with AS2890.3:1993.
- Allocate all off street visitor parking, loading bays and car wash bays as 'common property' on any future strata plan of subdivision under the Strata (Freehold) Schemes Act.

Note: Parking allocation conditions apply to any Strata Certificate issued with respect to a Consent issued in accordance with Section 81 (1)(A) of the Environmental Planning and Assessment Act 1979 or a Complying Development Certificate issued in accordance with Part 6 of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

Prior to issue of the construction certificate

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

38. 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 \$44,000.00. This is to cover repair of any damages, or other works to be done by Council. This includes construction, removal, or repair as required to: kerb and guttering, existing or new driveways; paved areas and concrete footpaths. The deposit may be lodged with Council in the form of a Bank Guarantee (Any proposed Bank Guarantee must not have an expiry date). The deposit will not be returned by Council until works are completed and all damage is restored and all specified works are completed by Council.
 - ii. An environmental enforcement fee of 0.25% of the cost of the works.
 - iii. A Soil and Water Management Sign of \$19.00.
39. A Construction Management Plan (CMP) shall be prepared in accordance with the requirements of all relevant regulatory approval bodies. Prior to the commencement of works the Certifying Authority shall be satisfied that the Construction Management Plan has obtained all relevant regulatory approvals. The Construction Management Plan shall be implemented during demolition, excavation and construction.

Prior to the issue of the relevant Construction Certificate, a Construction Traffic

Management Plan (TMP) prepared by a suitably qualified person shall be submitted to and approved by the Certifying Authority. The Plan shall address, but not be limited to, the following matters:

- (a) ingress and egress of vehicles to the site;
- (b) loading and unloading, including construction zones;
- (c) predicted traffic volumes, types and routes; and
- (d) pedestrian and traffic management methods.

Note: The swept path of the longest vehicle entering and existing the subject site, as well as manoeuvrability through the site, shall be in accordance with Austroads. A swept path plan shall be submitted to Certifying Authority for approval illustrating compliance with this requirement, prior to release of the Construction Certificate.

Any proposed landscaping, fencing or signage is not to impede the desired sight lines of all road users including pedestrians and cyclists.

All road works / regulatory signposting associated with the proposed development shall be at no cost to the Council or RMS.

Copies of the CMP and TMP shall be submitted to Council.

40. 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.

41. An application for Driveway Works (Public Domain Construction – Vehicle Entrance/Driveway Application) and / or Frontage Works (Public Domain Frontage Works Construction Application) shall be made to Council's Customer Service Centre prior to issue of the Construction Certificate. All boundary frontage works, egress paths, driveways and fences shall comply with the approval. A fee is payable to Council. 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.
42. The following changes are required to be made and shown on the Construction Certificate plans:
- (a) Glass balustrades shall be provided as frosted or opaque.
 - (b) Conceal drainage pipes within the floor slabs and walls so that they do not appear in the exterior of the building, including balconies and driveway entrances.
 - (c) Encase any hot water system / unit in balconies in a recessed box with the lid / cover designed to be blend into the facades.
 - (d) Locate electrical kiosks away from the front elevation, main entrances and front setback of the building.
 - (e) Soften utility services with landscaping so as not to detract from the overall appearance of the development and the streetscape.
 - (f) The recommendations of the Wind Report prepared by Wind Tech, dated July 2018 are to be illustrated upon construction certificate drawings and implemented on site.
 - (g) Acoustic Attenuation - The noise reduction measures specified in the acoustic report prepared by Koikas Acoustics dated 25 July 2018, shall be shown on construction plans and implemented on site.
 - (h) The recommendations of the Access Report prepared by Morris Goding Access Consulting dated 29 August 2019 are to be illustrated upon construction certificate drawings and implemented on site.
 - (i) A single antenna shall be provided to the building for use of all residents.
 - (j) Fixed storage provision shall be provided internally within each residential dwelling, in accordance with the relevant requirements of the Apartment Design Guide.
 - (k) Landscape Plan shall be amended as follows;
 - i) to provide 10 x 600L Lophostemon Confertus, spaced 8m apart and planted within 1.2m depth of soil are provided along the Princes Highway frontage of the site.
 - ii) to provide a minimum soil depth of 0.8m for planters within the communal open space area in the north eastern corner of the site at ground level.
 - iii) to provide a greater number and variety of large deciduous trees with a minimum mature height of 15m, within the communal deep soil area on site.
 - (l) Units B0.03 / A0.01 / A0.02 are to be provided with independant separate access

from respective private terraces at ground floor level.

(m) Units B7.06, B8.06, B9.06 shall be provided with full height (minimum 1.8m high) fixed privacy screens to the north eastern side of balconies.

(n) Units C4.03, C5.03, C6.03, C7.03 shall be provided with full height (minimum 1.8m high) fixed privacy screens to the eastern side of balconies.

(o) Terraces at ground level to units A0.02, B0.03, C0.06, C0.01 shall be increased to a minimum useable area of 15sq/m with minimum dimensions of 3m as required by the Apartment Design Guide.

Details shall be submitted to the satisfaction of the Principal Certifier prior to the issue of a Construction Certificate.

43. Voluntary Planning Agreement

(a) Prior to issue of any Construction Certificate for any above ground works (i.e not including any construction certificate(s) for basement construction works), Combined Projects (Wickham St) Pty Ltd is to register on the title of the property the final signed VPA mutually entered into with the Minister for Planning and Public Spaces, in accordance with the offer set out in the letter from Deicorp to the Minister for Planning and Public Spaces, Department of Planning and Environment, dated 16 September 2019.

(b) All requirements contained within the VPA that are entered into must be complied with prior to the relevant stage as specified in the VPA.

(c) No Construction Certificate or Occupation Certificate can be issued until any corresponding obligation in the VPA has been satisfied.

(d) The obligations under the VPA shall be satisfied to the satisfaction of the Minister for Planning and Public Spaces, by the times specified in the VPA and prior to the issue of any Occupation Certificate.

44. Prior to the issue of a Construction Certificate for the development, an application for Property Address allocation and payment of the associated fee are required to be submitted to Council. All new addresses will be allocated in accordance with AS/NZS 4819:2011 Rural and Urban Addressing Standard and Section 5.2 of the NSW Address Policy.

The numbering (sub addresses) of the individual units in multilevel sites should be consistent with Australian Standards AS/NZS 4819:2011 Rural and Urban Addressing Standard & NSW Addressing User Manual.

The general principles of addressing are described in the NSW Addressing User Manual Ch.6.5.5 "Multilevel SubAddress Allocation". A schedule of the subaddresses is required to be submitted to council for approval prior to registration of the subdivision plan. The manual is available for download at:

http://www.gnb.nsw.gov.au/__data/assets/pdf_file/0007/199411/NSW_AUM_July2018_Fina

45. A Section 7.11 contribution of \$2,529,267.19 shall be paid to Council. Such contributions are only used towards the provision or improvement of the amenities and services identified within Council's s7.11 document. The amount to be paid is adjusted at the time of payment, in accordance with the contribution rates contained in Council's current Adopted Fees and Charges. The contribution is to be paid prior to the issue of any construction certificate for works above the floor level of the ground floor. (Payment of the contribution is not required prior to any separate construction certificates issued only for demolition, site preparation works and the construction of basement levels).

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

46. The applicant shall confer with Ausgrid to determine if:
- installation of electricity conduits in the footway is required.
 - satisfactory clearances to any existing overhead High Voltage mains will be affected.
 - an electricity distribution substation is required.

Written confirmation of Ausgrid's requirements shall be obtained prior to issue Construction Certificate.

47. Documentation shall be submitted to the Accredited Certifier demonstrating that the commercial component of the development complies with Part J of the Building Code of Australia.

All water fixtures installed within the commercial premises on site are to have a AAA water rating or more. A statement demonstrating compliance with this condition shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

48. Safer by Design

To maximise security in and around the development the following shall be incorporated into the development. Details for the following are to be approved by the Principal Certifying Authority prior to the issue of the Construction Certificate, implemented prior to issue of the Occupation Certificate, and maintained for the lifetime of the development:

1. Monitored CCTV facilities shall be implemented throughout the development. Areas of focus include the basement car park (including entry and exits), main entry areas to the development and garbage/storage areas.
2. A lighting maintenance policy shall be established for the development. Lighting shall be designed to the Australian and New Zealand Lighting Standards. Australia and New Zealand Lighting Standard 1158.1 - Pedestrian, requires lighting engineers and designers to consider crime risk and fear when selecting lamps and lighting levels.
3. Security mirrors shall be installed within corridors and on blind corners to enable users to see around blind corners.
4. Graffiti resistant materials shall be used to ground level external surfaces.
5. Intercom facilities shall be installed at all vehicular and pedestrian entry/exit points to enable residents to communicate and identify with people prior to admitting them to the development.

49. To ensure design excellence is achieved, as required by Clause 6.14 of Rockdale Local Environmental Plan 2011, prior to the issue of any construction certificate entailing any works above basement levels including public domain works, the following must be prepared by the registered architect commissioned for the construction of the project :

a) Two (2) sample boards containing original samples and swatches of all external materials and colours including:

- (i) wall / roof cladding;
- (ii) any columns (including vertical elements attached to columns);
- (iii) balustrading;
- (iv) louvres, screens;
- (v) glazing;
- (vi) window edge treatments;
- (vii) paving/surface in front setback areas;
- (viii) driveway;
- (ix) footpaths;
- (x) retaining wall details;
- (xi) seating and fixtures within ground level communal open spaces (including all surface treatments).

b) Full coloured elevational details at a minimum scale of 1:10;

c) Sections through relevant façade elements, public domain stairs, planter boxes at a minimum scale of 1:10.

The boards, elevations and sections are to be submitted and stamped as approved by the Director City Futures (or delegate) prior to the issue of any Construction Certificate entailing any works above basement levels. The Construction Certificate shall be precisely consistent with these approved materials.

Any modifications to the approved materials under this condition require submission and approval of a S4.55 application.

50. A Site Audit Statement will be required for the site prior to the issue of any Occupation Certificate. To ensure the necessary assessment and remediation is completed, a NSW Environment Authority (EPA) Accredited Site Auditor shall be appointed to the site prior to the commencement of any remediation works, excavation or commencement of works at the site. The Site Auditor shall review and endorse any additional investigation and remediation proposed prior to the commencement of any works.

Evidence of this appointment shall be provided to Council prior to the issue of any Construction Certificate.

51. To ensure that the additional groundwater investigations and any Remedial Action Plan (RAP) proposed for the site are sufficient to enable the site to be made suitable for the proposed residential and commercial development, an Interim Site Audit Advice shall be completed by the accredited site auditor under the Contaminated Land Management Act 1997 and shall be submitted to Council clearly demonstrating that any proposed remediation and management is appropriate to make the development suitable for the proposed uses.

This shall be provided prior to the issue of any construction certificate for excavation

or construction.

52. Prior to the issue of the Construction Certificate a certificate from a practicing Structural Engineer, registered with NPER, shall be submitted to Council stating that the subsurface structural components located on the boundary of the public road, including but not limited to the slabs, walls and columns, have been designed in accordance with all SAA Codes for the design loading from truck and vehicle loads.
53. The development shall achieve the following minimum equivalent AAAC Star Rating within the below specified areas of the development.

- 3 Star for tiled areas within kitchens, balconies, bathrooms and laundries. Tiled flooring within corridors, living areas and bedrooms is not permitted.
- 4 Star for timber flooring in any area.
- 5 Star for carpet in any area.

The development shall comply with the Building Code of Australia requirement for walls dividing occupancies.

A report shall be submitted to the Principal Certifying Authority for approval prior to the issue of any Construction Certificate. The report is to include BCA requirements and details of floor/ceilings between residential apartments. Floor coverings within apartments shall be identified within the report. A suitably qualified acoustic engineer with MIE Australia membership or employed by a consulting firm eligible for AAAC membership is to certify that the details provided in the said report satisfy the requirements of this condition, with the certification to be submitted to the Principal Certifying Authority for approval prior to the issue of any Construction Certificate for the relevant stage of works.

54. All recommendations contained in the Geotechnical Investigation Report prepared by eiaustralia dated 25 July 2018 shall be implemented on site prior to the issue of the construction certificate.
55. Compliance with Council's Development Control Plan (DCP) 2011 – Requirements for Access. Access in accordance with the relevant Australian Standards must be provided to and within 19 residential units (C1.02, C2.02, C3.02, C4.02, C5.02, C6.02, C7.02, C8.02, C9.02, B2.04, B3.04, B4.04, B5.04, B6.04, B2.03, B3.03, B4.03, B5.03, B6.03) and between these units and their allocated car parking spaces. The allocated parking spaces shall be located in close proximity to the access points of the building.

Please note that compliance with this condition requires the relevant units to be constructed to comply with all the essential (Type C) requirements of the relevant Australian Standards.

Note: Compliance with Council's Development Control Plan (DCP) 2011 – Requirements for Access and the Building Code of Australia does not necessarily guarantee that the development meets the full requirements of the Disability Discrimination Act (DDA) 1992. It is the responsibility of the applicant to make the necessary enquiries to ensure that all aspects of the DDA legislation are met.

56. Compliance with Council's Development Control (DCP) 2011 in relation to requirements for access. Compliance with this condition will require the design and fitout of the commercial/retail areas to be in accordance with Australian Standard 1428.1-2009.

Note: Compliance with Council's Development Control Plan (DCP) 2011 and the

Building Code of Australia does not necessarily guarantee that the development meets the full requirements of the Disability Discrimination Act (DDA) 1992. It is the responsibility of the applicant to make the necessary enquiries to ensure that all aspects of the DDA legislation are met.

57. Adjoining buildings founded on loose foundation materials

As the basement floor is proposed close to existing built structures on neighbouring properties, which may be in the zone of influence of the proposed works and excavations on this site, a qualified practicing geotechnical engineer must;

(a) Implement all recommendations contained in the report prepared by EI Australia, Report Ref: E23820.G03_Rev 1, Dated 25 July 2018.

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

(c) Confirm that the proposed construction methodology

To 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) The geotechnical engineer to comment on proposed stormwater drainage design for the basement area, mainly on AGG line connections / permanent dewatering and a tanked basement structure.

NB: (i) If the proposed construction of the basement carpark impedes the water table, thus requiring dewatering of the site, the application is Integrated Development.

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

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

(f) 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.

58. Prior to the issue of any Construction Certificate;

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

The Tap in™ online self-service replaces Sydney Water's Quick Check Agents, and is available at:

<https://www.sydneywater.com.au/SW/plumbingbuildingdeveloping/building/Sydney-water-tap-in/index.htm>

59. 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>

60. The applicant shall design and construct the works subject to the recommendations of the Rockdale Traffic Committee as resolved by Council. Such work is to be designed and carried out in accordance with AUSTROADS and RTA Technical Directions, and is subject to detailed approval by the Rockdale Traffic Committee.

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

Public Domain Scope of Works

1. Detailed design of frontage works including drainage, civil, undergrounding of power, landscaping, street lighting, traffic signs and line marking. Note RMS approvals for Princes Highway frontage.
2. Civil design to include traffic calming devices within Charles Street. Traffic speed control devices are to ensure that the approaching speed of vehicles travelling northbound along Charles Street does not exceed 20 Km/hr.
3. That the splay of the driveway in Charles Street be widened to facilitate the turning of larger vehicles.

Works required by this condition shall be undertaken in the road reserve at the applicant's expense.

No works shall commence until approval has been obtained for the design of all road and streetscape works listed above under the Roads Act 1993, the Transport Administration Act 1988 and the Road Transport (Safety and Traffic Management) Act 1999.

61. Prior to issue of the Construction Certificate, a longitudinal driveway profile shall be submitted to Principal Certifying Authority for assessment and approval. The profile shall start in the centre of the road and be along the critical edge (worst case) of the driveway. Gradients and transitions shall be in accordance with Council's Code. The profile shall be drawn to a scale of 1 to 25 and shall include all relevant levels, grades (%) and lengths.
62. 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 "flotation" (buoyancy) effects. Subsoil drainage around the subsurface structure must allow free movement of groundwater around the

structure, but must not be connected to the internal drainage system. The design of subsurface structure, tanking and waterproofing, and subsoil drainage shall be undertaken by a suitably experienced Chartered Professional Engineer(s). Design details and construction specifications shall be included in the documentation accompanying the Construction Certificate.

63. A dedicated car wash bay is required. A tap shall be provided. A sign shall be fixed saying 'Car Wash Bay'. The runoff shall be directed and treated as per Rockdale Technical Specification Stormwater Management. Details shall be provided with the plans accompanying the Construction Certificate.
64. 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 and shall include the following;

(A) The stormwater management for the proposed development should be in accordance with the requirements of DCP 4.1.3 and Rockdale Technical Specification – Stormwater Management. The provision of on-site detention shall have 2 years and 50 years orifice controls

(B) The site is sufficiently large to warrant the use of a Water Sensitive Urban Design Approach (WSUD) to the design of the drainage system. Generally, WSUD involves recognition of a need to:

- Reduce runoff and peak flows.
- Conserve water by reducing demand on potable water supplies.
- Protect water quality.
- To incorporate an oil separator in accordance with Rockdale Technical Specification – Stormwater Management, section 7.5.4.
- The basement pumpwell size shall be in accordance with Clause 4.2.4 of DCP2011- Technical Specification for Stormwater Management.

Design certification, shall be 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.

65. Prior to the issue of a construction certificate, a design verification statement shall be submitted to the PCA from a qualified designer certifying that the development achieves or improves the design quality of the development as shown in the plans and specifications in respect of which the construction certificate was issued, having regard to Schedule 1 of *State Environmental Planning Policy No 65—Design Quality of Residential Flat Development*.
66. Vibration Monitoring

Vibration monitoring equipment must be installed and maintained (if required), under the supervision of a professional engineer with expertise and experience in geotechnical engineering, between any potential source of vibration and any building identified by the professional engineer as being potentially at risk of movement or damage from settlement and/or vibration during the excavation and during the removal of any excavated material from the land being developed.

If vibration monitoring equipment detects any vibration at the level of the footings of any adjacent building exceeding the peak particle velocity adopted by the professional engineer as the maximum acceptable peak particle velocity an audible

alarm must activate such that the principal contractor and any sub-contractor are easily alerted to the event.

Where any such alarm triggers all excavation works must cease immediately.

Prior to the vibration monitoring equipment being reset by the professional engineer and any further work recommencing the event must be recorded and the cause of the event identified and documented by the professional engineer.

Where the event requires, in the opinion of the professional engineer, any change in work practices to ensure that vibration at the level of the footings of any adjacent building does not exceed the peak particle velocity adopted by the professional engineer as the maximum acceptable peak particle velocity these changes in work practices must be documented and a written direction given by the professional engineer to the principal contractor and any sub-contractor clearly setting out required work practice.

The principal contractor and any sub-contractor must comply with all work directions, verbal or written, given by the professional engineer.

A copy of any written direction required by this condition must be provided to the Principal Certifying Authority within 24 hours of any event.

Where there is any movement in foundations such that damaged is occasioned to any adjoining building or such that there is any removal of support to supported land the professional engineer, principal contractor and any sub-contractor responsible for such work must immediately cease all work, inform the owner of that supported land and take immediate action under the direction of the professional engineer to prevent any further damage and restore support to the supported land.

Note: Professional engineer has the same mean as in Clause A1.1 of the BCA.

Note: Building has the same meaning as in section 4 of the Act i.e. "building includes part of a building and any structure or part of a structure".

Note: Supported land has the same meaning as in section 88K of the Conveyancing Act 1919.

67. Contamination – Further Investigation of Groundwater

Further investigations of groundwater shall be undertaken following demolition of all structures on site and prior to the commencement of any excavation or construction works.

These additional works shall be in accordance with all recommendations in the 'Remediation Action Plan - 130 – 140 Princes Highway & 7 Charles Street, Arncliffe NSW', (Report E23820.E06_Rev01) by EI Australia dated 21 January 2019 (RAP) and shall include:

- a) the installation of additional groundwater sampling locations within the central part of the site;
- b) a second round of groundwater sampling to confirm/deny the findings of the Detailed Site Investigation dated 21 January 2019 (DSI), determine the source of TRH (on and/or offsite) in groundwater identified during the investigation, determine the presence of any vapour inhalation risks to basement users due to the presence of volatile hydrocarbons identified in groundwater, and to confirm the suitability of the groundwater to be in direct contact with the proposed basement.

This shall be completed by a suitably qualified and experienced environmental consultant in accordance with:

- a) NSW Office of Environment and Heritage (OEH) 'Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites';
- b) NSW Environment Protection Authority (NSW EPA) approved guidelines under the Contaminated Land Management Act 1997; and
- c) State Environmental Planning Policy 55 (SEPP55) – Remediation of Land.

Should additional investigations reveal that groundwater is unsuitable, a site specific risk assessment including the assessment of potential soil vapour intrusion into the basement shall be completed, and an application to amend the development consent shall be lodged with council for any design amendments required to make the basement and site suitable for the proposed residential/commercial uses.

Following the completion of the additional investigations an amended RAP shall be prepared for the site that includes any required basement redesign and treatment. This shall be provided to council for review and written concurrence prior to the issue of any construction certificate for commencement of excavation or construction on the site and prior to any excavation or construction works on the site.

Prior to commencement of works

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

- 68. 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.
- 69. 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.

- 70. 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.
- 71. 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.

72. For any water from site dewatering to be permitted to go to the stormwater, the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for marine water. The results of all testing must be completed by a NATA accredited laboratory.

All laboratory results must be accompanied by a report prepared by a suitably qualified person indicating the water meets these guidelines and is acceptable to be released into council's stormwater system. If it is not acceptable, details of treatment measures to ensure that the water is suitable for discharge to council's stormwater shall be provided in this report.

Reports shall be provided to Council prior to discharge of any groundwater to the stormwater system.

73. Prior to the commencement of work, Tree Protection Zones shall be established in accordance with AS4970-2009 (Protection of trees on Development Sites) with protective fences at least 1.8 metres high erected outside the drip lines of trees the which are required to be retained. 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 within the Tree Protection Zones at any time.

74. 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.

75. All laboratory results must be accompanied by a report prepared by a suitably qualified person indicating the water meets these guidelines and is acceptable to be released into council's stormwater system. If it is not acceptable, details of treatment measures to ensure that the water is suitable for discharge to council's stormwater shall be provided in this report.

Reports shall be provided to Council prior to discharge of any groundwater to the stormwater system.

76. A Site Health & Safety Plan shall be prepared prior to the commencement of remediation works by a person competent to do so. All works shall be carried out in accordance with this plan. This plan shall include:

- hazard identification and control
- site security
- personal protective equipment
- work zones and decontamination procedures

- contingency plans and incident reporting
 - environmental monitoring.
77. 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.
78. Where construction/building works require the use of a public place including a road or footpath, approval under Section 68 of the Local Government act 1993 for a Barricade Permit is to be obtained from Council prior to commencement of work. Details of the barricade construction, area of enclosure and period of work are required to be submitted to the satisfaction of Council.
79. (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.
80. 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.
81. Consultation with Ausgrid is essential prior to commencement of work. Failure to notify Ausgrid may involve unnecessary expense in circumstances such as:
- i) where the point of connection and the meter board has been located in positions

other than those selected by Ausgrid or

ii) where the erection of gates or fences has restricted access to metering equipment.

82. Where clearances to any existing overhead High Voltage mains are affected, the builder shall make arrangements with Ausgrid for any necessary modification to the electrical network in question. These works shall be at the applicant's expense. Ausgrid's requirements under Section 49 Part 1 of the Electricity Supply Act 1995 shall be met prior to commencement of works or as agreed with Ausgrid.
83. Telstra has infrastructure within the building and footpaths surrounding the subject site. The developer shall contact Dial 1100 Before You Dig Network Integrity: Working with the civil construction industry to prevent damage to Telstra's underground assets

Footpath/road works shall be inspected and will require written sign off from Council and Telstra so as there are no outstanding issues that may further burden Council or Telstra.

During demolition / excavation / construction

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

84. 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.
85. 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.
86. Any new information that comes to light during demolition or construction which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council, the appointed Site Auditor (Contaminated Land) and the accredited certifier immediately. All work on site shall cease until the Council is notified and appropriate measures to assess and manage the contamination in accordance with any relevant NSW EPA adopted guidelines is completed by an appropriately qualified and experienced environmental consultant and reviewed and approved by the Site Auditor (Contaminated Land).
87. All remediation work must be carried out in accordance with:
- a) NSW Office of Environment and Heritage (OEH) 'Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites';
 - b) NSW Environment Protection Authority (NSW EPA) guidelines under the Contaminated Land Management Act 1997;
 - c) State Environmental Planning Policy 55 (SEPP55) – Remediation of Land; and
 - d) the 'Remediation Action Plan - 130 – 140 Princes Highway & 7 Charles Street, Arncliffe NSW', (Report E23820.E06_Rev01) by EI Australia dated 21 January 2019 or as amended.
88. For any water from site dewatering to be permitted to go to the stormwater system, the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for Marine Water. All testing must be completed by a NATA accredited laboratory. All laboratory results must be accompanied by a report prepared by a suitably qualified and experienced person indicating the water is acceptable to be released into Councils stormwater system. If

it is not acceptable, details of treatment measures to ensure that the water is suitable for discharge to council's stormwater shall be provided in this report. Reports shall be provided to council prior to discharge of any groundwater to the stormwater system.

89. To ensure that relevant engineering and water quality provisions are met during the period of dewatering for construction, prior to any water from site dewatering to be permitted to go to council's stormwater system a permit to discharge to the stormwater shall be obtained from Council. Dewatering shall not commence until this is issued by Council.
90. For Class 2, 3 and 4 structures, the building works are to be inspected during construction, by the principal certifying authority (or other suitably qualified person on behalf of the principal certifying authority) to monitor compliance with Council's approval and the relevant standards of construction encompassing the following stages:
- i. after excavation for, and before the placement of, any footing, and
 - ii. prior to covering waterproofing in any wet areas, for a minimum of 10% of rooms with wet areas within a building, and
 - iii. prior to covering any stormwater drainage connections, and
 - iv. after the building work has been completed and prior to any occupation certificate being issued in relation to the building.

Documentary evidence of compliance with Council's approval and relevant standards of construction is to be obtained prior to proceeding to the subsequent stages of construction and copies of the documentary evidence are to be maintained by the principal certifying authority and be made available to Council officers upon request.

91. All materials excavated from the site (fill or natural) shall be classified in accordance with the NSW Environment Protection Authority (EPA) Waste Classification Guidelines (2014) prior to being disposed of to a NSW approved landfill or to a recipient site. Appropriate records must be retained to support this.
92. Upon inspection of each stage of construction, the Principal Certifying Authority (or other suitably qualified person on behalf of the Principal Certifying Authority) is also required to ensure that adequate provisions are made for the following measures (as applicable), to ensure compliance with the terms of Council's approval:
- Sediment control measures
 - Provision of perimeter fences or hoardings for public safety and restricted access to building sites.
 - Maintenance of the public place free from unauthorised materials, waste containers or other obstructions.
93. To prevent contaminated soil being used onsite and to ensure that it is suitable for the proposed land use, all imported fill shall be appropriately certified material and shall be validated in accordance with the:

- a) Office of Environment and Heritage (OEH) approved guidelines; and
- b) Protection of the Environment Operations Act 1997; and
- c) Protection of the Environment Operations (Waste) Regulation 2014.

All imported fill shall be accompanied by documentation from the supplier which certifies that the material has been analysed and is suitable for the proposed land use.

94. 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

Note: Prior treatment and/or filtration of the water may be necessary to achieve acceptable quality, including a non-filterable residue not exceeding 50 milligrams/litre or small quantities may be removed by the services of a Licenced Liquid Waste Transporter. It is an offence under the provisions of the Protection of the Environment Operations Act 1997 to pollute the stormwater system.

95. 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.
96. All waste generated on site shall be disposed of in accordance with the submitted Waste Management Plan.
97. 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.

98. 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.
99. Results of the monitoring of any field parameters such as soil, groundwater, surface water, dust or noise measurements shall be made available to Council Officers on request throughout the remediation and construction works.
100. 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.

101. 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.

102. 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.

- 103. 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.
- 104. The existing Tallowood street tree in front of 7 Charles Street shall be retained and protected during construction. An Arborist's report shall identify necessary protective measures (including fencing and delivery/access points), the location and installation methods for any services or works and ongoing maintenance to the tree during construction. All recommendations of the Arborist shall be adhered to at all times.
- 105. The existing tallowood street tree located at the front of 7 Charles Street is not to be removed or pruned, including root pruning, without the written consent of Council.
- 106. Trees located within adjoining property at 9 Charles Street Arncliffe shall not be removed or pruned without the written consent of Council in the form of a Permit issued under Council's Development Control Plan 2011.
- 107. Any pruning of branches or roots of trees growing from within adjoining properties requires the prior written consent of the tree's owners and the prior written consent of Council in the form of a Permit issued under Council's Development Control Plan 2011. The work must be carried out in accordance with AS4373:2007 by an experienced Arborist with minimum AQF Level 2 qualifications in Arboriculture.
- 108. 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 Council approval must be obtained by contacting Council's Tree Management Officer.

109. 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.
110. Existing soil levels within the drip line of trees to be retained shall not be altered without reference to Council's Tree Management Officer.
111. Building materials, site residue, machinery and building equipment shall not be placed or stored under the dripline of trees required to be retained.

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.

112. An Occupation Certificate shall be obtained in relation to the approved works prior to any use or occupation of the building.
113. Appropriate signage and tactile information indicating accessible facilities shall be provided at the main entrance directory, or wherever directional signage such as lifts or building directories or information is provided to those buildings where access and facilities for people with disabilities has been provided. Such signage shall have regard to the provisions of AS1428.1 and AS1428.2.
114. Tactile differentiation on floor surfaces indicating change of gradient shall be provided to those buildings where access and facilities for people with disabilities has been provided. This includes the external parts of the building, eg. access walkways and ramps. Such differentiation shall have regard to the provisions of AS1428.4.
115. 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.
116. 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.
117. A by-law shall be registered and maintained for the life of the development, which requires that :
 - (a) balconies are not to be used as clothes drying areas, storage of household goods and air-conditioning units that would be visible from the public domain;
 - (b) an owner of a lot must ensure that all floor space within the lot complies with the acoustic conditions for floors specified in this consent;
 - (c) Notwithstanding subclause (b), in the event that a floor covering in the lot is removed, the newly installed floor covering shall have a weighted standardized impact sound pressure level not greater than L'nT,w 45 measured in accordance with AS ISO 140.7 and AS ISO 717.2, A test report from a qualified acoustic engineer employed by a firm eligible to membership of the Association of Australian Acoustical Consultants shall be submitted to the Owners Corporation within 14 days of the installation of the new floor covering demonstrating compliance with that standard. In the event that the standard is not complied with, the floor covering shall be removed and replaced with a floor covering that conforms to that standard in accordance with any directions given by the Owners Corporation.

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

the Occupation Certificate.

118. Should ongoing management of residual groundwater contamination be required, following the additional groundwater investigations as outlined in the Remedial Action Plan, a restriction as to use under Section 88B of the Conveyancing Act 1919 is to be registered on the title of insert lot and DP with the following terms of restriction on use:

The registered proprietor must not use or otherwise undertake development on the land hereby burdened except in accordance with the provisions of the plan [Enter Details] prepared by [Enter Details], ref: [Enter Details], dated [Enter Details], incorporated within the Site Audit Statement (Insert Number) dated (insert date), prepared by accredited Site Auditor (Insert auditors name), a copy of which Statement is held by Bayside Council.

The name of the person or authority empowered to release, vary or modify the restriction will be the Bayside Council.

119. Prior to the release of the Occupation Certificate the applicant is to provide remote access to the relevant waste contractor to enable access to the loading / unloading bay on site.
120. A Stage 4 – Site Validation Report (SVR) shall be prepared by a suitably qualified contaminated land consultant and shall be in accordance with:

- a) NSW Office of Environment and Heritage (OEH) 'Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites';
- b) NSW Environment Protection Authority (NSW EPA) approved guidelines under the Contaminated Land Management Act 1997; and
- c) State Environmental Planning Policy 55 (SEPP55) – Remediation of Land.

The site validation report shall provide a notice of completion of remediation works, whether there are any ongoing site management requirements and a clear statement on the suitability of the likely proposed site use. The report shall be submitted to the Principal Certifying Authority, and the Council if the Council is not the Principal Certifying Authority. The report is to be submitted after completion of remediation works and prior to the issue of any occupation certificate.

121. To ensure that the site is suitable for the proposed use, a Site Audit Statement (SAS) completed by an accredited site auditor under the Contaminated Land Management Act 1997 shall be submitted to Council clearly demonstrating that the site is suitable for the proposed development. This shall be provided prior to the release of any Occupation Certificate.

Any conditions imposed on the SAS shall form part of this consent. The accredited site auditor shall provide Council with a copy of the Site Audit Report (SAR) and Site Audit Statement (SAS) prior to the issuing of any Occupation Certificate.

In circumstances where the SAS conditions (if applicable) are not consistent with the consent, an application to amend the consent pursuant to the Environmental Planning & Assessment Act 1979 shall be submitted to ensure that they form part of the consent conditions.

122. Prior to the issue of the Occupation Certificate, the existing telecommunications tower on site shall be decommissioned and removed from the site.
123. Lot 20-23 DP1228044, Lot 1 DP 126737, Lot 1 DP314129 and Lots 50 and 52 of

DP 1228056 shall be consolidated into one allotment. Council requires proof of lodgement of the plan of consolidation with the Land and Property Information Office prior to occupation.

124. The Voluntary Planning Agreement, entered into between Combined Projects (Wickham Street) Pty Ltd (ACN 609 501 402) and Minister for Planning and Public Spaces (ACN 20 770 707 468) is to be registered on the title of the property, prior to the issue of any Occupation Certificate for the development.

Notwithstanding the provisions of this condition, an Occupation Certificate may be issued for the development if at the time of issue Combined Projects (Wickham Street) Pty Ltd has fulfilled all obligations under the Voluntary Planning Agreement and the Voluntary Planning Agreement has been removed from the title of the property in accordance with the relevant provisions of the agreement.

125. 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.
126. 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.
127. The underground placement of all low voltage street mains in that section of the street/s adjacent to the development, and associated services and the installation of underground supplied street lighting columns, shall be carried out at the applicant's expense. The works shall be completed and Ausgrid's requirements shall be met prior to issue of the Occupation Certificate.
128. Where an electricity substation is required by Ausgrid, a final film survey plan shall be endorsed with an area having the required dimensions as agreed with Ausgrid over the location of the proposed electricity distribution substation site. The substation must be located within the boundary of the development site, or within the building, subject to compliance with the BCA. The substation site shall be dedicated to Council as public roadway, or as otherwise agreed with Ausgrid. Ausgrid's requirements shall be met prior to release of the issue of the Occupation Certificate.
129. 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".
130. 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.
131. Suitable vehicular bollards shall be provided outside the exit doors that adjoin the vehicle circulation area or other exit door(s) that may be blocked by parked vehicles.
132. Bollards shall be installed to accessible car spaces within the basement levels of the development.

Bollards are to be constructed from steel pipe minimum 100mm diameter, domed at the top and filled with concrete. They are to be installed a minimum of 900mm into the ground and are to be 1100 mm out of the ground, painted white, with reflectors attached. Future maintenance will be the responsibility of the owner and/or occupier.

133. Nineteen (19) off-street commercial visitor / staff car parking spaces shall be provided in accordance with the submitted plans. Such spaces shall be paved, linemarked and made freely available at all times during business hours of the site for staff and visitors.
134. 194 residential and 37 visitor off-street car spaces shall be provided in accordance with the submitted plan and shall be sealed and linemarked to Council's satisfaction. The pavement of all car parking spaces, manoeuvring areas and internal driveways shall comply with Australian Standard AS3727 – Guide to Residential Pavements.
135. Prior to the issue of the Final Occupation Certificate, a Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water.

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

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

136. Prior to occupation, a registered surveyor shall certify that the driveway over the footpath and within the property have been constructed in accordance with the approved driveway profile. 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.
137. Where the installation of electricity conduits is required in the footway, the builder shall install the conduits within the footway across the frontage/s of the development site, to Ausgrid's specifications. Ausgrid will supply the conduits at no charge. A Road Opening Permit must be obtained from Council prior to the installation of the conduits. The builder is responsible for compaction of the trench and restoration of the footway in accordance with Council direction. A Compliance Certificate from Ausgrid shall be obtained prior to the issue of the Occupation Certificate.
138. The noise reduction measures specified in the noise report prepared by Koikas Acoustics dated 25 July 2018 shall be validated by a Certificate of Compliance prepared by the acoustic consultant and submitted to the Principal Certifying Authority (PCA) prior to the issue of an Occupation Certificate. If Council is not the PCA, a copy shall be submitted to Council concurrently.
139. On completion of the building, a suitably qualified Consultant is to certify that The Environmental Criteria for Road Traffic Noise, May 1999 standard has been met or, where this standard would not practically or reasonably be met, the internal noise objectives of the Building Code of Australia have been met before an occupation certificate will be issued.
140. A certificate is to be provided to Council that all wet areas have been effectively waterproofed (prior to tiling) in accordance with AS3740 and the product manufacturer's recommendations.
141. 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.
142. A certificate of playground safety installation compliance shall be submitted to Council prior to the relevant stage of occupation.
143. Prior to occupation or use of the premises, a qualified mechanical engineer shall certify that the mechanical ventilation/air conditioning system complies in all respects

with the requirements of Australian Standard 1668, Part 1 & 2.

144. 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.
145. 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.
146. A surface flow analysis will be required to be submitted for the protection of the low level driveway in accordance with Section 4.6 of Rockdale DCP 2011.

The underground garage shall be floodproofed to a minimum of 100mm above the 1% Annual Exceedance Probability flow flood level. The levels shall be certified by a registered surveyor prior to construction of the driveway or other openings.

147. A positive covenant pursuant to the Conveyancing Act 1919 shall be created on the title of the lots that contain the stormwater detention & turn table management facilities to provide for the maintenance of the detention & turntable facilities on site.
148. The pump system, including all associated electrical and control systems, shall be tested and inspected by a suitably qualified and experienced person. Records of testing shall be retained and provided to the certifying hydraulic engineer and/or PCA upon request.
149. The drainage system shall be constructed in accordance with the approved drainage plans.
150. Signs shall be displayed adjacent to all stormwater drains on the premises, clearly indicating "Clean water only - No waste".
151. Prior to the issue of an Occupation Certificate for occupation or use of residential flat development, a design verification statement shall be submitted to the PCA from a qualified designer certifying that the development achieves the design quality of the development as shown in the plans and specifications in respect of which the construction certificate was issued, having regard to Schedule 1 of *State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development*.

Prior to issue of subdivision certificate

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

152. Where Council is the Principal Certifying Authority, a Strata Certificate and four (4) copies of the plans for the endorsement of the General Manager shall be submitted prior to lodgement with the Land and Property Information office. If applicable, an original and four (4) copies of the 88B Instrument are to be submitted.
153. A Strata Certificate must be obtained prior to registration of the Strata Plan with the Land and Property Information Office. Where Council is the Principal Certifying

Authority for the Strata Title Subdivision, an application form and associated fee are required to be submitted to Council's Customer Service Centre with lodgment of the Strata Plan.

154. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

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

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

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

155. All visitor car parking spaces are to be clearly shown as common property on the Strata Certificate for the strata subdivision.
156. The parking spaces on site are to be allocated to each unit as per the approved plans and development consent for DA-2018/196.
157. A positive covenant shall be provided over the on-site detention & turn table management systems. A Section 88B Instrument and four copies shall be lodged with the Strata Certificate.

Integrated development/external authorities

The following conditions have been imposed in accordance with Section 91A of the Environmental Planning and Assessment Act, 1979.

158. Roads & Maritime Service

1. Roads and Maritime has previously resumed and dedicated parcels of land as road along the Princes Highway frontage of the subject properties, as shown by grey colour on the attached aerial – "X". The subsurface beneath the subject properties was compulsory acquired by Roads and Maritime for the WestConnex new M5 project. The acquired land is described as Lots 34, 35, 36, 37, 48, 49, 50 & 51 in DP 1228044 and Lots 57, 59, 64 & 66 in DP1228056. Roads and Maritime currently has no proposal that would require any part of Lot 1 DP314129 and Lot 1 DP126737 or Lots 20, 21, 22, 23 in DP1228044 and Lots 50 and 52 in DP1228056, although these lots are limited in depth. The current detailed design for the project's tunnel alignment is complete and it is unlikely there will be any changes to property requirements. Please note however that construction/tunnelling is currently underway, therefore there may be unforeseen circumstances where land requirements may be subject to change. Further information can be obtained by visiting the Westconnex website www.westconnex.com.au or by contacting the WestConnex Team on 1800 660 248 or via email: info@westconnex.com.au All buildings and structures, together with any improvements integral to the future used of the site should therefore be wholly within the freehold property and not compromise the integrity of the new M5 project works. In addition to the above, the proponent should also be advised

that the subject properties are within an area of investigation for the F6 Extension (F6) Stage 1 project. Further information about the above project is available by contacting the F6 Team on 1800 789 297 or F6Extension@rms.nsw.gov.au or by visiting the project website at <http://www.rms.nsw.gov.au/projects/sydney-south/f6/index/html> A community update on the F6 Extension (F6E) Corridor & F6E Stage 1 Project is enclosed for your information.

2. A Construction Traffic Management detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council prior to the issue of a Construction Certificate.
3. All demolition and construction vehicles are to be contained wholly within the site or (Charles Street) and vehicles must enter the site before stopping.
4. A Road Occupancy Licence should be obtained from Transport Management Centre for any works that may impact on traffic flows on Princes Highway during construction activities.
5. A construction zone will not be permitted on Princes Highway.
6. The developer is to submit design drawings and documents relating to the excavation of the site and support structures to Roads and Maritime for assessment, in accordance with Technical Direction GTD2012/001. The developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment by Roads and Maritime. Details are to be forwarded to: suppiah.thillai@rms.nsw.gov.au If it is necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owner/s of the roadway is/are given at least seven (7) day notice of the intention to excavate below the base of the footings. The notice is to include complete details of the work.
7. Should the post development storm water discharge from the subject site into the Roads and Maritime system exceed the pre-development discharge, detailed design plans and hydraulic calculations of any changes are to be submitted to Roads and Maritime for approval, prior to the commencement of works on site.
Details should be submitted to Suppiah Thillai: suppiah.thillai@rms.nsw.gov.au A plan checking fee will be payable and a performance bond may be required before Roads and Maritime approval is issued. With regard to the Civil Works requirement please contact the Roads and Maritime Project Engineer, External Works Ph: 8849 2114 or Fax: 8849 2766.
8. Fulltime "No Stopping" zone is to be installed across the entire Princes Highway frontage of the proposed development at the cost of the developer. Prior to the installation of the parking restrictions, the applicant can contact Roads and Maritime Network and Safety section on 02 8849-2367 for a works instruction.
9. All works/signposting associated with the subject development (including public utility adjustment/relocation works) shall be at no cost to Roads and Maritime.

159. Sydney Airport Corporation Limited (SACL) has approved the maximum height of the proposed building at 57.7m relative to Australian Height Datum (AHD). This height is inclusive of all vents, chimneys, aerials, TV antennae and construction cranes etc. No permanent or temporary structure is to exceed this height without further approval from Sydney Airport Corporation Limited.

Note: Under Section 186 of the Airports Act 1996, it is an offence not to give information to the Airport Operator that is relevant to a proposed "controlled activity"

and is punishable by a fine of up to 50 penalty units.

For further information on Height Restrictions please contact SACL on 9667 9246.

160. Water NSW - General Terms of Approval

1. A Water Supply Work Approval from WaterNSW must be obtained prior to commencing dewatering activity on the proposed site. Please complete an Application for approval for water supply works, and/or water use.
2. An application for a Water Supply Works Approval will only be accepted upon receipt of supporting documentation, and payment of the applicable fee (see Application fees for New or amended Works and/or Use Approvals). The information required for the processing of the water supply work application may include preparation of a dewatering management plan. Please refer to checklist attached.
3. If approved, the Approval will be issued for a period of up to 24 months to cover the dewatering requirements during the construction phase. It will include conditions to ensure that impacts are acceptable and that adequate monitoring and reporting procedures are carried out. The Approval will be issued subject to the proponent meeting requirements of other agencies and consent authorities. For example, an authorisation by either Sydney Water or the local Council, depending where the water will be discharged. If contaminants are likely, or are found to be present in groundwater, and are being discharged to stormwater, including high salinities, a discharge licence under the Protection of the Environment Operations Act 1997 (NSW) may also be required.
4. Water NSW prefers “tanking” (ie. total water proofing below the seasonal high water table) of basement excavations, and avoids the ongoing extraction of groundwater after the initial construction phase. It is also advised to adopt measures to facilitate movement of groundwater post construction (eg. a drainage blanket behind the water-proof membrane).
5. If the basement is not “tanked”, the proponent will require a Water Access Licence (WAL) and need to acquire groundwater entitlements equivalent to the yearly ongoing take of groundwater. Please note: Acquiring groundwater entitlements could be difficult, and may cause delay in project completion. If a WAL is required, please complete an Application for a new water access licence with a zero share component.

161. Civil Aviation Safety Authority

(A) The building must not exceed a maximum height of 57.7m AHD inclusive of all lift over-runs, vents, chimneys, aerials, antennas, lightning rods, any rooftop garden plantings, exhaust flues, etc.

(B) The Proponent must advise Airservices Australia at least three business days prior to the controlled activity commencing by emailing *ifp@airservicesaustralia.com* and quoting YSSY-CA-088.

(C) Separate approval must be sought under the Regulations for any construction equipment (i.e. cranes) required to construct the building. Construction cranes may be required to operate at a height significantly higher than that of the proposed controlled activity and consequently, may not be approved under the Regulations.

Therefore, it is advisable that approval to operate construction equipment (i.e. cranes) be obtained prior to any commitment to construct.

(D) On completion of construction of the building, the Proponent must provide the Airfield Design Manager with a written report from a certified surveyor on the finished height of the building.

Roads Act

162. Construction related activities must not take place on the roadway without Council approval.

Short-term activities (including operating plant, materials delivery) that reduce parking spaces, affect access to a particular route or prevent or restrict the passage of vehicles along the road must not occur without a valid Temporary Roadside Closure Permit.

Activities involving occupation of the parking lane for durations longer than allowed under a Temporary Roadside Closure Permit require a Construction Zone Permit and must not occur prior to the erection of Works Zone signs by Council's Traffic and Road Safety Section.

Permit application forms should be lodged at Council's Customer Service Centre allowing sufficient time for evaluation. An information package is available on request.

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

The following works will be required to be undertaken in the road reserve at the applicant's expense:

- i) construction of a concrete footpath along Kyle Street frontage of the development site;
- ii) construction of a new fully constructed concrete vehicular entrance;
- iii) removal of the existing concrete vehicular entrance/s, and/or kerb laybacks which will no longer be required;
- iv) reconstruction of selected areas of the existing concrete Footpath/vehicular entrances and/or kerb and gutter;
- v) construction of paving between the boundary and the kerb;
- vi) removal of redundant paving;
- vii) construction of kerb and gutter.

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

- i) Construct a 375mm diameter pipeline from the existing Council drainage pit in Charles Street to a new kerb inlet pit to be constructed in Charles Street;
- ii) Works as required by the Traffic Committee of Bayside Council and as conditioned by this consent shall be implemented.

Note: Detailed plans of the works are required to be submitted to Council for assessment and approval pursuant to Section 138 of the Roads Act 1993, prior to

the issue of the Construction Certificate.

165. All footpath, or road and drainage modification and/or improvement works to be undertaken in the road reserve shall be undertaken by Council, or by a Private Licensed Contractor subject to the submission and approval of a Private Contractor Permit, together with payment of all inspection fees. An estimate of the cost to have these works constructed by Council may be obtained by contacting Council. The cost of conducting these works will be deducted from the Footpath Reserve Restoration Deposit, or if this is insufficient the balance of the cost will be due for payment to Council upon completion of the work.
166. All driveway, footpath, or road and drainage modification and/or improvement works to be undertaken in the road reserve shall be undertaken in accordance with Council's Subdivision and Civil Works Construction Specification (AUS-SPEC 1). Amendment to the works specification shall only apply where approved by Council. Where a conflict exists between design documentation or design notes and AUS-SPEC 1, the provisions of AUS-SPEC 1 shall apply unless otherwise approved by Council.
167. Where public infrastructure works are undertaken in the public road reserve by a Private licensed Contractor, the contractor shall:
- i) Undertake testing as specified in Specification CQS or CQC of AUS-SPEC 1, as nominated by Council;
 - ii) Provide Council with one (1) copy of works as executed drawings upon completion of the works. The works as executed drawings shall be based on a survey of the works by a registered surveyor;
 - iii) Provide Council with 48 hours notice of the nominated inspections;
 - iv) Maintain the works for the duration of the nominated Defects Correction Period.
168. 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.
169. The following details shall be submitted to Certifying Authority for assessment and approval pursuant to Building Code of Australia (BCA), in relation to the awning over the Princes Highway:
- i) Detailed design plans and specifications, including structural details; and
 - ii) Design certificate. The awning shall be designed by a Chartered Professional Engineer (Structural).

Note: Awnings are required to be set back a minimum of 600 mm from the kerb face and be a minimum height of 3.3 metres above the footpath level. Drainage from the awning shall be connected to the stormwater system for the development. Following completion of the installation of the awning a certificate from a Chartered Professional Engineer (Structural) shall be submitted to Council stating that the awning has been constructed in accordance with the design plans and specifications.

170. Public infrastructure works in the public road reserve shall not commence without prior approval of the design in accordance with the Roads Act 1993, the Transport Administration Act 1988 and the Road Transport (Safety and Traffic Management) Act 1999.
171. All works associated with the proposed development shall be at no cost to the RMS.

Development consent advice

- a. Some forms of signage require separate development consent. Please refer to relevant planning policies for more information.
- b. A street/shop number shall be prominently displayed at the front of the development. The street number shall be a minimum of 120 mm in height to assist emergency services and visitors to locate the property. The numbering shall be erected prior to commencement of operations.
- c. 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.
- d. *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.

- e. *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.

- f. Where Council is not engaged as the Principal Certifying Authority for the issue of the Subdivision Certificate (Strata), and the Section 88B Instrument contains easements and/or covenants to which Council is a Prescribed Authority, the Council must be provided with all relevant supporting information (such as works-as-executed drainage plans and certification) prior to Council endorsing the Instrument.
- g. 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.

- h. 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.
- i. 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.
- j. 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".
- k. All site works shall comply with the occupational health and safety requirements of the NSW WorkCover Authority.
- l. 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.