COUNCIL ASSESSMENT REPORT

| Panel Reference | PPSEC-1 | |
|---|---|--|
| DA Number | DA-2019/228 | |
| LGA | Bayside Council | |
| Proposed Development | Integrated Development - Construction of a nine (9) storey mixed use development including basement car parking, ground floor RSL club and 80 residential apartments | |
| Street Address | 41-45 Bay Street and 4 Chapel Street, Rockdale | |
| Applicant/Owner | Applicant: Statewide Construction & Development Pty Ltd Owner: Rockdale RSL Sub-Branch Club Ltd, 45 Bay Street Pty Ltd, Bay On The Chapel Pty Ltd and Bay Chapel Pty Ltd | |
| Date of DA lodgment | 28 June 2019 | |
| Number of Submissions | 11 | |
| Recommendation | Deferred Commencement, subject to conditions. | |
| Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011 | Private infrastructure and community facilities over \$5 million (Nominated CIV: \$22,012,474) | |
| List of all relevant s4.15(1)(a) matters List all documents | Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment State Environmental Planning Policy (BASIX) 2004 State Environmental Planning Policy (Infrastructure) 2007 State Environmental Planning Policy (Vegetation in Non- Rural Areas) 2017 State Environmental Planning Policy No. 55 – Remediation of Land State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Buildings Rockdale Local Environmental Plan 2011 Architectural Plans – AE Design Studio | |
| submitted with this report for the Panel's consideration | Architectural Plans – AE Design Studio Landscape Plan – Zenith Statement of Environmental Effects – Chapman Planning Clause 4.6 Statement for Height of Building – Chapman Planning | |
| Report prepared by | Andrew Ison, Senior Development Assessment Planner | |
| Report date | 4 December 2020 | |

| Summary of s4.15 matters Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report? | Yes |
|---|-----|
| Legislative clauses requiring consent authority satisfaction Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? | Yes |
| Clause 4.6 Exceptions to development standards If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? | Yes |
| Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (S7.24)? <i>Note: Certain DAs in the Western Sydney Growth Areas Special Contributions</i> <i>Areamay require specific Special Infrastructure Contributions (SIC) conditions</i> | N/A |
| Conditions Have draft conditions been provided to the applicant for comment? 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 | Yes |

EXECUTIVE SUMMARY

Council received Development Application No. 2019/228 on 28 June 2019 for the demolition of existing structures and construction of a nine (9) storey mixed use development including basement car parking, ground floor RSL club and 85 residential apartments.

The Development Application is required to be referred to the Sydney Central Planning Panel (SCPP) pursuant to Schedule 7 (Regionally Significant Development) under State Environmental Planning Policy (State and Regional Development) 2011 as the proposed development contains a community facility with a value of other \$5 million.

The development application is Integrated Development under Section 4.46 (formerly Section 91) of the Environmental Planning and Assessment Act 1979. General Terms of Approval have been issued by Water NSW.

The Development Application was advertised twice, firstly from 29 August to 30 September 2019 and then 5 December 2019 to 15 January 2020. A total of 11 submissions were received, with the primary issues raised relating to the following:

- Overshadowing and loss of light to the neighbouring properties
- Privacy impacts
- Car parking
- Traffic impacts
- Construction impacts with relation to noise and retention of structural integrity of neighbouring buildings
- Out of character with the existing Chapel Street streetscape
- Non-compliances with the Apartment Design Guide (ADG) with relation to building separation, solar access and deep soil

- Inadequate Clause 4.6 assessment for height variation
- Insufficient geotechnical information
- Loss of views
- Inadequate site analysis

Key issues that were raised in the assessment were the following:

- Further site remediation is required through a Remediation Action Plan (RAP), including any permanent discharge of contaminated groundwater to the stormwater which discharges into Botany Bay.
- Recommendation that all subsurface structures shall be designed with a waterproof retention system.
- The application has gone to the Design Review Panel (DRP) on three occasions 1 August 2019, 5 December 2019 and 4 June 2020, with urban design issues remaining unresolved. Amended plans were lodged on 9 November however due to scheduling and timing of reporting it was not able to be reported back to the DRP before the schedule determination meeting.
- Recommendation for amended plans as part of a Deferred Commencement, including additional communal open space, amended setbacks to the eastern and western boundaries, the aesthetic design of the upper levels fronting Bay Street, amendments to balcony areas and depths.
- Non-compliances have been identified with the Apartment Design Guide (ADG) with relation to the communal open space, deep soil, building separation, solar access and circulation core.
- Non-compliances have been identified with the Rockdale Local Environmental Plan (LEP) as the proposal seeks maximum building height of 28.65m, which exceeds the development standard of 28 metres and represents a variation of 2.3%.
- Non-compliances have been identified with the Rockdale Development Control Plan (DCP) with relation to solar access to neighbouring properties and the front setback to Bay Street.
- The site is subject to a previous lawful approval for the redevelopment of the RSL club, with a series of conditions imposed with relation to its operation. The applicant has advised that there are no intended changes to these conditions as part of this current application.

In summary, the proposed development has been assessed against the relevant controls and on balance, Council is supportive of the proposal.

It is recommended that the application be granted Deferred Commencement consent, subject to the conditions in the attached Schedule requiring further design amendments.

SITE DESCRIPTION

The subject sites are commonly known as 41-45 Bay Street and 4 Chapel Street, Rockdale (Lot 1 in DP 628851, Lots 1 and 2 in DP 1019049 and Lot 2 in DP 326854). The subject sites have a dual frontage with Bay Street to the north and Chapel Street to the south. The surrounding area is characterised primarily by various forms of residential accommodation, with low density housing immediately to the north of the site on the opposite side of Bay Street with primarily single detached dwellings, 2-3 storey residential flat buildings immediately to the east on the southern side of Bay Street and along Chapel Street, a recently completed mixed use development immediately to the west and to the south Chapel Reserve on the corner of Lister Avenue and Chapel Street and also a mixture of detached dwellings and residential flat buildings to the west of Lister Avenue. The subject site is located on the eastern edge of the Rockdale town centre, being approximately 350 metres to the south east of Rockdale railway station.

At the time of writing this report, it is a fully cleared site with the former Rockdale RSL building

now demolished. It has a frontage of 48.765 metres to Bay Street, a frontage of 54.01 metres to Chapel Street, a depth of 54.52 metres on the western property boundary and 77.315 metres to the eastern boundary, and a total area of 3,204m². The site falls from Bay Street to Chapel Street by about 4.5 metres.



Figure 1: Aerial showing subject sites, marked in red (Source: Bayside IntraMaps)



Figure 2: Subject site as viewed from Bay Street [taken 9 October 2020]



Figure 3: Subject site as viewed from Chapel Street [taken 9 October 2020]

BACKGROUND

DA-2017/225 – Rockdale RSL redevelopment

On 2 August 2018, this DA was approved by the Sydney Eastern City Planning Panel for the following:

• Construction of a new building to be used as the Rockdale RSL Club operating 10am to 10pm Sunday and Monday, 10am to 10.30pm Tuesday, 10am to 11pm Wednesday and Thursday and 10am to 12midnight Friday and Saturday with basement parking and demolition of existing structures

The reasons for the Panel decision were as follows:

- The proposal complies with all relevant planning controls in both the Rockdale LEP 2011 and the Rockdale DCP 2011.
- The concerns raised by the objector regarding traffic have been addressed by prohibiting right-hand turns when entering or existing the site from Bay Street.
- Concerns about noise have been addressed by conditions requiring compliance with the acoustic report.

The consent has been activated by way of demolition commencing on site.

PROPOSED DEVELOPMENT

The subject application seeks consent for Integrated Development - Construction of a nine (9)

storey mixed use development including basement car parking, ground floor RSL club and 80 residential apartments (22 x 1 bedroom, 46 x 2 bedrooms, 9 x 3 bedrooms and 3 bedrooms, with 7 double storey units.

Further detail of the proposed development is as follows:

Basement Level 3

- 45 car parking spaces; and
- Motorcycle and bicycle parking.

Basement Level 2

- 71 car parking spaces; and
- Motorcycle and bicycle parking.

Basement Level 1

- 54 car parking spaces;
- Motorcycle and bicycle parking;
- Loading dock;
- Residential foyer from Chapel Street;
- Waste room; and
- On Site Detention Tank.

Ground Floor

- RSL club with pedestrian and vehicular access off Bay Street; and
- Residential lobby with access off Chapel Street.

Level 1

- 11 residential units (6 x 1 bedroom, 5 x 2 bedrooms and 1 x 3 bedrooms, including 1 x double storey unit); and
- Communal games room and open space.

Level 2

• 12 residential units (5 x 1 bedroom, 5 x 2 bedrooms and 2 x 3 bedrooms, including 1 x double storey unit)

Level 3

• 12 residential units (7 x 1 bedroom, 3 x 2 bedrooms, 1 x 3 bedrooms and 1 x 4 bedrooms, including 12 x double storey units)

Level 4

• 9 residential units (1 x 1 bedroom, 6 x 2 bedrooms and 1 x 3 bedrooms and 1 x 4 bedrooms)

Level 5

• 11 residential units (1 x 1 bedroom, 8 x 2 bedrooms, 1 x 3 bedrooms and 1 x 4 bedrooms including 2 x double storey units)

Level 6

• 9 residential units (1 x 1 bedroom, 7 x 2 bedrooms and 1 x 3 bedrooms)

Level 7

• 10 residential units (2 x 1 bedroom, 7 x 2 bedrooms and 1 x 3 bedrooms)

Level 8

- 6 residential units (5 x 2 bedrooms and 1 x 4 bedroom unit including 1 x double storey unit); and
- Communal open space

Two storey units

| Unit | Entry | First floor |
|------|---------|-------------|
| 1H | Level 1 | Level 2 |
| 2L | Level 2 | Level 3 |
| 3G | Level 3 | Level 4 |
| 31 | Level 3 | Level 4 |
| 5E | Level 5 | Level 6 |
| 5G | Level 5 | Level 6 |
| 8E | Level 8 | Level 7 |

RSL club

The current application has revised the approved floor layout, particularly in the north western corner of the site as well as a redesign of the southern interface with Chapel Street with relation to the outdoor areas.

The hours of operation of the approved RSL club shall remain the same, as below:

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



Figure 4: Photo montage of proposal as seen from Bay Street [supplied by applicant]

STATUTORY CONSIDERATIONS

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

Part 4 Division 5 – Special procedures for integrated development

The relevant requirements under Division 4.8 of the EP&A Act and Part 6, Division 3 of the Environmental Planning and Assessment Regulation 2000 have been considered in the assessment of this application. It is Integrated Development in accordance with the Water Management Act 2000 as the development is deemed to be an Aquifer Interference Activity. In this regard, the Development Application was referred to Water NSW.

On 19 March 2020, Water NSW provided General Terms of Approval.

Section 4.15(1)(a)(i) – Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments are relevant to this application:

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

The Greater Metropolitan Regional Environmental Plan No. 2 applies to all land within the Rockdale Local Environmental Plan (LEP) 2011 area and requires consideration of the impact of development upon water quality in the catchment. The proposal is supported by Council's engineer and as such satisfies the provisions of GMSREP 2.

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

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 ("BASIX") applies to the proposed development. The development application was accompanied by a BASIX Certificate (Ref: 1014731M) committing to environmental sustainable measures. The Certificate is in accordance with the SEPP, subject to imposition of conditions.

State Environmental Planning Policy (Infrastructure) 2007

Clause 45 - Works within vicinity of electricity infrastructure

The proposal involves works within the vicinity of electricity infrastructure, that being a street pole on the eastern end of the property on Bay Street connecting to overhead wires on the opposite side of the street. 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.

The application is consistent with the provisions of the SEPP and is acceptable in this regard. Conditions have been imposed in the attached draft schedule which prescribes regulatory requirements for any impacts on existing services prior to the issue of a Construction Certificate. Accordingly it is deemed that they have no objections to this proposal.

Clause 101 - Development with frontage to classified road

The proposed development is located on land with a frontage to Bay Street, in which that section is prescribed as a classified road as prescribed in the *Schedule of Classified Roads and Unclassified Regional Roads* as prepared by the Roads and Maritime Services (RMS). In this regard, this Clause must be considered before consent can be granted.

Vehicular access to the development is proposed off Chapel Street. Whilst a driveway crossing has been observed along the Bay Street frontage, this will be made redundant as part of the proposed development. Thus, Council is satisfied that:

- Vehicular access to the land is provided by a road other than the classified road;
- The safety, efficiency and ongoing operation of Bay Street will not be adversely affected by the development; and
- The development is of a type that is not sensitive to traffic noise or vehicle emissions.

Clause 102 - Impact of road noise or vibration on non-road development

Based on projections from 2014 data, it has been determined that Bay Street carries greater than 20,000 vehicles per day. As such, Council considers that it is likely to be adversely affected by road noise or vibration. Accordingly, this Clause is required to be considered as part of this assessment.

The application was accompanied by a "DA Acoustic Assessment" prepared by Acoustic Logic and dated 6 May 2019, which considered the potential impact of road noise on the proposed development. The report recommends a series of construction measures with glazed windows and doors, external wall construction, external roof / ceiling, entry doors and mechanical ventilation. This report was reviewed by Council's Environment and Health Officer and was deemed acceptable and the implementation of the recommendations will be imposed in the attached draft schedule of conditions.

Concurrence

Plans and documentation were referred to the RMS for concurrence. In a letter dated 23 March 2020, the RMS has advised that it has no objection to the proposed development and has provided concurrence, subject to conditions.

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

The provisions of the SEPP apply to the proposal.

The application was referred to Council's Trees Officer for assessment, and have provided the following comments:

- Existing site trees may be removed, subject to at least ten replacement trees being planted.
- There are no trees on adjoining sites that will be affected by the proposal

Subject to the planting of replacement trees, the proposal is satisfactory with regards to the SEPP (Vegetation in Non-Rural Areas) 2017.

State Environmental Planning Policy No. 55 – Remediation of Land

The provisions of SEPP No. 55 have been considered in the assessment of the development application. Clause 7 of SEPP No. 55 requires Council to be certain that the site is or can be made suitable for its intended use at the time of determination of an application.

The applicant lodged the following reports:

- 'Preliminary Site Investigation, 41-45 Bay Street & 4 Chapel Street, Rockdale NSW' (Report E23172 AA_Rev2) by EI Australia dated 16 December 2016.
- 'Detailed Site Investigation (DSI), 41-45 Bay Street & 4 Chapel Street, Rockdale NSW' (Report E23172 EO2_Rev1) by EI Australia dated 29 July 2020.

All analytes in groundwater are less than the human health site assessment criteria with the exception of Per- and polyfluoroalkyl substances (PFAS) (Perfluorooctanesulfonic acid (PFOS) plus Perfluorohexane sulfonate (PFHxS)). The DSI concludes that Polycyclic aromatic hydrocarbons (PAH) impacted fill across the site with fill varying to between 0.15 – 1.4m begl. The fill overlies natural sand and then sandstone from 0.15m (BH103M) (old carpark) to 1.6m begl (BH101M). It also concludes that PFAS impacted groundwater from the former fire station that was located onsite. The DSI concludes that the site can be made suitable subject to:

- 1. Waste classification and removal of all fill material across the site;
- 2. The completion of an additional groundwater monitoring event following completion of the bulk excavation to confirm groundwater results.
- 3. Preparation of a final summary report documenting site excavation works, waste classification and the additional groundwater monitoring to show that the works have mitigated any identified impacts and that the site is suitable for the proposed development.

The exceedances of PFAS in soil and groundwater have not been adequately addressed for the construction and occupation of the development, notably removal of the source of PFAS to groundwater, and permanent dewatering of the development with discharge to the stormwater system which ultimately discharges to Botany Bay.

Despite the report concluding that PFAS impacts in groundwater may present a low to moderate risk to human health and the environment there is minimal information of how this risk will be addressed. Other than excavation for the basement (which does not cover the entire site with

deep planting to the northern edge) there is no information of removal of the PFAS in soil and sandstone bedrock. There is no information on the hydraulic conductivity of the remnant sandstone following excavation, and the treatment of the basement to restrict entry of PFAS contaminated groundwater that would be required to be discharged to the stormwater system without tanking of the basement.

It is noted that the groundwater is currently above the trigger level for further investigation and management, including a groundwater concentration above the ecological water quality default guideline value of 99% species protection for PFAS (PFOS)

It is noted that there is also a Water NSW Approval for an 80mm submersible pump. There is no indication of whether the basement will be tanked or whether it is proposed to permanently discharge the PFAS impacted groundwater to the stormwater system. The treatment of PFAS impacted groundwater is challenging there is no known system to complete this. As such the development needs to be tanked to prevent permanent discharge of contaminated groundwater to the stormwater which discharges into Botany Bay. If the applicant can demonstrate how the site can be remediated so that PFAS is below appropriate ecological guideline levels, then discharge to stormwater could be allowed.

It is noted that the GTA for IDAS1123421 includes conditions including:

- Groundwater shall not be pumped or extracted for any purpose other than temporary construction dewatering at the site identified in the development application.
- The design and construction of the building must prevent any take of groundwater after the authorisation has lapsed by making any below-ground levels that may be impacted by any water table fully watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high water table elevations to prevent potential future inundation.

Additional information and the proposed testing and remediation works, should be covered within a Remediation Action Plan, which needs to be assessed by an accredited contaminated land auditor, with a Section A Site Audit Statement (SAS) stating the site is suitable for the proposed use and ecological discharge criteria is met should there be any permanent dewatering with discharge to the surface water environment.

Conditions have been provided based on the requirement for a hydraulically sealed (tanked) basement, including those addressing PFAS impacted groundwater discharge.

State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Buildings

Amended plans have been received, accompanied by a Design Verification Statement signed by a registered architect.

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

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

This DA was reported to the Design Review Panel on three occasions – 1 August 2019, 5 December 2019 and 4 June 2020.

On all three occasions, the DRP was not supportive of the proposal in its current form and has recommended amendments for further reconsideration by the DRP.

Given the intention to report this application to the 15 December 2020 meeting for determination,

the last available scheduled DRP meeting was for 5 November 2020. After the 5 June 2020 minutes were released, there were a number of meetings with the applicant with relation to the amended plans. In the lead up to the 5 November meeting, the applicant advised that they could not meet the deadline for reporting to the DRP. The applicant was advised that Council could proceed with finalising the assessment of the DA without reporting it back to the DRP, on the basis that the amended plans when lodged was accompanied with a detailed description as to how they addressed the DRP minutes.

Amended plans were lodged on 9 November. In summary, the applicant has provided the following by way of a response:

- Planters on the podium level (Level 1) of the development reducing the size of the terrace areas, planters to the side setbacks to increase the separation to the adjoining properties.
- Increase setback at the south-east of the building Level 2 Level 8 from 5.2m to 6m setback. The building separation at Level 2 and 3 (3rd and 4th storey) will be 9m.
- Planter on the western setback and eastern setback at Level 3.
- Increase setback to the western boundary Level 2 Level 3 to 6m 9.265m and Level 4 Level 9 6m setback to the north-west.
- Installation of privacy screening within the development proposal residential units.
- Communal games room at the podium level (Level 1).
- Amendment to the communal open space at Level 8 to create separate seating areas, barbeque and toilet facilities.
- Waste storage room and garbage chute at each residential level of the building.
- Contextual site analysis plans now provided.

The applicant has provided a written response to how the amended plans address the DRP minutes from the 4 June meeting:

Context and Neighbourhood Character

Applicant's response

The amended plans include site analysis/contextual analysis plans that provide an assessment of the proposed development in context with the surrounding development including:

- building height, built form street setbacks
- built form street wall heights, and
- built form side setbacks and separation.

The development proposal has been designed to respond to the context and established neighbourhood character as follows:

- The built form has been designed to fit with the development adjoining the western boundary of the site (15 – 21 Bay Street and 1 – 11 Chapel Street). The proposed 3 storey street wall aligns with the adjoining development.
- The building setbacks implemented are appropriate in the context of approved adjacent development and ensuring the orderly and economic development of land consistent with the B4 Mixed Use Zone.
- The proposed residential development is located above an approved Club and orientated to address the Bay Street and Chapel Street frontages. The residential lobby to Chapel Street provides a separate street address to the RSL at ground level. The RSL is orientated to Bay Street.

The building setbacks meet Part 5.3 – Mixed Use development of the Rockdale DCP. The built form and setback to the eastern boundary is consistent with the applicable objectives at Part 5.3 of the DCP. The applicable objectives are:

- To facilitate development within the centres to foster growth and improvement.
- To promote a range of employment uses and retail diversity which contribute to the vitality and economic viability of centres.
- To support the evolution of building styles within the centres through the introduction of well-designed contemporary buildings that respond to local context and environmental conditions.
- To create a safe and amenable public domain that is vibrant and active.
- To create an active interface between ground level retail or commercial properties and the street.
- To ensure a built form that creates a well-defined and legible public domain.
- To ensure spaces within a building are functional and offer a high level of amenity and quality.
- To increase the number of people living in mixed use developments within the centres.
- To protect the amenity of existing and future neighbouring residential uses.

The development proposal meets the objectives as follows:

- The development is consistent building envelope controls for the B4 Mixed Use zone,
- The proposed revitalisation of the club and new residential accommodation contributes to the economic viability of the Rockdale Town Centre
- The built form featuring the 3 storey street wall and tower elements has been designed to fit with the adjoining development at 15 – 21 Bay Street and 1 – 11 Chapel Street, Rockdale.
- The design ensures the activation of the public domain to Bay Street (the club entrance) and Chapel Street (residential entrance).
- The proposal has been designed with an active street frontage to Bay Street.
- The residential units are consistent with the objectives and design criteria at Part 4 Building Design of the ADG.
- The development proposal contributes to residential accommodation in mixed development tin the Rockdale Town Centre.
- The development proposal has been designed with adequate separation/setback to maintain residential amenity in this high density locality.

The 1.5m setback to the east, (north-east 2nd to 4th storey) adjoining the R4-High Density Residential zoned land is appropriate given the Nil setback of the existing Club development located on the site.

The 1.5m setback to the eastern boundary was approved during the development assessment of the proposed Club at ground level and the continuation of this setback provides a three storey base element (Podium) to Bay Street maintaining a uniform built form consistent with the adjoining development within the B4 – Mixed Use Zone.

It is argued that a 4.5m setback – eastern boundary would not result in a good urban design outcome creating an additional step in the built form presentation to Bay Street is inconsistent with the street wall design and the 3 storey form of the adjoining 3 storey building at 49-51 Bay Street.

It is noted that a minimum 4.5m separation is achieved at the second to fourth storey designed with a blank wall (non-habitable) and the amended plans have a 6m setback (9m separation) at the south-east with the addition of planters to address visual privacy.

The building has been designed to meet the objective of Part 3F of ADG. The noting visual privacy to the adjoining residential flat building (eastern boundary) is achieved by the following design outcomes:

- Level 2 and 3 are designed with a blank wall and planters to the side boundary (nonhabitable) and a greater set/separation is designed where the development adjoins living areas / balconies of the adjoining building
- The eastern elevation of the development has been designed with planters and privacy screening.
- The south-east of Level 2 4 have a 6m setback and 9m separation to the adjoining residential flat building.
- The upper levels of the building are setback achieving additional separation to the adjoining property.

The south-east elevation at the 2_{nd} to 4_{th} storey has a 6m setback and meets Part 3F – Visual privacy of the ADG.

Council assessment

- The amended plans including detailed site analysis / contextual analysis are deemed acceptable
- The three storey podium arrangement to Bay Street is suitable when compared with the neighbouring sites at 19 Chapel Street to the west and the three storey residential flat building at 49-51 Bay Street to the east. There are no openings along either the western or eastern elevations in this section, hence visual and acoustic privacy is maintained to the neighbouring properties
- It is agreed that it meets the applicable objectives of Part 5.3 of the DCP.
- Away from the podium area, the observed setbacks are deemed acceptable when assessed against the DCP, however, there are some concerns with building separation along the eastern boundary and will be discussed in further detail later in this report.

Built Form and Scale

Applicant's response

The development proposal has been designed in accordance with the established and approved setbacks within Bay Street and ensures that the built form has a consistent street wall with the development at 49 - 51 Bay Street. This is depicted in the streetscape analysis plan No. 004.

The development proposal includes a 3 storey street wall consistent with the approved setbacks of the adjoining development to the west of the site ensuring the proposal sits comfortably with adjoining development in the B4 – Mixed Use zone.

The proposed 1.5m setback to the east of the site for levels ground – Level 3 is consistent with the approved setback of the Club at ground floor level, maintaining a uniform building to Bay Street with a distinct 3-storey podium and tower level above.

The 1.5m non-habitable setback to the east provides an acceptable interface with the threestorey apartment building to the east noting the former club building included a blank wall with a Nil setback constructed to RL25.28. The proposed residential component includes a 1.5m setback to Level 2 (RL26.5) and a 4.9m setback at the upper levels. The amended plans have deleted the outdoor dining area at the southeast of the development and the east elevation of the dining room (ground floor) includes privacy screening.

Council assessment

- It is agreed that the proposed development meets the required setbacks and responds appropriately to the neighbouring sites
- Changes to the dining arrangements of the RSL club is noted

Density

Applicant's response

The building density is compatible with the desired future character of the locality as contained in the Rockdale LEP and DCP.

The development proposal complies with the number of storeys envisaged for the 28m height development standard and the setbacks are appropriate given the site context, existing and approved development on the site and the adjoining development.

The articulated building design and landscaping elements improve the presentation of the subject site to the public domain.

Council assessment

Council agrees with the applicant's response.

Sustainability

Applicant's response

The amended architectural plans are supported by natural ventilation and solar access reports prepared by AE Design Partnership.

Solar modelling has been undertaken with and without the adjoining building to the west.

The solar modelling shows the development provides 48 units – 60% with greater than 2 hours solar access to living rooms and 48 units – 60% solar access to the private open space, and 9 – 11.3% units with no solar access to living rooms. The solar modelling shows that the non-compliance with Part 4A of the Apartment Design Guide is a result of the adjoining development to the west (15 - 21 Bay Street and 1 - 11 Chapel Street).

The development proposal has been designed to maximise the number of units orientated to the north and north-east. The adjoining building, being 12 storeys, affects the lower levels units that have a north and north-west elevation from receiving solar access at mid-winter. Further, the proposal includes south facing units to maximise the district views to the south-west.

The development proposal includes 56 out of 80 - 70 % Cross Ventilated Units meeting part 4B of the Apartment Design Guide.

Council assessment

Noted, with further assessment to be made later in this report.

Landscape

Applicant's response

The landscape plans prepared by Zenith Landscape Architects include the relocation of the residential entry foyer to ground floor level at the Chapel Street frontage of the site.

The landscape works have been amended to correspond with the new residential entry and accordingly the level of retaining works in the Chapel Street setback area have been reduced and landscape increased.

The residential entry now includes direct access through a 1:14 ramp of a series of steps central to the Chapel Street frontage of the site.

The amended plans are supported by a Landscape Plan prepared by Zenith Landscape Architects.

Council assessment

Noted, with further assessment to be made later in this report.

Amenity

Applicant's response

As addressed, the amended architectural plans are supported by natural ventilation and solar access plans prepared by AE Design Partnership. The residential amenity design criteria area addressed above. In summary the development proposal is consistent with the objectives of the design criteria at Part 4A- Solar access and 4B – Natural Ventilation of the ADG.

The amended plans have a 4.5m separation to the building at 49 – 51 Bay Street for the second and fourth storey and a 6m setback (9m separation) at the south-east. The building has been designed to meet the objective of Part 3F of ADG. The noting visual privacy to the adjoining residential flat building (eastern boundary) is achieved.

The amended plans meet the apartment size and layout, and private open space design criteria at Part 4D and 4E of the ADG.

The amended plans show a floor to ceiling height of 3.05m. A 2.7m floor to ceiling height for the habitable rooms is achieved meeting design criteria at Part 4C of the ADG.

The amended plans include waste storage and a waste chute at each residential level of the building.

The external dining area of Club at ground floor level has been removed and replaced with an enlarged internal dining area. The eastern elevation of the dining area has been detailed with privacy screens improving the interface of the Club and the adjoining residential flat building development to the west.

Council assessment

Noted, with further assessment to be made later in this report.

Safety

Applicant's response

The amendments to the design maintain the clearly defined pedestrian access from Chapel Street to the residential flat building. The development ensures the residential entry is clearly defined and separated from the access to the approved Rockdale RSL, which is accessed from Bay Street.

Appropriate lighting will be installed at the entry points of the building illuminating both pedestrian and vehicular access.

Council assessment

Noted, with further assessment to be made later in this report.

Housing Diversity and Social Interaction

Applicant's response

The amended architectural plans present a total of 80 residential apartments with the following unit mix:

- 22 x 1 Bedroom units
- 40 x 2 Bedroom units
- 15 x 3 Bedroom units
- 3 x 4 Bedroom units

Council assessment

Noted, with further assessment to be made later in this report.

Aesthetics

Applicant's response

The development proposal has been designed with a defined 3 storey street wall and residential towers at the upper levels. This is consistent with and suitable for the Rockdale Town Centre.

The materials and finishes and built form serve to maintain the proposed three storey wall along Bay Street to the west ensuring the overarching character and design principles of the Rockdale DCP are met.

The proposed setbacks ensure that the development proposal sits comfortably within the Bay Street streetscape.

The building is well articulated and includes a high quality selection of materials and finishes including painted render, sandstone and metal cladding, glass curtain walls, green walls, horizontal and vertical louvres and aluminium framed windows and doors contributing to the future character of the locality.

Council assessment

Whilst it is noted that it contains a high quality selection of materials, one of the ongoing matters raised in the DRP minutes was its relationship with the ground floor RSL. Some refinements to the design, such as the proposed development's relationship with the neighbouring property to the east at 49-51 Bay Street and 10-16 Chapel Street will be recommended.

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 Neighbourhood Character

The subject site is located on the eastern edge of the Rockdale Town Centre and is zoned B4 Mixed Use as prescribed under the Rockdale LEP 2011. The existing streetscape of Bay Street is characterised by a mixture of residential developments ranging from single storey detached dwellings to multi-storey residential flat buildings, whilst Chapel Street are characterised primarily by residential flat buildings. The subject site will provide an "infill" development to complement recently completed developments to the west.

The zone objectives for the B4 Mixed Use zone is to provide a mixture of compatible land uses, and to integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling. Accordingly, this is an area that has gradually been undergoing transition, with a number of mixed use and residential flat building developments recently constructed within this area. Furthermore, the proposal is consistent with the desired future character, with respect to generally meeting the relevant development standards in the Rockdale LEP 2011 (with the exception of the Height of Building development standard, which will be further discussed later in this report) and most of the relevant standards in the Apartment Design Guide (ADG) as prescribed under this SEPP and development controls in the Rockdale DCP 2011.

Principle 2: Built Form and Scale

The built form of the proposed development will actively contribute towards the evolving nature of the streetscape and character for the southern side of Bay Street and northern side of Chapel Street, with respect to the scale, bulk and height of the building, and also manipulation of building elements adding visual interest from the street. However, as detailed later in this report, some certain design amendments are recommended to achieve internal amenity, outlook and surveillance opportunities are provided through the location of living areas and the location of the communal open space on the roof top.

Principle 3: Density

There is no Floor Space Ratio (FSR) development standard prescribed in the Rockdale LEP 2011 and thus is reliant on envelope controls in other instruments such as the Apartment Design Guide (ADG) and the Rockdale Development Control Plan (DCP) 2011.

There is communal open space and other passive and active recreation opportunities as well as private open space areas. The application of these principles means that it is not considered to be overdevelopment of the site. It is near the Rockdale Town Centre, which has regular train and bus services, and is within walking distance of a number of public parks and reserves, as well as schools, services and employment opportunities.

Principle 4: Sustainability

The applicant has submitted a BASIX Certificate, demonstrating that the proposal achieves the relevant energy efficiency standards as specified by the BASIX SEPP. 44 of the 80 residential units (62%) will have living area windows and private open space that will receive a minimum of two hours sunlight between 9am and 3pm in mid-winter. It is noted that it does not comply with

the minimum of 70% as prescribed in the Apartment Design Guide (ADG). However, given the site location and context this is supported by Council and will be discussed later in the report.

Principle 5: Landscape

Landscape details have been provided, with respect to the communal area, the private courtyard areas and also both the Bay Street and Chapel Street frontages. This has been reviewed by Council's Landscape Architect, and is deemed acceptable, subject to the imposition of conditions.

Principle 6: Amenity

The design provides a good level of amenity for future occupants by providing appropriate room dimensions, suitable solar access to a number of units, appropriately sized balconies for each residential unit as well as communal open space, and ease of access for all age groups and degrees of mobility.

Principle 7: Safety

This application was referred to the NSW Police for comment.

In accordance with the Environmental Planning and Assessment Act, 1979, Section 79C Crime Prevention Guidelines, a Safer by Design Crime Risk Evaluation has been prepared.

The NSW Police made a number of recommendations relating to primarily to surveillance. Where relevant, these will be imposed as conditions of consent.

Principle 8: Housing Diversity and Social Interaction

The proposed development will provide for a mixture of housing types that will cater for different budgets and housing needs. This will aide in addressing housing affordability.

Principle 9: Aesthetics

The proposed incorporates a varied palette of colours and materials to create visual interest when viewed from the public domain. Materials proposed include but are not limited to sandstone and metal cladding, painted render, glass balustrades, and aluminium louvres. Whilst these materials will provide a modern, contemporary, high quality and visual appealing development on site, there are some amendments that will be recommended, with the "squaring off" off the building elements fronting Bay Street.

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:

| Section | Design Criteria | Proposed | Complies | |
|--|--|---|-------------------|--|
| Part 3 Siting the Developm | Part 3 Siting the Development | | | |
| Part 3D: Communal and Public Open Space | Communal open space has a minimum area equal to 25% of the site. | The communal open spaces located on Levels 1 and rooftop has a total area of 596m ² , which is equal | No, see Note 1 | |

| Section | Design Criteria | Proposed | Complies |
|----------------------------|--|---------------------------|--------------|
| | | to 18.6% of the site. | |
| | | | |
| | | | |
| | | | |
| | | | |
| | Developments achieve a | More than 50% of the | Yes |
| | minimum of 50% direct | communal open space | |
| | sunlight to the principal | is able to receive a | |
| | usable part of the communal | minimum of 2 hours of | |
| | open space for a minimum | sunlight in mid winter | |
| | of 2 hours between 9 am | | |
| | and 3 pm on 21 June (mid- | | |
| | winter). | | NI NI 1 |
| Part 3E: Deep Soil Zones | For sites greater than | I ne deep soll zone is | NO, SEE NOTE |
| | 1,500m ² , a deep soil area | Change Street and Roy | 2 |
| | with a minimum dimension | Street frontages which | |
| | of 6m | street from ages, which | |
| | | total site area | |
| Part 3E: Vieual Privacy | Minimum required | Minimum of 2 motros | No. soo Noto |
| | separation distances from | to wostorn boundary | 3 helow |
| | boundaries to the side and | for unit 1k | |
| | rear boundaries. For | Minimum of 4 motros | |
| | developments up to 4 | to opstorn boundary | |
| | storevs: | for terrace areas for | |
| | 6m between | Units 1G 1H and 1 | |
| | habitable/balconies and | Minimum 6m for both | |
| | non-habitable | eastern and western | |
| | 3m between non- | building lines for | |
| | habitable rooms | storevs 5 to 8 | |
| | For developments 5-8 | All other separation | |
| | storeys: | distances comply | |
| | 9m between | | |
| | habitable/balconies and | | |
| | non-habitable | | |
| | 4.5m between non- | | |
| | habitable rooms | | |
| Part 3J: Car Parking | On sites that are within 800 | Whilst the site is | |
| | metres of a railway station | located within 800 | |
| | or light rail stop in the | metres of Rockdale | |
| | Sydney Metropolitan Area | railway station, the | |
| | the minimum car parking | applicant has | |
| | requirement for residents | nominated the DCP car | |
| | and visitors is set out in the | parking rates, which the | |
| | Guide to Traffic Generating | applicant can use at | |
| | Developments, or the car | their discretion. | |
| | parking requirement | Europhana alaka 2000 la a | |
| | prescribed by the relevant | Further detail Will be | |
| | council, whichever is less | required later in the | |
| | | of the development" | |
| Part 4 Designing the Build | ing | | |

| Section | Design Criteria | Proposed | Complies |
|---------------------------------------|--|--|-------------------------|
| Part 4A: Solar and Daylight Access | Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9am and 3pm at mid-winter. | The living rooms and private open space areas for 44 out of the 80 units (55%) receive at least 2 hours of direct sunlight between 9am and 3pm on 21 June. | No, see Note 4 below |
| | A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter | 9 out of the 80 units (11.3%) receive no direct sunlight between 9am and 3pm on 21 June. | Yes |
| Part 4B: Natural Ventilation | At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. | 56 of the 80 units will be naturally cross ventilated. | Yes |
| | Overall depth of a cross- over or cross-through apartment does not exceed 18m, measured glass line to glass line | None of these units exceed 18m in depth | Yes |
| Part 4C: Ceiling Heights | Measured from finished floor level to finished ceiling level, minimum ceiling heights are: - 2.7m for habitable rooms - 2.4m for non-habitable rooms | The ceiling heights of all residential floors are 3.05m from floor to ceiling. | Yes |
| Part 4D: Apartment Size and Layout | Apartment are required to have the following minimum internal areas: - Studio: 35m ² - 1 bedroom: 50m ² - 2 bedrooms: 70m ² - 3 bedrooms: 90m ² The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m ² each. A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m ² each | The minimum area for the 1 bedroom units are 53.9m ² . The minimum area for the 2 bedroom units are 75m ² . The minimum area for the 3 bedroom units are 140m ² . | Yes |
| | Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms. | All habitable rooms have windows of acceptable size to facilitate acceptable solar access and natural ventilation. | Yes |

| Section | Design Criteria | Proposed | Complies |
|--|---|--|-----------------------------------|
| | Habitable room depths are limited to a maximum of 2.5 x the ceiling height. | The habitable room depths comply. | Yes |
| | In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window | All open play layout units have a depth that does not exceed 8 metres | Yes |
| | Master bedrooms have a minimum area of 10m ² and other bedrooms 9m ² (excluding wardrobe space). | The size of all bedrooms comply. | Yes |
| | Bedrooms have a minimum dimension of 3m (excluding wardrobe space). | All bedrooms have a minimum dimension of 3m, excluding wardrobe space. | Yes |
| | Living rooms or combined living/dining rooms have a minimum width of: 3.6m for studio and 1 bedroom apartments 4m for 2 and 3 bedroom apartments | The width of the studio and 1 bedroom units is at or greater than 3.6m, and the width of the 2 bedroom units is at or greater than are 4m. | Yes |
| | The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts. | The width of each apartment is greater than 4m. | Yes |
| Part 4E: Private Open Space and Balconies | All apartments are required to have primary balconies as follows: Minimum area of 8m² and minimum depth of 2m for 1 bedroom units Minimum area of 10m² and minimum depth of 2m for 2 bedroom units Minimum area of 12m² and minimum depth of 2.4m for 3 bedroom units The minimum balcony depth to be counted as contributing to the balcony area is 1m. | Units 2H, 3H, 4E, 5F, 6E and 7F (1 bedroom units) have an area less than 8m ² Units 2K, 2L, 3G, 3L, 4H, 5E, 5J, 6H and 8E (all 3 bedroom units) have a depth less than 2.4m All other sizes and depths comply | To be conditioned to comply |
| Part 4F: Common Circulation and Spaces | Maximum number of apartments off a circulation core on a single level is eight | Up to 11 units is proposed off each circulation core | No, see Note 5 below |

| Section | Design Criteria | Proposed | Complies |
|------------------|--|--|----------------------------------|
| Part 4G: Storage | In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided: - 6m ³ for 1 bedroom units - 8m ³ for 2 bedroom units - 10m ³ for 3 bedroom units At least 50% of the required storage is to be located within the apartment. | The plans do indicate additional storage in each of the units. | Yes, conditioned to comply |

Note 1 – Communal open space

A total area of 596.4m² of communal open space is proposed, primarily on the southern half of level 8 as well as a communal space on the western edge of level 1, which is to equivalent of 18.4%, and falls short of the 25% requirement as prescribed in the ADG.

However, there is a large area on level 1 to the south of the Bay Street facing units that is currently proposed to primarily include storage areas, with an approximate floor area of 250m².

An additional 205m² is required to ensure that it meets the 25% requirement. It is recommended that amended plans are imposed as a condition in the attached draft schedule that indicates an additional 205m² of floor area is dedicated as communal open space, including the terrace area adjacent to unit 1A and the private open space adjacent to unit 1F.

<u>Note 2 – Deep soil</u>

Based on the land area, a minimum of 224.28m² of deep soil is required to be provided on site. There is a 2m wide corridor along the Chapel Street frontage and a 5m wide corridor along the Bay Street frontage.

Notwithstanding this non-compliance, it has been considered acceptable by our Landscape Architect as there are suitable OSD measures in place. It is to be also noted that the B4 zone and required building density of the development is not able to achieve strict compliance to the ADG.

With the above considered, it is recommended that this variation is supported by the Sydney Eastern City Planning Panel.

Note 3 – Building separation

Levels 1 to 4

The podium levels (1 and 2) have a minimum zero lot line for the front portion of the site on the western elevation (to 19 Bay Street) and 1.5m to the western elevation (49-51 Bay Street), increasing to a minimum of 4 metres to the eastern boundary for terrace units 1G, 1H and 1I.

It is recommended that full compliance is met for these three units, and hence a condition will be imposed in the attached draft schedule to ensure that the minimum setback for the edge of the building and terrace areas to be 6 metres.

It is also recommended that the terrace area for unit 1K has a minimum setback of 6m from the western boundary, and this will be imposed as a condition.

Levels 5 to 8

The minimum setbacks for the western and eastern side elevations on these levels is 6 metres, with a number of windows and balcony openings proposed for the units along these elevations.

It is to be noted that the neighbouring site to the west at 19 Bay Street has a minimum 4.5m setback to its boundary for levels 3 to 8, with recessed balconies and highlighted windows for the Bay Street facing units, and a minimum 6m setback for the Chapel Street facing units for levels 3 to 8. The proposed development meets or exceeds those setbacks.

The maximum height of the neighbouring building is 4 storeys (at grade undercroft parking plus three residential levels) and hence building separation is not an issue on the eastern boundary.

Based on the above it is considered that the current design is acceptable.

Internal separation

The proposal does not meet the ADG minimum building separation distances between units 2G and 2H, with a 5.6m distance proposed, just under the 6m requirement. Privacy screens have been proposed for the living room windows, which will protect the northern units from any overlooking that may occur from the living area for Unit 2H to the balcony on Unit 2G.

It is considered that the installation of these privacy screens, whilst increasing privacy will also not compromise access to light and air as they have a westerly aspect and hence will still receive sunlight in the morning as well as meeting the natural ventilation requirements.

With the above considered, it is recommended that this variation is supported by the Panel.

Note 4 – Solar Access

A total of 44 of the 80 units (55%) of the units will receive a minimum of two hours sunlight to the living rooms and private open space areas between 9am and 3pm in mid-winter, which is less than the minimum of 70% as prescribed in Part 4A of the Apartment Design Guide.

However, 9 of the 80 units have no direct sunlight which results in a total of 11.3%, which does comply with the maximum number of apartments with no direct sunlight of 15%.

The primary contributor towards this non-compliance is the depth of the lot, resulting in a small number of central units that have solely a western or eastern aspect and are able to receive some sunlight during the day but not the minimum 2 hours. Furthermore, there is a taller development to the west which also in part contributes to this non-compliance.

This non-compliance has been assessed further against the relevant objectives under Part 4A of the ADG:

Objective 4A-1: To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space

<u>Comment</u>: The design maximises the north aspect with a large number of units having at least one aspect addressing the north. There are no units with a sole southerly aspect incorporated within the design, with the Chapel Street facing units having either a dual westerly or easterly aspect. Furthermore, the design of the proposed development also makes an effort to provide as many dual aspect units with private open space in an optimal location.

Objective 4A-2: Daylight access is maximised where sunlight is limited

<u>Comment</u>: The southern elevation has a higher proportion of glazing to masonry when compared to the other elevations, which will maximise daylight access where sunlight is limited.

Objective 4A-3: Design incorporates shading and glare control, particularly for warmer months

<u>Comment</u>: The eastern balconies are recessed whilst the western balconies are "open" on the basis that the larger development to the west at 19 Bay Street will in effect shield these areas from optimal glare particularly in the warmer months.

Based on the above, the proposal meets the relevant objectives of Part 4A of the Apartment Design Guide.

With all of the above considered, it is recommended that this variation is supported by the Panel.

Note 5 – Circulation Core

The maximum number of units off a circulation core is 11 units on each floor. Whilst it does not meet the design criteria, it meets a number of design guidance controls under Part 4F of the ADG, namely:

- Greater than minimum requirements for corridor widths in entry lobbies, outside lifts and at apartment entry doors
- Daylight and natural ventilation provided to all common circulation spaces that are above ground
- Windows should be provided in common circulation spaces and should be adjacent to the stair or lift core or at the ends of corridors
- Design solutions such as each circulation space being a foyer area with spaces for seating

The ADG does allow for up to 12 apartments to be provided off a circulation core if design guidance controls can be met. On that basis, it is recommended that this variation is supported by the Panel.

Rockdale Local Environmental Plan 2011 (LEP)

Rockdale Local Environmental Plan 2011 has been considered in the assessment of the Development Application and the following information is provided:

Land Use Table

The subject site is zoned B4 - Mixed Use under the provisions of Rockdale Local Environmental Plan 2011 (RLEP 2011). The proposal is defined as a mixed use development and a community facility (i.e. RSL club) which constitutes a permissible development only with development consent. The objectives of the zone are:

- To provide a mixture of compatible land uses.
- To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.

The proposed development is consistent with the objectives of the zone, in that it will provide a mixture of compatible uses with residential and a community facility, and will be in a location that is in proximity to public transport.

Clause 4.3 – Height of buildings

The height of the proposed building is 18.647m which exceeds the maximum 16m height permitted in Clause 4.3 (Height of buildings) of RLEP 2011.

In accordance with clause 4.6 of RLEP 2011, the applicant has requested that a variation to the maximum building height requirement be allowed due to the following:

The proposed building presents a 9 storey form and has a maximum height of 27.9m when measured to the building parapet and meets the height control at this point of the building. The proposed variation to the 28m height development standard is confined to the lift overrun being a maximum height of 28.65m. The lift overrun is located central to the built form.

The applicant's request to vary the development standard Clause 4.3 (height of buildings) is considered to be reasonable as the variation is consistent with the objectives in Clause 4.6 (Exceptions to development standards). Approval of the proposal would not create an undesirable precedent and is in the public interest. As such, the proposed variation is supported in this instance. Refer to the Clause 4.6 section below for a more detailed assessment.

Clause 4.4 - Floor space ratio

The LEP map does not prescribe a development standard for the subject properties, however the proposed FSR is 3.62:1.

Clause 4.6 - Exceptions to development standards - Height of building

The proposal seeks maximum building height of 28.65m, which exceeds the 28m standard and represents a variation of 2.3%.

The proposed building presents a 9 storey form and has a maximum height of 27.9m when measured to the building parapet and meets the height control at this point of the building. The proposed variation to the 28m height development standard is confined to the lift overrun being a maximum height of 28.65m. The lift overrun is located central to the built form.



Figure 5: Extract from Clause 4.6 statement

As such, the applicant has lodged a statement under Clause 4.6 of the LEP.

Under sub-clause (3), development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by being unreasonable or unnecessary.

(a) compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.

Applicant's Clause 4.6 statement

Pursuant to clause 4.6(3)(a) of the LEP, the contravention of the height of buildings development standard is acceptable in the circumstances of this case and compliance with the development standard is considered both unreasonable and unnecessary because the proposed residential flat building development is consistent with the objectives of the height of buildings standard, notwithstanding non-compliance with the standard.

The objectives of the development standard are at clause 4.3(1) of the Rockdale LEP 2011 as follows:

- a) to establish the maximum limit within which buildings can be designed and floor space can be achieved,
- b) to permit building heights that encourage high quality urban form, \
- c) to provide building heights that maintain satisfactory sky exposure and daylight to buildings, key areas and the public domain,
- d) to nominate heights that will provide an appropriate transition in built form and land use intensity.

The proposed building height achieves the objectives of the height of buildings development standard based on the following assessment:

- **Objective (a)** The development has been designed with a 9 storey form meeting the 28m height standard to the building parapet. The portion of the building exceeding the 28m height development standard lift overrun, does not contain any floor area and is located central to the building, not visible from the public domain.
- **Objective (b)** The mixed use development has been designed with a 9 storey built form consistent with the intent of the 28m height limit. The building parapet of the 9th storey is located within the height limit and the variation to building height accommodates a lift overrun, providing access to rooftop communal open space. The communal open space has an outlook to the southeast, contributing to the residential amenity of the development.
- **Objective (c)** The lift overrun provides access to rooftop communal open space obtaining uninterrupted solar access at mid winter, improving solar access for this development within the B4 Mixed use zone. The additional height does not result in additional amenity impacts to adjoining properties with no additional overshadowing generated by the additional height noting the additional height is restricted to the lift overrun located central to the built form.
- **Objective (d)** The lift overrun does not create additional bulk and scale and will not be visually dominant when viewed from the public domain noting the variation is confined to a lift overrun and is located central to the building footprint. The proposed development is viewed as a 9 storey building from the public domain and creates a suitable transition in building height between the approved 11 storey building adjoining the western boundary (15 21A Bay Street, 1 11 Chapel Street, 1 3 Chapel Lane and 6A 12 Lister Avenue, Rockdale) and the existing residential flat building to the east of the site.

It is unreasonable to require compliance with the development standard noting the noncompliance is a maximum of 650mm measured to the top of the lift overrun located centrally to the built form and the building parapet – 9th storey meets the 28m height limit. The 650mm variation is 2.3% and will not be noticeable from the public domain. Permitting this contravention will facilitate equitable access to all levels of this mixed use development and notably access to rooftop communal open space, providing residents access to uninterrupted solar access at midwinter.Further, compliance with the development standard is unnecessary noting the proposed variation would not result in any amenity impacts upon adjoining properties with respect to overshadowing, views or outlook and the proposal continues to meet the objectives of the standard notwithstanding the contravention to the standard. The lift overrun is located central to the roof form and will not be highly perceptible from adjoining properties, or visible from the public domain.

Council assessment

- The nature of the full extent of the encroachment of the Height of Building is contained in the roof top area above the parapet wall for the uppermost storey, to address the lift over run.
- The variation still provides a built form that is coordinated and cohesive, with the extent of the variation not noticeable from the public domain as the lift over run and communal room are centrally located within the rooftop area and would be obscured by the parapet wall as well as the natural slope of the land from Bay Street to Chapel Street.
- The proposed building height is consistent with the desired future character in that part of the Rockdale town centre with relation to its height to the parapet wall of the uppermost storey.
- The additional height will not further increase visual impact, disruption of views, loss of privacy and loss of solar access to neighbouring sites.
- It is agreed that the minor encroachment above the height of building development standard will not adversely impact the streetscape or skyline.

Accordingly, the development is considered to be compliant with the relevant objectives of the Height of Building development standard.

(b) there are sufficient environmental planning grounds to justify contravening the development standard.

Applicant's Clause 4.6 statement

Pain J held in *Four2Five vs Ashfield Council* [2015] NSWLEC 90 that to satisfy clause 4.6(3)(b), a clause 4.6 request must do more than demonstrate that the development meets the objectives of the development standard and the zone – it must also demonstrate that there are other environmental planning grounds that justify contravening the development standard, preferably being grounds that are specific to the site.

Pursuant to clause 4.6(3)(b) of the LEP, the environmental planning grounds contained in this application are sufficient to justify the non-compliance with the height of buildings development standard because:

- The subject site is impacted from overshadowing by the approved 11 storey building adjoining the western boundary (15 21A Bay Street, 1 11 Chapel Street, 1 3 Chapel Lane and 6A 12 Lister Avenue, Rockdale). The contravention to the height of buildings development standard is attributed to part of a lift overrun which provides access to rooftop communal open space which receives uninterrupted solar access.
- The development proposal has been designed with a 9 storey form consistent with the intent of the 28m height limit and the portion of the building which contravenes the development standard is attributed to a lift overrun which provides access to all 9 storeys of the development.
- The 9 storey built form with rooftop communal open space is consistent with the form and scale of development in the precinct and the 9 storey building form presents a suitable

transition in height when compared to the approved 11 storey building adjoining the western boundary.

- Despite the contravention to the height of buildings standard, the proposal is consistent with the following aims of the Rockdale LEP 2011 found at clause 1.2(2):
 - 1.2(2)(a) The proposed mixed use development contributes to the uplift of Rockdale through the release of new residential accommodation within the Mixed Use zone.
 - 1.2(2)(c) The contravention to the development standard facilitates access to rooftop communal open space with uninterrupted solar access and an outlook/view to the south east, contributing to residential amenity.
 - 1.2(2)(g) The development proposal provides residential accommodation in proximity to transport within the Rockdale Town Centre.
- Despite the contravention to the height of buildings standard, the proposal is consistent with the following objects of the Environmental Planning and Assessment Act 1979 as follows:
 - 1.3(c) The proposal is an orderly and economic use of the site and the development is consistent with the objectives of the height of buildings standard with a built form that is compatible with the desired future character of the locality, on an allotment that is capable of accommodating a mixed use development,
 - 1.3(g) The design of the proposal is a good design outcome for the site and will provide a high level of residential amenity for the future residents of the development, whilst preserving the amenity of the broader locality.

The rooftop communal open space, and subsequent required variation to the height limit by lift overrun is a good design outcome for the site, providing additional solar access on the constrained site.

Council assessment

It is considered that there are sufficient planning grounds for a variation to the Height of Building and the variation is in the public interest.

- The proposed development addresses the objectives under Part 4.3 of the Rockdale LEP as discussed previously in this section;
- The development will not adversely impact the surrounding streetscape and desired future character of the area as the extent of the variation is centralised within the rooftop area and not readily seen when viewed from either Bay Street or Chapel Street;
- It will not result in any additional overshadowing of neighbouring sites, particularly to the east and south east of the subject site;
- It is a minor height non-compliance under the LEP, which is supported for the reasons outlined in this report; and
- The proposed height of building does not set an undesirable precedent for future development within the precinct.

Under sub-clause (4), development consent must not be granted for development that contravenes a development standard unless:

(a)(i) the consent authority is satisfied that the applicant's written request has adequately

addressed the matters required to be demonstrated by sub-clause (3)

<u>Council assessment</u>: The applicant's written statement adequately covers matters required by sub- clause 3.

(a)(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

Applicant's 4.6 statement

The applicant has provided the following comments with relation to the objectives of the B4 Mixed Use zone:

- The development proposal retains the approved use- registered club at ground floor level and includes a residential flat building at podium level and the building height storeys is consistent with the planning controls for the locality.
- The development proposal provides residential accommodation in proximity to transport within the Rockdale Town Centre.

Council assessment

As established earlier in this report under Clause 2.3 Zone B4 Mixed Use it complies with the zone objectives.

It is considered that in the current case, the planning control can be varied as it will not affect the general planning controls in the area, particularly as it generates built form that is generally consistent with other approved development and construction in the area.

On the basis of this assessment, it is concluded that the variation is in the public interest and can be supported.

With the above considered, it is recommended that this variation is supported by the Sydney Eastern City Planning Panel.

Clause 5.1A – Development on land intended to be acquired for public purposes

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

Clause 6.1 – Acid Sulfate Soil

Acid Sulfate Soils (ASS) – Class 5 affects the property. The 'Detailed Site Investigation, 41-45 Bay Street & 4 Chapel Street, Rockdale NSW' prepared by EI Australia dated 29 July 2020 did not locate any acid sulfate soils. As such, it is considered unlikely that ASS will be encountered during development works.

Clause 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.

Clause 6.3 – Development in areas subject to aircraft noise

The subject sites are located in an area mapped as 15-20 ANEF, and therefore the provisions of this Clause are not applicable to the assessment of this application.

Clause 6.4 – Airspace operations

The proposed development is affected by the Obstacle Limitation Surface (OLS) which is set at between 51 to 62 metres to Australian Height Datum (AHD). The proposed building height is at 45.65 metres to AHD (to the top of the lift over run) and in this regard, it is considered that the proposed development will have minimal adverse impact on the OLS and hence is acceptable with regards to this Clause.

Clause 6.7 – Stormwater

The proposal involves the construction of an on-site detention system to manage stormwater. The proposed stormwater system has been approved by Council's development engineers and is consistent with this clause.

Clause 6.11 – Active street frontages

The subject sites are not located in a mapped area, and therefore the provisions of this Clause are not applicable to the assessment of this application.

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.

Clause 6.14 – Design excellence

The subject sites are not located in a mapped area, and therefore the provisions of this Clause are not applicable to the assessment of this application.

Section 4.15(1)(a)(ii) – Provisions of any Draft EPI's

Bayside Draft LEP 2020

The Bayside Draft LEP 2020 was on public exhibition from 8 April to 1 June 2020 and applies to the subject site. The draft LEP reviews Council's current planning controls under three existing LEPs into one consolidated LEP. The draft LEP generally harmonises and updates planning controls for the Bayside Local Government Area. The proposal is generally consistent with the objectives and requirements of the draft.

Section 4.15(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 development proposal has been assessed against the controls contained in the Botany Bay

Development Control Plan 2013 as follows:

Part 4.1.1: Views and Vistas

It is considered that the proposed development will not further obstruct any views that are currently enjoyed by residents in proximity to the subject site.

Part 4.1.3: Water Management

The stormwater plan submitted with the application has been assessed by Council's Development Engineer and no objection was raised subject to conditions being attached to any development consent granted.

Part 4.1.4: Soil Management

The Soil and Water Management Plan has been submitted and general erosion and sediment control strategies are proposed to ensure that the potential for impact on adjoining land and surrounding waterways is minimised.

Temporary fencing is to be erected along the boundaries of the site. A builders all weather access is required to be provided onto the site.

Part 4.1.9: Lot Size and Consolidation - Mixed Use

As per the provisions of this clause, for all mixed use development of 4 storeys or greater, a minimum frontage width of 18 metres is required. The subject site comprises a frontage width of 48.765 metres to Bay Street and therefore complies.

4.1.9: Lot size and Site Consolidation – Isolated sites

The proposal does not result in the isolation of the neighbouring lots of 19 Bay Street to the west and 49-51 Bay Street to the east.

Part 4.4.2: Solar Access

The applicant has provided detailed shadow diagrams that in particular demonstrate the impact of the proposed development on to the neighbouring properties to the east at 49-51 Bay Street and 10-16 Chapel Street.

These neighbouring properties are located to the east and south east of the site respectively. Both of these developments have a number of west facing windows and balcony areas.

The neighbour elevation shadow analysis, dated 24 November 2020 has taken into account the existing neighbouring shadow, the proposed neighbouring shadow as well as the approved shadows from the previous DA approval for the RSL club.

The Land and Environment Court planning principles for overshadowing under *The Benevolent Society v Waverley Council [2010]* have been considered in this assessment and are addressed further below with respect to the proposed development's impacts on the internal and external living areas for these two neighbouring properties:

The ease with which sunlight access can be protected is inversely proportional to the density of development. At low densities, there is a reasonable expectation that a dwelling and some of its open space will retain its existing sunlight. (However, 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.

It is to be noted that this is a high density area, with the subject site being a B4 Mixed Use zone and the two neighbouring properties located in a R4 High Density Residential zone. Due to its orientation, it receives no early morning sun, and even throughout the day there are pockets that do not receive any natural light in mid-winter due to existing developments.

The amount of sunlight lost should be taken into account, as well as the amount of sunlight retained

As shown in the neighbour elevation shadow analysis, there are large portions of the neighbouring developments that will receive some natural light throughout the day, from 11am to 12pm and then in the late afternoon at around 3pm.

Overshadowing arising out of poor design is not acceptable, even if it satisfies numerical guidelines. The poor quality of a proposal's design may be demonstrated by a more sensitive design that achieves the same amenity without substantial additional cost, while reducing the impact on neighbour

It is important to note, as a starting point, the approved building envelope for the RSL club, which was a maximum height of about 6.27m above natural ground level at Bay Street, and a setback of 1.5 metres fronting Bay Street, and increasing to 4 metres further to the south towards Chapel Street.

As part of the proposed development, the level of 6.27m is just below the ceiling for the level 1 unit at the eastern boundary, however this wall extends further up for level 2, before expanding to a minimum 6m setback for levels 3 and above. Further to the south, the 1.5m building line is maintained for the level 1 private open space areas down to Chapel Street, and in effect creating a 2.5m deep void area above the ground level use.

Given that noted impacts of overshadowing on the two neighbouring properties, there are further opportunities to provide a more sensitive design along that eastern property boundary which will further reduce the impact on these two properties, namely:

- Further pushing in the setback for unit 2F by another 1.5m, thereby creating a 3m setback to the boundary; and
- The level 1 building line south of the proposed fire tunnel to be a minimum of 4m, thus creating a 2 storey high wall at that setback and removing the void area.

These amendments will be imposed as conditions in the attached draft schedule of conditions.

For private open space to be assessed as being in sunlight, the sun should strike a vertical surface at a horizontal angle of 22.50 or more. (This is because sunlight at extremely oblique angles has little effect.) For a window, door or glass wall to be assessed as being in sunlight, half of its area should be in sunlight. For private open space to be assessed as being in sunlight, either half its area or a useable strip adjoining the living area should be in sunlight, depending on the size of the space. The amount of sunlight on private open space should be measured at ground level.

The applicant has modelled the winter solstice shadow diagrams at the established mid-winter sun angle of 33% for Sydney. As evidenced in the shadow diagrams, there are limits to the sunlight exposure that west facing windows and balconies receive in mid-winter however reference is made to the first part of this principle with relation to the significant existing site constraints.

Overshadowing by fences, roof overhangs and changes in level should be taken into consideration. Overshadowing by vegetation should be ignored, except that vegetation may be taken into account in a qualitative way, in particular dense hedges that appear like a solid fence.

Overshadowing is not proposed by fences, roof overhangs or by vegetation. The overshadowing is caused by the built form.

In areas undergoing change, the impact on what is likely to be built on adjoining sites should be considered as well as the existing development.

The area has and still is undergoing redevelopment to mixed use and residential development. The two neighbouring residential developments to the east are considered developed sites in that they are residential flat buildings and deemed to the "highest best use" for that zone, as well as being close to the prescribed Height of Building development standard of 14.5m. Furthermore, the side setback for these two developments are 3m from the shared property boundary. Therefore if these two sites were to be redeveloped in the future, it would likely to be a very similar building envelope than it is now and therefore there would be a similar level of impact on these newer developments.

Accordingly, with the above considered it is recommended that this is supported by the Panel.

Part 4.4.4: Glazing

The proposed development provides appropriate sun protection/shading devices during summer for glazed areas facing north, west and east, including the use of eaves/awnings//external louvers/projecting sunshades.

Part 4.4.5: Acoustic Privacy

There will be minimal adverse impact on the acoustic privacy of adjoining and surrounding properties as consideration has been given to the location and design of the building and landscaping in relation to private recreation areas to minimise noise intrusion on the amenity of adjoining properties.

Part 4.4.6: Noise Impact

As referenced earlier in this report, the ground floor RSL has previously been lawfully approved, including operational conditions such as hours of operation and the maximum number of patrons permitted on site at any one time, as well as its impact on neighbouring properties.

Conditions would be imposed as part of any application approved to reinforce this.

Part 4.4.7: Wind Impact

The applicant has submitted a Wind Report prepared by Cermak Peterka Petersen and dated November 2019, which considered the potential impact of wind on the proposed development. It has provided a number of recommendations all of which will be imposed as conditions in the Draft conditions of consent at the end of this report.

Part 4.5: Social Equity – Housing Diversity and Choice

Part 4.5 of RDCP 2011 contains objectives and controls that aim to ensure that apartments in mixed use developments are flexible, maximise housing choice and provide equality of access.

The proposal is considered to satisfy the relevant objectives and requirements. Compliance with the key controls are discussed below:

Provision of 10%-30% 1 bedroom units, 50-75% 2 bedroom units, and 10-20% 3 bedroom units.

The proposed unit mix does comply with the requirements of RDCP 2011. In this case, the proposal includes 27.5% one bedroom units (22), 57.5% two bedroom units (40) and 15% three or more bedroom units (18).

Part 4.5: Social Equity – Equitable Access

As per the provisions of this clause a minimum of 10% (8) of the units within the development are to be provided as adaptable dwellings. The submitted plans indicate the provision of 9 units, which complies with the requirements of this clause.

The plans indicate the provision of ramps, lifts and level pathways on site to ensure appropriate access is provided. The proposal has been conditioned accordingly to ensure access for persons with a disability / mobility impairment is provided on site. The proposal is satisfactory in this regard and complies with the provisions of this clause.

Part 4.6: Car Park Location and Design

The proposal seeks to provide a basement car parking area on site for residents, visitors and patrons of the RSL club via Chapel Street, with a pick up / drop off area provided off Bay Street.

The proposal provides adequate headroom clearances and the basement levels have been designed in accordance with relevant Australian Standards. This has been reviewed by Council's development engineer and the proposal is satisfactory in relation to the requirements of this section.

Part 4.6: Vehicles Enter and Exit in a Forward Direction

The basement has been designed to enable forward entry and exit on site. The proposal is considered to satisfy the requirements of this clause.

Part 4.6: Basement Parking General

The basement area is considered to be adequately ventilated, within the building footprint of the proposed mixed use development, is generally below the natural ground level with the exception of a minor encroachment at the rear of the property, and can facilitate pedestrian movement.

Part 4.6: Driveway Widths

The width of the driveway into the basement complies with Council's Technical Specifications.

Part 4.6: Traffic – Classified Roads

The proposed development is located on a classified road. A circular driveway is proposed off Bay Street for the purposes of pick-ups and drop offs with no parking. As referenced earlier in this report, the RMS have issued concurrence.

Part 4.6: Access to Parking

The proposal provides secure within the basement area. Parking for persons with a disability /

mobility impairment has been provided within close proximity to lifts and vehicles are able to enter and exit the site in a forward direction. The proposal is satisfactory in regards to the provisions of this clause.

Part 4.6: Design of Loading Facilities

Plans indicate the provision of a dedicated loading / unloading space within basement level 1. The proposal facilitates loading and unloading on site and as such satisfies the objectives of this clause.

Part 4.7: Air Conditioning and Communication Structures

The plans do not depict the location of proposed residential air conditioning units on site. Accordingly, a condition is imposed in the draft conditions requiring air conditioning units to be obscured from public view should they be provided and operate in accordance with the relevant provisions of the Protection of the Environment Operations Act, 1997. Subject to conditions, the development is acceptable with regards to this Clause.

Part 4.7: Waste Storage and Recycling Facilities

Appropriately sized and located waste storage areas are proposed in upper basement levels 2 and 3.

Commercial and residential waste storage areas are separated with sufficient facilities proposed. The proposal is satisfactory with regards to the provisions of this clause.

Part 4.7: Service Lines/Cables

Plans illustrate the provision of a fire hydrant booster recessed into the frontage of proposed commercial tenancy 3, addressing Rocky Point Road. The booster is to be screened with doors to match the proposed finishes of the development and will be imposed as a condition in the Draft conditions of consent.

Part 4.7: Laundry Facilities and Drying Areas

Internal laundries are depicted upon submitted plans within residential units. The provisions of this Clause is satisfied.

Part 4.7: Letterboxes

Letter boxes are proposed in the residential foyer off Chapel Street, integrated into the building. The proposal is satisfactory in this regard.

Part 4.7: Storage Areas

Residential dwellings within the development have been provided with appropriate internal unit storage provision. Additional supplementary storage is proposed at basement level. The proposal is satisfactory in this regard.

Part 4.7: Hot Water System

A condition is imposed on the draft Notice of Determination which requires hot water systems on balconies to dwellings to be encased in a recessed box with the lid/cover designed to blend with the building. All associated pipe work is to be concealed. Subject to conditions, the proposed development is acceptable with regards to this Clause.
Part 5.3 - Mixed Use

| Part | Control | Proposed | Complies |
|---------------|----------------------------------|------------------------------|------------|
| Development | Front setbacks must define a | Provides a coherent | Yes |
| Setbacks | coherent alignment to the | alignment to the public | |
| | public domain and | domain | |
| | Development is to be built to | Not a zoro sotback at | No rofor |
| | the street alignment with a | around level – set back | to Note 1 |
| | zero setback. The | about 13.6 metres to | |
| | uppermost floor level may be | accommodate the porte | |
| | set back. If there is a | cochere. Neighbouring | |
| | predominant parapet line in | building at 15-21 Bay Street | |
| | the street, a setback from | has an approved 3 metre | |
| | this line may be required to | ground floor setback | |
| | streetscape | | |
| | Development on a busy road | See above re: zero setback | No refer |
| | is to have a zero setback for | First 3 residential levels | to Note 1 |
| | at least the first three levels. | maintain same building line | |
| | A setback may be provided | with articulation on upper | |
| | above the third level to | floors | |
| | ameliorate the impact of | | |
| | traffic hoise and pollution. | No zoro lot lino, soo abovo | No rofor |
| | side setback is required to | No zero lot line, see above. | to Note 1 |
| | achieve a street wall | | |
| | building. | | |
| | Generally the lower levels of | Minimum zero lot line to the | See Note |
| | buildings are to be built to | west, minimum of 1.5 | 2 for side |
| | side and rear boundaries or | metres to the east for front | setback |
| | be set back no less than 3m. | units on Levels 1 and 2, | |
| | immediately adjoining an | 6 metres on the upper | |
| | allotment zoned residential | floors | |
| | or public open space, the | A minimum setback of | |
| | development provides: | 4.605 metres is proposed | |
| | a) a minimum side setback | for Chapel Street, however | |
| | of 1.5m where the side | given that it is a dual | |
| | boundary immediately | frontage, and it addresses | |
| | adjoins the residential | Chapel Street by way of the | |
| | b) a minimum rear setback | technically not considered | |
| | of 4.5m at the ground | to be a rear setback | |
| | and first floor of a | | |
| | building. | | |
| Building Uses | Building uses fronting the | The Proposed Rockdale | Yes |
| | public domain at ground | RSL use will activate the | |
| | ievel are to be active uses | bay Street frontage. | |
| | Residential uses are | No residential units are | Yes |
| | prohibited on the around | proposed for the around | 100 |
| | floor with the exception of | floor. | |

| Part | Control | Proposed | Complies |
|----------------------------|---|--|--|
| | access to upper level residential uses. | | |
| | Access to upper level uses does not occupy more than 20% of the ground floor frontage. | Residential foyer from Chapel Street is less than 20% of frontage to Chapel Street (6 metres wide (11.3%)). | Yes |
| | Where non-active uses, including building services and loading docks, are located on ground level, they must be 'wrapped' in retail or commercial uses at the street frontage. | None, all within the site and located within the basement area. | Yes |
| | Upper level commercial uses are encouraged in all centres, particularly fronting classified roads and higher order retail streets. Commercial spaces are designed for maximum flexibility of use and adaptability through co- location of services and regular floor plans. | No upper level commercial uses proposed | Deemed acceptable |
| | Consideration is to be given to horizontal as well as vertical separation of uses in larger developments. Design solutions include separate commercial and residential towers with separate street address. | Residential entry off Chapel Street and RSL entry off Bay Street proposed | Yes |
| | All shop top housing must address at least one street frontage, and have its main access off the primary street frontage and not a public internal circulation space. | The proposed units address both Bay Street and Chapel Street with its main access via Chapel Street | Yes |
| | The building must be designed to minimise potential impacts of commercial uses (e.g. restaurants and bars) on the amenity of residential users. | RSL lawfully approved, with existing conditions imposed with relation to hours of operation and maximum patron numbers | Yes, conditions to be imposed |
| Building Design | Blank party walls should be avoided and some modelling is to be provided to party walls. | No blank party walls proposed. | N/A |
| Public Domain Interface | Building design avoids dead spots at ground floor level, such as car parking | No dead spots are in the design of the proposed development | Yes |

| Part | Control | Proposed | Complies |
|------|--|--|------------|
| | frontages, blank walls and recessed spaces. | | |
| | Areas of blank façade for structural and articulation purposes are only permitted with a width of no greater than 600mm. | There are no blank facades | N/A |
| | Finer construction detailing and more textural materials, such as face brick, stone and timber, are encouraged at ground floor to add richness to the pedestrian experience of the built environment. | The design of the RSL is considered acceptable | Yes |
| | Buildings must provide access to all ground floor retail or commercial premises which front the street. This must be the primary means of accessing a given tenancy. On sloping sites, the levels must be contiguous at the entries, but may vary elsewhere by no more than 600mm. | Access to the RSL is at street level from Bay Street. | Yes |
| | At pedestrian access points, the ground floor façade may be set back up to 1.2m provided that the resulting space is at footpath level (or graded from footpath level to the building entry) and has a depth to frontage (at building line) ratio of not more than 1:2. | See earlier. Ground floor setback greater than 1.2 metres. | Acceptable |
| | Garage doors should be set back. All vehicle entries are to have security shutters and be designed to integrate with the overall façade composition. | Entry to basement from Chapel Street is articulated into the façade. A security shutter can be imposed as a condition. | Yes |
| | Development includes display windows with clear glazing to ground floor retail and commercial premises with a maximum window sill height of 700mm. Glazing is not to be frosted or otherwise obscured at eye level; between the heights of 0.7-2.1m. | Glazing for RSL deemed acceptable – this has been lawfully approved through previous DA. | Yes |
| | Upper level building uses | Residential units on upper | Yes |

| Part | Control | Proposed | Complies |
|---------|---|---|------------------------------|
| | are to be designed so that they overlook the public domain particularly where continuous awnings are not provided, allowing opportunities for casual surveillance. | floors do allow surveillance to both Bay Street and Chapel Street. | |
| | All ground floor lobbies are to have direct visual connection with the street, with clear sight lines. | The ground floor lobbies for both the RSL and residential units allow for clear sightlines to Bay Street and Chapel Street respectively. | Yes |
| | Security features at ground level complement the design of the façade and allow window shopping and the spill of light into the street out of business hours. | The NSW Police have provided recommended conditions to impose with relation to safety of patrons on the ground floor RSL | Yes |
| | Roller shutters over windows and entry doors are not permitted. | Not proposed however this can be imposed as a condition. | Yes |
| Awnings | Continuous awnings are to be provided to all retail streets. and are to provide protection from both sun and rain | Awning proposed for RSL porte cochere – lawfully approved development | Yes, deemed acceptable |
| Parking | Where a building contains residential and non- residential uses, separate lift access must be provided from basement car parking to the residential and non- residential areas. | Separate lifts have been provided | Yes |
| | Residential parking spaces must be secure and separate from nonresidential vehicle parking and servicing areas. | Separate basement levels proposed – level 1 for the RSL club and levels 2 and 3 for the residential units | Yes |

Note 1 – Front setback

The previous DA approval for the RSL club approved an increased setback which was considered acceptable as it matched the setback of the adjoining mixed use development to the west, resulting in an appropriate transition in setbacks between the B4 Mixed Use and R4 High Density Residential zones.

Note 3 – Side setback

The ceiling height for level 1 in the podium area addressing Bay Street is slightly higher than the approved roof height for the RSL club, with a difference of approximately 0.5 metres. This is considered acceptable, however it is recommended that the level 2 unit is to be setback a further 1.5 metres from the boundary. Furthermore, it is recommended that the east facing level 1 units

have a building line that is similar to that of the ground floor (i.e. 4 metres). These amendments will improve the interface with the neighbouring properties to the east and will also improve solar access to these neighbouring properties in mid-winter.

| Part | Control | Proposed | Complies |
|-------------|---------------------------------|------------------------------|------------|
| Centre Edge | Active retail uses permitted | The RSL club is considered | Yes |
| Residential | on the ground floor frontage | to be an active use along | |
| | | the ground floor frontage by | |
| | | way of a front entry and | |
| | | function rooms providing | |
| | | opportunities for | |
| | Access to residential labbias | Surveillance to the street | Deemed |
| | should be from this frontage | Access to the residential | Deemed |
| Parking And | Visitor car parking provided | This can be conditioned | Yes |
| Loading | on site must be provided | | 100 |
| Louing | behind a security gate or | | |
| | shutter accessed via | | |
| | intercom. | | |
| | Despite the requirements of | Considered acceptable and | Yes |
| | the Parking and Loading | will be imposed as a | |
| | Technical Specification, | condition | |
| | developments which contain | | |
| | residential accommodation | | |
| | are only required to provide | | |
| | on-site loading for | | |
| | removalists for a small rigid | | |
| Sathacka | All dovelopments in the town | As discussed earlier in this | Voc |
| Selbacks | centre are to be built to the | report the front setback | 165 |
| | street edge on the lower | exceeds 3m to Bay Street | |
| | level. The street edge is the | on account of the approved | |
| | street frontage boundary or | RSL on the ground floor. | |
| | where stipulated in the | The Chapel Street setback | |
| | following table, the identified | exceeds 2m, once again on | |
| | front setback. | account of the approved | |
| | Arterial edge (Bay | RSL. | |
| | Street): 3m | | |
| | Local edge (Chapel | | |
| | Street): 2m | | |
| | All developments are to build | Minimum zero lot line to the | Deemed |
| | to the side boundary and | west, minimum 1.5 metres | acceptable |
| | abut adjoining developments | to the east | |
| | build to line | | |
| | Portions of buildings away | Away from the street edge | Yes |
| | from the street edge may be | (i.e. units addressing Bay | |
| | setback from the side | Street), the proposed | |
| | boundary. Where this is the | development is setback | |
| | case they must be setback | from the boundary and | |
| | far enough from the side | provides satisfactory | |
| | boundary for adequate | separation to the | |

| | building separation to be achieved or be able to be equitably achieved with future adjoining redevelopment | neighbouring properties, as discussed earlier in this report under the ADG section | |
|-------------------------------------|--|---|-----|
| Street Character – Arterial Edge | For Arterial Edge Road frontages of any development as designated by the Street Character diagram, the building envelop is (as per the section above): a) Lower 3 storeys are to be setback 3m from the property boundary to support the landscape frontage of the Green Gateway. b) Levels above the 3rd storey are to be setback at least 6m from the property boundary. c) The portion of the building above the 3rd floor is to have a side setback of at least 4.5m, a separation between buildings of at least 9m, and a maximum facade length of 40m. d) A minimum 9m rear setback is to be provided where development shares a boundary with a residential property. e) The design of the street wall buildings should complement the proportion/scale of the neighbouring street wall buildings. | a) Lower level is setback greater than 3m from Bay Street b) Levels above the third storey are setback at least 6m from the side bounadries c) Side setback greater than 4.5 metres and façade length does not exceed 40m d) No rear setback e) The streetwall is considered to complement the proportion and scale of the development at 19 Bay Street | Yes |
| | Comply with Arterial Edge- Green Gateway Style Sheet for the 3m frontage landscape design specifications. | Minimum 3m setback observed to Bay Street which will allow for landscaping | Yes |
| Street Character – Local Edge | For Local Edge frontages of any development as designated by the Street Character diagram, the building envelop is to be (as per the section above): a. Lower 4 storeys are to be | Lower levels to Chapel Street setback greater than 2 metres, the levels above the fourth storey are setback greater than 3 metres. | Yes |

| setback 2m from the property boundary b. Levels above the 4th storey are to be setback at least 3m from the lower build to line. | | |
|--|-----------------|-----|
| A minimum 9m rear setback is to be provided where development shares a boundary with a residential property. | No rear setback | N/A |

S4.15(1)(a)(iiia) - Any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4

There are no proposed or existing planning agreements that relate to this proposed development.

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

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

S4.15(1)(b) - Likely Impacts of Development

Potential impacts related to the proposal have been considered in response to SEPPs, LEP and DCP controls. The impacts that have not already been addressed are as follows:

Natural Hazards

The property is affected by the provision of surface flows however, excavation for the proposed dwelling is not deep enough to cause any adverse impact on the direction of the surface flows.

Construction

The residential building is to be constructed in brick and roof tiles with concrete/timber floors. There are no specific issues relating to the BCA in the proposed design. Site and safety measures to be implemented in accordance with conditions of consent and Workcover Authority guidelines/requirements.

Operation of RSL club

The applicant has advised that there will be no changes to the operational conditions imposed on the RSL club in the previous development consent. This will be imposed as conditions in the attached draft schedule.

Car parking

As discussed earlier in various sections earlier in this report, the proposed development generates a number of car parking rates across a number of planning documents, as listed below:

| Land Use | Document | Requirement | Number required |
|----------|----------|-------------|-----------------|
| | | | |

| Residential: 80 units | Rockdale DCP 2011 | 1 space per 1 bedroom unit | 1 x 22 = 22 |
|------------------------------|-------------------|--|-------------|
| - 22 x 1 bed - 46 x 2 bed | | 1 space per 2 bedroom unit | 1 x 46 = 46 |
| - 12 x 3 bed | | 2 spaces per 3 bedroom unit | 2 x 12 = 24 |
| | | 1 space per 5 units (visitor parking) | 80 / 5 = 16 |
| | | Total required | 108 |
| Rockdale RSL | | 54 spaces approved under the previous DA on basement level 1 | 54 |

Based on the above, a total of 162 (108 + 54) spaces will be required. A total of 170 have been provided, and therefore complies. It is noted that it creates a surplus of 8 additional spaces, however given that there is no FSR development standard that applies to the subject sites, the recent Land and Environment Court judgements pertaining to surplus parking spaces and additional FSR are not applicable.

<u>Signage</u>

No signage is proposed for the RSL club, and will be subject to a separate development application. Appropriate conditions are recommended.

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

In accordance with Part 8 of the Rockdale DCP, the DA was advertised twice, firstly from 29 August to 30 September 2019 and then 5 December 2019 to 15 January 2020. A total of 11 submissions were received, with the primary issues raised relating to the following:

A number of issues raised in these submissions had already been addressed in this report and are listed below:

- No information on the wind tunnel effect
- Overshadowing / loss of light to neighbouring properties
- Impacts on privacy
- Insufficient parking
- Non-compliance with the ADG building separation requirements
- Does not meet solar access requirements
- Insufficient deep soil
- Phase 2 geotechnical assessment is required
- Inadequate Clause 4.6 assessment
- Insufficient detail on land acquisition in Bay Street
- Loss of views towards Brighton Le Sands
- Insufficient site analysis
- Insufficient stormwater detail

• CPTED assessment required

The remaining issues raised in the submissions are addressed further below:

Impact on property values

<u>Comment</u>: Not a valid planning consideration.

Dedicated rideshare spaces are to be provided

<u>Comment</u>: There are currently no development controls that prescribe these type of spaces.

Impacts of construction, such as dust pollution from the DEICORP development under construction – will get worse with construction at this site

<u>Comment</u>: Construction management conditions will be imposed in the attached draft schedule of conditions.

Increase in traffic and the impacts on Chapel Street and Lister Avenue. Traffic report only focuses on the subject development and not neighbouring sites

<u>Comment</u>: Whilst it is noted that the traffic report does not specifically mention street names, the increase in traffic has been assessed in the assessment of this application and is considered acceptable. This includes the RMS, which would have reviewed the development and its impacts on both Bay Street and also the nearby Princes Highway, which is accessed via Lister Avenue diagonally opposite the subject site off Chapel Street.

No energy efficiency plan has been lodged

<u>Comment</u>: A BASIX report has been lodged for the residential component, whilst a condition will be imposed for a Section J BCA report to be lodged with relation to the RSL component.

Insufficient detail on floor layout

<u>Comment</u>: For privacy reasons, floor plans are not published on the DA tracker, however, detailed floor plans with furnishing layouts have been lodged by the applicant.

Introduction of structural weaknesses to existing buildings and building process

<u>Comment</u>: Conditions relating to the protection of neighbouring properties during construction will be imposed in the attached draft schedule.

Out of character with remainder of Chapel Street which have a maximum height of three storeys

<u>Comment</u>: It is noted that further to the east of the site the Height of Building development standard is lower than that of the subject site, however this is located in an area which has a higher limit, as evidenced by the recently completed mixed use development at 19 Bay Street (The Banks).

An independent dilapidation report is to be prepared

<u>Comment</u>: The preparation and lodgment of a dilapidation report will be imposed as a condition in the attached draft schedule of conditions.

No accurate determination as to how maximum height has been established

<u>Comment</u>: The maximum height is established by determining the RL (reduced level) from the site survey plan and then applying it vertically, with the most accurate readings coming from the section plans. These section plans have been reviewed and are considered accurate.

Amended plans have not addressed additional FSR

<u>Comment</u>: As discussed earlier in this report there is no prescribed FSR development standard on the subject sites, however other issues such as building envelope with relation to setbacks, building separation and building height have been discussed.

Within proximity of a heritage item – a Heritage Impact Assessment is required

<u>Comment</u>: The nearest heritage item is located at 11 Bay Street (Item 206 – Uniting Church and buildings), however it is not a directly adjoining property and is located approximately 100 metres to the north west of the subject site. In that context it is considered that no further assessment is required, given the existing approved development to the immediate west of the subject site at 19 Bay Street.

Site survey does not show trees on 45 Bay Street

<u>Comment</u>: The survey plan was taken 28 September 2016, before the previous DA was lodged with Council. Whilst it is noted that it did not include the cluster of vegetation that sat above the retaining wall at the Bay Street entrance to the old RSL club, it did show vegetation at 41 Bay Street which was the old Rockdale fire station. Furthermore, demolition works had commenced at the time of the lodgement of this DA, which had included the removal of all vegetation which was approved as part of the previous application.

Site is to remain clean and vermin free during the demolition phase if no activity is occurring

<u>Comment</u>: These requirements would have been imposed as condition/s for the previous approval which included demolition.

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 one 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.

OTHER MATTERS

The Development Application was referred to Council's internal and external departments for comment. Appropriate conditions have been recommended to address the relevant issues raised. The following table is a brief summary of the comments raised by each referral department.

| Referral Agency | Response Date | Comments |
|--------------------|---------------|---------------------------|
| External Referrals | | |
| Water NSW | 19 March 2020 | General Terms of Approval |

| Referral Agency | Response Date | Comments |
|-----------------------------|------------------|----------------------------|
| Roads and Maritime Services | 23 March 2020 | Concurrence |
| NSW Police | 1 December 2020 | Conditions |
| Ausgrid | Not received | Deemed approval – standard |
| | | conditions to be imposed |
| Sydney Water | Not received | Deemed approval – standard |
| | | conditions to be imposed |
| Telstra | Not received | Deemed approval – standard |
| | | conditions to be imposed |
| Internal Referrals | - | |
| Design Review Panel | 1 August 2019 | Comments |
| | 5 December 2019 | |
| | 4 June 2020 | |
| Bayside Development Traffic | 4 September 2019 | Comments |
| Advisory Committee | | |
| Development Engineer | 1 December 2020 | Conditions |
| Environmental Scientist | 4 November 2020 | Conditions |
| Section 7.11 Contributions | 16 November 2020 | Conditions |
| Waste | 8 July 2019 | Conditions |
| Address and Road Naming | 11 July 2019 | Conditions |
| Environment and Health | 15 July 2019 | Conditions |
| Officer | | |
| Trees Officer | 16 July 2019 | Conditions |
| Landscaping | 30 November 2020 | Conditions |

Section 7.11 Contributions

The provisions contained in Council's Section 94 Contributions Plan apply to developments involving the construction of additional residential development that creates further demand to improve or upgrade existing facilities, amenities or services.

A total of **\$544,413.80** has been calculated. This payment will be imposed as a condition in the attached schedule.

CONCLUSION

In accordance with Schedule 7 (Regionally Significant Development) under State Environmental Planning Policy (State and Regional Development) 2011, the Application is referred to the Sydney East Central Planning Panel for determination.

The proposed development is permissible in the B4 Mixed Use Zone. The applicant has submitted a Clause 4.6 Exception to the maximum Building Height standard of 28 metres.

The proposal has been assessed in accordance with Section 4.15 of the *Environmental Planning* and Assessment Act 1979.

On balance, the proposed development in its current form should is appropriate for the site and it is recommended that the Panel approve DA-2019/228 for the reasons outlined in this report.

Attachment 1: Schedule of Conditions

Premises: 41-45 Bay Street and 4 Chapel Street, Rockdale

DA No: 2019/228

SCHEDULE OF CONSENT CONDITIONS

This Development Application has been approved under Section 4.16(3) of the Environmental Planning and Assessment Act, 1979 as a **Deferred Commencement** consent.

The consent shall not operate until you satisfy Council about the following matters:

- 1. The applicant shall submit amended plans addressing the following design changes:
 - (a) A minimum of 205 square metres in the Level 1 podium between the north facing units and the foyer area is to be converted into communal open space, with embellishment details shown.
 - (b) Units 1G, 1H and 1I are to have a minimum building setback of 6 metres from the eastern boundary, including the outer face of any balustrade walls for the terrace / private open space areas.
 - (c) The planter areas adjacent to Units 1G, 1H and 1I are to not exceed 2 metres in depth, with the outer face of the wall / structure being no less than 4 metres from the eastern boundary.
 - (d) The outer face of the balustrade for the west facing terrace area for Unit 1K is to be no less than 6 metres from the property boundary.
 - (e) Unit 2F is to have a minimum set back of 3 metres from the eastern boundary. This set back also includes the north facing balcony.
 - (f) Units 2H, 3H, 4E, 5F, 6E, and 7E are to balcony areas that have a minimum area of 8 square metres.
 - (g) Units 2K, 2L, 3G, 3L, 4H, 5E, 5J, 6H and 8E are to have balcony depths that are a minimum of 2.4 metres.
 - (h) The outer face of the balustrade walls for the balconies for Units 4C, 5C, 6C, 7C and 8C are to be further refined, with the removal of the curved feature and replaced with a linear facade.
 - (i) The north eastern corner of Units 3F, 4D, 5D, 6D, 7D, and 8D are to be further refined, with the removal of the curved feature and replaced with a linear facade.

This is to be submitted to Council for the approval by the Director, Planning and Environment.

The period of the Deferred Commencement is **24 months** from the date of determination. It is important we hear from you about the outstanding matters above as soon as possible so as to avoid any other delay.

Upon receiving written notification from Council that the above requirements have been satisfied, your consent will become operable and will be subject to the following conditions.

General Conditions

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

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

| Plan/Dwg No. | Drawn by | Dated | Received by Council |
|---------------------------------|------------------|---------|------------------------|
| Basement Level 3 / 1000 C | AE Design Studio | 9/11/20 | 9/11/20 |
| Basement Level 2 / 1001 C | AE Design Studio | 9/11/20 | 9/11/20 |
| Basement Level 1 / 1002 C | AE Design Studio | 9/11/20 | 9/11/20 |
| Ground / 1100 C | AE Design Studio | 9/11/20 | 9/11/20 |
| Level 1 / 1200 C | AE Design Studio | 9/11/20 | 9/11/20 |
| Level 2 / 1201 C | AE Design Studio | 9/11/20 | 9/11/20 |
| Level 3 / 1202 C | AE Design Studio | 9/11/20 | 9/11/20 |
| Level 4 / 1203 C | AE Design Studio | 9/11/20 | 9/11/20 |
| Level 5 / 1204 C | AE Design Studio | 9/11/20 | 9/11/20 |
| Level 6 / 1205 C | AE Design Studio | 9/11/20 | 9/11/20 |
| Level 7 / 1206 C | AE Design Studio | 9/11/20 | 9/11/20 |
| Level 8 / 1207 C | AE Design Studio | 9/11/20 | 9/11/20 |
| Roof / 1300 C | AE Design Studio | 9/11/20 | 9/11/20 |
| Section AA / 1400 C | AE Design Studio | 9/11/20 | 9/11/20 |
| Section BB / 1401 C | AE Design Studio | 9/11/20 | 9/11/20 |
| North Elevation / 1501 C | AE Design Studio | 9/11/20 | 9/11/20 |
| South Elevation / 1502 C | AE Design Studio | 9/11/20 | 9/11/20 |
| East Elevation / 1503 C | AE Design Studio | 9/11/20 | 9/11/20 |
| West Elevation / 1504 C | AE Design Studio | 9/11/20 | 9/11/20 |
| Material and Finish / 1900 C | AE Design Studio | 9/11/20 | 9/11/20 |
| Material and Finish / 1901 C | AE Design Studio | 9/11/20 | 9/11/20 |
| Accessible Unit / 2000 C | AE Design Studio | 9/11/20 | 9/11/20 |

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. New building work shall not commence without the prior Development Consent of Council.
- 6. The development must be implemented and all BASIX commitments thereafter maintained in accordance with BASIX Certificate Number 1014731M 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.

- 7. 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.
- 8. A separate development application shall be submitted for any future signage associated with the RSL club. Additional conditions may be imposed on any such consent.

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

- 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 or construction of retaining walls are not permitted unless approved by a separate Development Consent 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 installed 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. 98 residential, 16 visitor, 6 motorcycle parking spaces, 20 bicycle parking spaces, 1 SRV loading bay and 2 car wash bays must be provided within the development. The parking must be allocated in accordance with the minimum rates provided in the table below. This parking must be reflected in any subsequent strata subdivision of the development.

| Dwelling Size / | Required |
|--|------------------------------|
| Development type | |
| Studio / 1 / 2 bedroom residential dwellings (62 units) | 1 space per unit |
| 3 or more bedroom residential dwellings (18 units) | 2 spaces per unit |
| Residential Visitor | 16 car parking spaces |
| Registered Club (Rockdale RSL) | 54 spaces |
| Carwash Bay (residential) | 2 Car Wash Bays |
| SRV Loading Bay (shared) | 1 Low Height SRV Loading Bay |
| Bicycle (residential) | 20 spaces (Min.) |
| Motorcycle (residential) | 6 spaces (Min.) |

- All residential visitor spaces, car wash bays, loading bays, bicycle and motorcycle spaces shall be labelled as common property on the final strata plan for the site.
- Any excess parking is to be allocated to residential apartments.
- Tandem parking spaces must only be allocated to a single residential unit.

- This parking allocation condition applies to any Strata Certificate issued with respect to a Consent issued in accordance with Section 81 (1)(A) of the Environmental Planning and Assessment Act 1979 or a Complying Development Certificate issued in accordance with Part 6 of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.
- 14. A lighting maintenance policy shall be established for the development. Details to be provided prior to the issue of the Construction Certificate.
- 15. The numbering (sub-addresses) of the individual units in multi-level sites should be consistent with Australian Standards AS/NZS 4819:2011 Rural and Urban Addressing Standard & NSW Addressing User Manual.

Development specific conditions

The following conditions are specific to the Development Application proposal.

- 16. Retail sales of goods, materials or products shall not be permitted from this site.
- 17. The hours of operation of the approved RSL club shall be restricted to the following:

 10.00am – 10.00pm
 Sunday & Monday

 10.00am – 10.30pm
 Tuesday

 10.00am – 11.00pm
 Wednesday & Thursday

 10.00am – 12.00am
 Friday & Saturday

- 18. The RSL club shall be designed, constructed and operated in compliance with the requirements of the Food Act 2003, Food Regulations 2004 and the Australian Standard AS 4674 2004 "Design, Construction and Fit out of Food Premises".
- 19. Smoking shall be prohibited within the outdoor areas to the Chapel Street frontage and at the Bay Street frontage of the RSL club at all times. Signs to this effect shall be erected prior to the issue of an Occupation Certificate.
- 20. The RSL club shall be designed, constructed and operated in compliance with the requirements of the Smoke-free Environment Act 2000 and the Smoke-free Environment Regulation 2016.
- 21. The consumption of food is prohibited in any outdoor smoking area of the approved RSL club.
- 22. No roller doors are permitted to be installed on the ground level windows addressing Bay Street and Chapel Street.
- 23. 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, waste collection etc. not for any other purpose.

- (c) 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 goods and residential vehicle movements.
- (d) The loading / unloading bay on site is to be made available for use by both the residents and the registered club operator on site (including removalist vans).
- (e) Loading and unloading within the site shall be restricted to commercial vehicles not exceeding the size and mass description of an SRV size vehicle with a headroom clearance of 2.3m.
- (f) The Loading Dock Plan of Management and porte-cochere (pick-up/drop-off) management plan as required by conditions of this consent shall be implemented on site at all times.
- (g) All waste collection shall be undertaken and collected on site within the basement by a private waste collection service, no bins are permitted to be presented to the street for collection.

24. <u>Waste Management</u>

- (a) Services or utility systems shall not be located in the garbage rooms.
- (b) Hot and cold water hose cocks shall be installed to the garbage rooms.
- (c) All waste shall be collected from within the subject site within the approved loading / unloading bay by a private waste collection service.
- (d) Waste shall be compacted at a maximum ratio of 2:1.
- 25. 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.
- 26. 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.

27. 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.
- 28. The existing and future owners (Registered Proprietor) of the property will be responsible for the implementation of a management plan garbage collection.

The Registered Proprietor will:

- a) Permit and ensure that refuse removal, waste collection and servicing shall be undertaken by a private contractor within the property utilising an SRV size vehicle with a headroom clearance of 2.3m. All service vehicles will enter and exit the site via the main entry drive from Chapel Street. A secure service area, incorporating a secure loading dock is located at the basement level. It is intended to utilise the loading dock for both deliveries of goods to the site as well as the collection of goods and waste.
- b) Carry out the matters referred to in paragraphs (a) at the proprietor's expense;
- c) 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;
- d) 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.

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 my enter with all necessary equipment and carry out any work required to ensure the safe and efficient operation of garbage collection 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 building is disturbed as little as possible.

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

- 29. The operation of the premises shall be conducted in a manner which does not pollute waters as defined by the Protection of the Environment Operations Act 1997.
- 30. Any discharge to the sewer from the subject premises shall be in accordance with the requirements of Sydney Water.
- 31. Temporary dewatering of the site to construct the subsurface structure is not permitted without a permit.
- 32. 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.
- 33. 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.
- 34. 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.
- 35. Noise emitted from Liquor-Licenced RSL club premises shall not be audible within any habitable room in any residential premises between the hours of 12.00 midnight to 7.00am. Where this condition is inconsistent with the requirements imposed by the Office of Liquor, Gaming and Racing or Casino, Liquor and Gaming Control Authority, the more stringent condition shall apply.
- 36. 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.
- 37. 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.
- 38. Bicycle parking facilities shall be designed in accordance with AS2890.3:2015.
- 39. The off-street parking areas associated with the subject development shall be designed strictly in accordance with AS2890.1, AS2890.2 and AS2890.6.

Internal height clearance shall be designed throughout the car park and access driveway in accordance with AS2890.1, AS2890.2 and AS2890.6.

Commercial vehicle facilities shall be designed strictly in accordance with AS2890.2.

Bicycle parking facilities shall be designed in accordance with AS2890.3:2015.

- 40. All vertical plumbing, other than roofwater heads and downpipes, shall be concealed within the building. Any electrical kiosks or fire booster valves shall be located in unobtrusive locations toward site boundaries and away from entrances into the building. Utilities shall be softened with landscaping so as not to detract from the overall appearance of the development and amenity of the streetscape. Details demonstrating compliance with this requirement shall be submitted to the Principal Certifying Authority (PCA) prior to the issue of the Construction Certificate.
- 41. Retaining walls over 600mm in height shall be designed and specified by a suitably qualified structural engineer.
- 42. All existing and proposed lights shall comply with the Australian Standard AS4282 1997 "Control of the Obtrusive Effects of Outdoor Lighting". In this regard, the lighting of the premises shall be directed so as not to cause nuisance to the owners or occupiers of adjacent/adjoining premises or to motorists on adjoining or nearby roads.
- 43. In order to ensure the design quality / excellence of the development is retained:
 - (a) A registered architect is to have direct involvement in the design documentation, contract documentation and construction stages of the project;
 - (b) 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;
 - (c) 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.

- 44. Where natural ventilation fails to comply with the provisions of the Building Code of Australia, mechanical ventilation shall be provided in accordance with Australian Standard, 1668, Part 2.
- 45. All pavements shall comply with AS/NZ 4586:1999 standards Class W (low) for slip resistance on both private and Council property.
- 46. The building shall be designed, constructed and maintained to comply with the requirements of the Local Government Act 1993, as amended and the Regulations there under.
- 47. Residential air conditioners must be designed so as not to operate:
 - during peak time—at a noise level that exceeds 5 dB(A) above the ambient background noise level measured at any property boundary, or

 during off peak time—at a noise level that is audible in habitable rooms of adjoining residences.

Peak time means the time between 8:00 am and 10:00 pm on any Saturday, Sunday or public holiday, or the time between 7:00 am and 10:00 pm on any other day Off peak time means: Any time other than peak time.

- Adopt and implement all recommendations contained in the acoustic report prepared by 'Acoustic Logic Document Reference
 20190095.1/0605A/R0/AR 41-45 Bay Street & 4 Chapel Street Rockdale DA Acoustic Assessment' dated the 6 May 2019.
- 49. Trees located within the footprint of the proposed buildings may be removed.
- 50. 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, as detail:
 - (i) Trees over 8 meters: Minimum soil depth 1.3 metre
 - (ii) Medium trees (8 metre canopy diameter at maturity): Minimum soil depth 1 metre
 - (iii) Small trees (4 metre canopy diameter at maturity): Minimum soil depth 800mm
 - (iv) Shrubs: Minimum soil depths 500-600mm
 - (v) Groundcover: Minimum soil depths 300-450mm
 - g) Any subsurface drainage requirements are in addition to the minimum soil depths quoted above.

- 51. All telecommunication and utility services (including all high and low voltage power lines) are to be placed underground along the entire development site frontages as part of the development. The extent of works required in order to achieve this outcome may involve works beyond the frontage of the development site.
- 52. Irrigation. To ensure satisfactory growth and maintenance of the landscaping, a fully automatic drip irrigation system is required in all landscaped areas. 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.
- 53. All soft landscape areas are to be maintained for a minimum period of twelve (12) months in accordance with the approved Maintenance Schedule provided as part of the landscape documentation. This schedule must include weeding, watering, fertilising, replacement of dead or stolen plants, mulch replacement, and so. Any requirements specific to the site must be included.
- 54. 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.
- 55. Receptacles are to be provided in commercial development for the disposal of cigarette rubbish. The receptacles are to be located adjacent to the entrances of the buildings on private property. The receptacles are to be attractive and functional and maintenance of the receptacles is the responsibility of the building owner/manager.
- 56. 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:
 - i. 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
 - ii. 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.

- 57. The substation proposed adjacent to Chapel Street shall be screened by landscaping so as not to reduce the visual amenity of the development or the streetscape and public domain. Screening treatment surrounding these utilities is to be approved by Council's Landscape Architect prior to their installation.
- 58. Two Telstra pits fall within the location of the 'exit' driveway to Bay Street. These pits are to be relocated in accordance with the requirements of Telstra, a minimum of 1.2m from the edge of the new driveway. The cost of relocation is to be at no cost to Telstra and be borne by the developer.

Prior to issue of the construction certificate

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

- 59. The surrender of Development Consent No. 2017/225 must be undertaken prior to the issue of a Construction Certificate pursuant to Section 4.17 of the *Environmental Planning and Assessment Act 1979* and Clause 97 of the *Environmental Planning and Assessment Regulation 2000*. Details demonstrating compliance with the requirements of this condition must be submitted to the satisfaction of the Council prior to the issue of any Construction Certificate.
- 60. Prior to the issue of the Construction Certificate, a Section J report is to be submitted to the Principal Certifying Authority (PCA) which reports the energy efficiency requirements for the RSL club component of the development.
- 61. 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 \$43,668.00. 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 0.26% of the cost of the works.
 - iii. A Soil and Water Management Sign of \$21.00.
 - 62. 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.
 - 63. 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 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.

64. Prior to the issue of a Construction Certificate for the development, an application for Property Address Allocation and 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 form is available for download at: https://www.bayside.nsw.gov.au/services/development-construction/building-or-altering-property/commonly-used-forms
The general principles of addressing in NSW are described in the NSW Addressing User Manual, Ch.6 Addressing Principles. The manual is available for download at:

http://www.gnb.nsw.gov.au/ data/assets/pdf file/0007/199411/NSW Addre ssing User Manual.pdf

65. An application for Frontage Works (Public Domain Frontage Works Construction Application) shall be made to Council's Customer Service Centre prior to issue of any 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.

A Public Domain Frontage Design must be prepared by suitably qualified professionals for assessment by Council's Public Domain and Referrals Team for all frontage works that are required to be constructed within the public domain as per this development consent and which are subject to approval pursuant to Section 138 of the Roads Act 1993. All frontage works shall be in accordance with Council technical manuals, master plans, town centre plans, Australian standards and standard design drawings and specifications. Public domain frontage works shall include, but not be limited to, civil, drainage, landscaping, undergrounding of services, lighting, traffic signage, line marking, parking and traffic devices. All public domain improvements required by Council shall be implemented along the full site frontage to Bay Street and Chapel Street.

A public domain performance bond will be required to be paid prior to the release of the approved public domain plans (based upon the cost of the public domain works), the bond will be kept for a period of 12 months after the completion of all external works and the issuing of a final occupation certificate (defects liability period).

66. Prior to the issue of Construction Certificate, if neighbouring properties or roadway are to be utilised for excavation support, the legal rights of any adjoining properties must be respected including for permanent and temporary excavation supports. In this regard, the written permission of the affected property owners must be obtained and a copy of the owner's consent for excavation support or other material in adjacent lands must be lodged to the principal certifier.

Where excavation support materials are proposed to be used in public land, an application must be made to Council for approval under Section 138 of the Roads Act 1993, via a permit application. The submission would need to be supported by an engineering report prepared by a suitably qualified engineer, with supporting details addressing the following issues:

Demonstrate that any structures will not adversely affect public infrastructure, and the proposed supports within the road reserve are of an adequate depth to ensure no adverse impact on existing or potential future service utilities in the road reserve. All existing services must be shown on a plan and included on cross-sectional details where appropriate.

The report must be supported by suitable geotechnical investigations to demonstrate the efficacy of all design assumptions.

67. A Section 7.11 contribution of \$544,413.80 shall be paid to Council. The contribution is calculated according to the provisions contained within the Council's adopted Rockdale Section 94 Contributions Plan 2004 (Amendment 5). The amount to be paid is to be adjusted at the time of payment, in accordance with the review process contained Contributions Plan. The contribution is to be paid prior to the issue of any compliance certificate; subdivision certificate or construction certificate. The contributions will be used towards the provision or improvement of the amenities and services identified below.

| Regional Open Space Fund | \$70,383.56 |
|---|--------------|
| City Wide Open Space Fund | \$111,363.32 |
| Rockdale Local Open Space Fund | \$229,782.06 |
| Rockdale Local Car Parking Fund (retail only) | \$0 |
| City Wide Town Centre & Streetscape Fund | \$12,512.14 |
| Rockdale Local Town Centre & Streetscape Fund | \$9,807.06 |
| Pollution Control Contribution | \$64,393.74 |
| Child care services | \$2,623.36 |
| Community services | \$2,810.98 |
| Library services | \$37,985.96 |
| Administration & Management Contribution | \$2,751.62 |
| Total in 2020/21 | \$544,413.80 |

- 68. If Council is appointed as the Principal Certifying Authority (PCA) then structural engineer's details shall be submitted prior to the issue of the Construction Certificate; such structural drawings shall be certified by the Structural Engineer that the design complies with the relevant S.A.A. Codes for the following:
 - i) the footings of the proposed structure;
 - ii) the footings of the slab-on-ground (having due regard to the possible differential settlement of the cut and fill areas)
 - iii) all reinforced concrete floor slabs; all reinforced concrete stairs;
 - iv) the piers to natural ground or rock, detailing the size and position of the piers;
 - v) the proposed retaining wall;
 - vi) the work required to stabilise the excavation; the work required to stabilise the footpath area;
 - vii) the design of each roof truss type showing the layout of each truss on a marking plan and the method of connecting each truss to its supporting

members of the method of bracing;

- viii) all structural steel work; first floor joists;
- ix) fire rated ceilings/fire protective ceilings.
- 69. The Final Landscape Plan shall be generally in accordance with the approved Landscape Plans prepared by Zenith Landscape designs, Revision D and dated 5th November 2020 and comprise detailed landscape construction documentation (plans and specifications) to be submitted to, and approved by Director City Futures of Bayside Council prior to the issue of the Construction Certificate. The landscape documentation shall include, but not be limited to:
 - a) All deep soil areas to include native or deciduous canopy trees, where feasible, to provide a level of amelioration to the buildings. All trees within deep soil areas are to be planted at minimum 100 litres pot size.
 - b) Planting of trees along Chapel Street frontage setback shall be replaced with faster growing trees.
 - c) Planting scheme proposed on slab shall be review and include plants with very low water requirements, which will not require a large amount of watering, and that can survive exposed to winds and dry soils. At least most of the planters, especially those planters with restricted amount of soil available, and exposed to winds.
 - Frontage setback to Bay Street will include landscape treatment as required in Public Domain Rockdale Town Centre. Canopy trees planted along Bay Street frontage setback shall be planted and supplied at minimum 200 litres pot size.
 - e) Planters along frontage balconies are to include cascading plant species to ensure a green element can survive within the façade and soften the building from the streets.
 - f) Rooftop terraces planters shall include planters wide enough to provide screen planting with shrubs capable of reaching a height of 1 meter to ensure privacy. For example communal open space on eight floor facing Chapel Street.
 - g) Indicate the location of all basement and building structures relative to the landscape areas.
 - h) Specifications detailing soil and mulch finishes, root barriers, irrigation, edging and other landscape handworks such as retaining walls, steps, planter walls, feature walls, skateboard restrictions, tree pits, tree grates, tree guards, tree pit treat, areas of paving, schedule of materials, edge treatments, tactile and sectional construction details. Details of all other hardscape landscape elements such as street furniture, pedestrian amenity lighting, bins, bollards. Location to be clearly identified on plan. Provide sectional construction details and elevations.
 - i) All areas to be used at night shall be well lit (including pedestrian pathways, laneways, access routes and entrances).

- j) Details of drainage and irrigation systems, including overflow provisions and water retention cells in the drainage layer (if applicable)
- k) A response to the site-specific wind conditions, ensuring the common roof terrace is safe and useable for recreational purposes.
- I) A Landscape Maintenance Schedule to cover 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).
- 70. Prior to the issue of a Construction Certificate, the following details are to be submitted to and approved by the Principal Certifying Authority:
 - a) Evidence the soil volumes and planting on slabs has been assessed as part of the structural certification provided for the development; and
 - b) Evidence the built in planter boxes above slabs has been assessed as part of the waterproofing certification provided for the development.
- 71. 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 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. Street trees along Chapel Street shall be planted and supplied at minimum 100 litres, and new street trees along Bay Street shall be supplied and planted at minimum 200litres pot size.
- 72. All public domain landscape improvements will be detailed in Frontage Works Public Domain Brief after Frontage Works Application is submitted to Bayside Council prior issue of any Construction Certificate.
- 73. Prior to the issue of the Construction Certificate a certificate from a practicing Structural Engineer, registered with NER, shall be submitted to Council stating that the subsurface structural components located on the boundary of the public road and neighbouring properties, 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 .An engineering design certificate is required to be submitted for the design of the Basement system including shoring wall.

Prior to the issue of the any construction certificate, a design certificate is

required to be submitted for the design of the Basement system including shoring wall. The certificate shall be issued by a Chattered Professional Engineer competent in Structural engineering. The design of the basement and any other underground structure or excavation shall take into consideration of geotechnical recommendations.

- 74. Prior to the issue of the Construction Certificate a certificate from a practicing Structural Engineer, registered with NPER, shall be submitted to Principal Certifying Authority stating that the subsurface structural components located on the boundary of the public road, neighbouring buildings, including but not limited to the slabs, walls and columns, shoring wall have been designed in accordance with all SAA Codes for the design loading from truck and vehicle loads.
- 75. The recommendations of the Wind Report prepared by Cermak Peterka Petersen and dated November 2019 are to be implemented on site, and shown on construction certificate drawings.
- 76. A system of fire and smoke alarms and/or detection system (as applicable) shall be provided throughout the building. Details shall be submitted for assessment and approval prior to application for a Construction Certificate.
- 77. A list of the proposed and existing essential services to be installed in the building shall be submitted to Council in accordance with the relevant requirements.
- 78. The plans and specifications shall be certified as being compliant with Part D3 – Access for People with a Disability, Part E3 – Services and Equipment and Part F2 – Sanitary and Other Facilities of the BCA 2016 by a suitably qualified consultant prior to the release of the Construction Certificate.
- 79. The residential units 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.
- 80. A list of the proposed and existing essential services to be installed in the

building shall be submitted to Council in accordance with the relevant requirements.

81. Compliance with Council's Development Control Plan (DCP) 2011 – Requirements for Access. Access in accordance with the relevant Australian Standards must be provided within the development. The allocated parking space will be located in close proximity to the access points of the building. Please note that compliance with this condition requires the relevant unit(s) to be constructed to comply with all the essential (Type C) requirements of 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.

82. The following conditions must be completed prior to the issue of the Construction Certificate. The Principal Certifying Authority shall not issue a Construction Certificate until a detailed acoustic assessment /report of all mechanical plants (ventilation systems, garbage exhaust fans, car park exhaust fans, toilet exhaust fans, exhaust fans, ventilation fans and condenser units) and equipment including air conditioners which meet the NSW EPA Industrial Noise Policy and Protection Of Environment Operations Act 1997 noise emission criteria for residential air conditioners as specified in Acoustic Assessment for Development Application prepared by Acoustic Logic – , Document Reference 20190095.1/0605A/R0/AR 41-45 Bay Street & 4 Chapel Street Rockdale DA Acoustic Assessment' dated the 6 May 2019.

The acoustic assessment / report shall include at least the following information:

- the name and qualifications or experience of the person(s) preparing the report
- the project description, including proposed or approved hours of operation, mechanical ventilation system, air conditions and all other plant equipment or noise producing equipment
- relevant guideline or policy that has been applied
- results of background and any other noise measurements taken from most noise affected location at the boundary line
- meteorological conditions and other relevant details at the time of the measurements details of instruments and methodology used for noise measurements (including reasons for settings and descriptors used, calibration details)
- a site map showing noise sources, measurement locations and potential noise receivers
- noise criteria applied to the project
- noise predictions for the proposed activity
- a comparison of noise predictions against noise criteria
- a discussion of proposed mitigation measures, the noise reduction likely and the feasibility and reasonableness of these measures
- how compliance can be determined practically

The report shall be prepared by a suitably qualified and experienced acoustic engineer (who is a member of either the Australian Acoustical Society or the Association of Australian Acoustical Consultants). It shall be submitted to the Principal Certifying Authority. All recommendations and/or noise mitigation measures (If applicable) shall be complied with

- 83. A Remedial Action Plan (RAP) must be prepared by a suitably qualified and experienced contaminated land consultant and in accordance with:
 - a) NSW EPA (2020) 'Consultants reporting on contaminated land';
 - 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 RAP must incorporate all findings and recommendations in the Detailed Site Assessment for the site, it must clearly state proposed clean-up objectives for soil and groundwater contamination above human health and ecological criteria, demonstrate how the site will be made suitable for the proposed use and how PFAS impacted groundwater will be treated and managed to meet the HEPA (2020) PFAS National Environmental Management Plan Environmental DGVs if permanent dewatering is proposed.

The Remedial Action Plan (RAP) must aim to avoid the use of containment and contaminants should be treated onsite or removed from the site whenever possible. Any remediation that utilises a containment strategy for contaminants must be passive and be accompanied by a Long-term Environmental Management Plan (LTEMP). This LTEMP must be added to the title of the site under the Conveyancing Act.

The RAP must be submitted to Council for review and written concurrence prior to the commencement of any remedial action and <u>prior to the issue of any construction</u> <u>certificate for construction of the basement or building</u>.

- 84. To ensure that the Detailed Site Investigation (DSI) has been completed appropriately and any Remedial Action Plan (RAP) proposed for the site will result in the land being made suitable for the proposed use, including any permanent discharge of PFAS impacted groundwater to the stormwater system, a Section B Site Audit Statement (SAS) completed by an accredited site auditor under the Contaminated Land Management Act 1997 must be submitted to Council. The SAS must clearly demonstrate that the Detailed Site Investigation (DSI) and Remedial Action Plan (RAP) required to be prepared has been completed in accordance with the NSW guidelines, and that the land, including operational requirements for groundwater dewatering, can be made suitable for the proposed use by implementation of any specified Remedial Action Plan (RAP). This SAS must be provided the accredited certifier, and Bayside Council for written concurrence, prior to the issue of any construction certificate.
- 85. A Site Audit Statement will be required for this 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 must be appointed to the site prior to the commencement of any remediation works, excavation or commencement of works at the site. The Site Auditor must review and endorse any additional investigation and remediation proposed prior to the commencement of any works.

Written evidence of this appointment must be provided to council <u>prior to the</u> issue of any construction certificate.

86. All above ground utilities and services (including all overhead high and low voltage electricity reticulation cables plus any telecommunication cables) along the entire length of all frontages of the development site must be relocated underground. The existing Ausgrid lighting and power poles will need to be decommissioned and new underground supplied lighting poles shall be constructed along the entire frontage of the development site satisfying the relevant lighting requirements. The works must be completed and Ausgrid's approval for the works must be met to the satisfaction of Bayside Council prior to the issue of any Occupation Certificate. The location of the new electrical pillars, new lighting poles, any new pits and trenches for utilities shall be confirmed with Bayside Council. The applicant is responsible for all relocation costs, including costs associated with other cabling such as telecommunications cables.

Where the road reserve along the frontage(s) of the site is congested with underground utility services and/or street trees, the person acting on the consent must design the undergrounding works around the congestion to the requirements of Ausgrid and Bayside Councils landscape architect/arborist.

In the event that further undergrounding of utilities is required beyond the frontages of the development site (e.g. across a road) to support the required undergrounding along the site frontage(s), these works must also be carried out at no cost or expense to Bayside Council.

In the event that any existing street trees are lost as a result of trenching related to undergrounding works, suitable replacements must be planted in keeping with Bayside Council's street tree masterplan and landscape architect requirements.

- 87. 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.
- 88. Prior to the issue of the Construction Certificate, the approved plans must be submitted to Sydney Water Tap inTM online service to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met.

Sydney Water's Tap inTM online service is available at: https://www.sydneywater.com.au/SW/plumbing-buildingdeveloping/building/sydney- water-tap-in/index.htm

89. Prior to the issue of any Construction Certificate, all subsurface structures shall be designed with a waterproof retention system (i.e. full structural tanking and waterproofing) with adequate provision for future fluctuation of the water table. The subsurface structure is required to be designed with consideration of uplift due to water pressure and "flotation" (buoyancy) effects. If subsoil drainage is permitted to be provided around the subsurface structure, the 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. No pump-out is permitted to be used to drain and discharge seepage from the subsurface structures and no groundwater is permitted to enter the subsurface structures. The design of subsurface structure, tanking, waterproofing and subsoil drainage shall be undertaken by Engineer(s) registered with the National Engineering Register (NER). Design details, construction specifications and design certification shall be included in the documentation accompanying the Construction Certificate.

- 90. Details shall be submitted to Council for assessment and approval pursuant to Section 138 of the Roads Act 1993 in relation to the following:
 - i) Construction of footpath and streetscape works.
 - ii) Public domain works.
 - iii) Public drainage works.
 - iii) Construction of vehicular entrance.
- 91. As the basement floors are being proposed closer to existing built structures on neighbouring properties, which may be in the zone of influence of the proposed works and excavations on this site, a qualified practising geotechnical engineer must:
 - (a) Implement all recommendations contained in the Geotechnical Desktop Study report prepared by Environmental Investigations Australia Pty Ltd. Ref: E23172 GS_Rev 1 by El Australia dated 8 February 2019.
 - (b) Provide a certificate that the construction certificate plans are satisfactory from a geotechnical perspective and
 - (c) Confirm the proposed construction methodology

A Construction Methodology report demonstrating that the proposed construction methods (including any excavation, and the configuration of the built structures) will have no adverse impact on any surrounding property and infrastructure. The report must be submitted with the application for a Construction Certificate **for the relevant stage of works**.

- (d) Inspect the works as they progress. The Inspections are to occur at frequencies determined by the geotechnical engineer.
- (e) Where a Private Certifier issues the Construction Certificate a copy of the above documentation must be provided to Council, once the Construction Certificate is issued **for the relevant stage of works.**

Note: A failure by contractors to adequately assess and seek professional engineering (geotechnical) advice to ensure that appropriate underpinning and support to adjoining land is maintained prior to commencement may result in damage to adjoining land and buildings. Such contractors are likely to be held responsible for any damages arising from the removal of any support to supported land as defined by section 177 of the Conveyancing Act 1919.

- 92. Prior to the issue of the construction certificate approval from the utility provider is required for the works the existing utility with the road reserve fronting boundary. You are required to consult with your utility providers (i.e. Energy Aust, Telstra etc) in order to fully understand their requirements before the commencement of any work.
- 93. As malicious damage (graffiti) is often an offence committed at such developments, strong consideration is to be given to the use of graffiti resistant materials, particularly on fences and all ground floor areas. Details to be provided prior to the issue of the Construction Certificate.
- 94. 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. The profile shall be drawn to a scale of 1 to 25 and shall include all relevant levels, grades (%), headroom clearances and lengths. The design shall be in accordance with the relevant Australian Standards.
- 95. Prior to issue of any Construction Certificate, certification prepared by a suitably qualified engineer experienced in traffic & parking design shall be submitted to Principal Certifying Authority certifying the taxi zone/pick-up/drop-off zone (including queuing area, turning area and drop off area) shown on the construction plans has been designed in accordance with AS/NZS 2890.1:2004.
- 96. Prior to the issue of any Construction Certificate, a qualified practicing Geotechnical Engineer registered with the National Engineering Register (NER) must:
 - (a) Conduct a thorough geotechnical investigation and geotechnical assessment of the site in line with geotechnical industry standards and Australian standards. The type and extent of substrata formations on the site shall be determined via the provision of a minimum of two (2) representative bore hole logs which are to provide a full description of all material from ground surface to 1.0m below the basement floor level and include the location and description of any anomalies encountered in the profile. The surface and depth of the bore hole logs shall be related to Australian Height Datum, and
 - (b) Determine the appropriate means of excavation/shoring in light of point (a) above and proximity to adjacent property and structures. Potential vibration caused by the method of excavation and potential settlements affecting nearby footings/foundations/buildings shall be discussed and ameliorated, and
 - (c) Review and certify the proposed method to temporarily and permanently support the excavation for the basement adjacent to adjoining property, structures and road reserve if nearby (full support to be provided within the subject site), and
 - (d) Provide recommendations to allow the satisfactory implementation of the works. An implementation program is to be prepared along with a suitable monitoring program (as required) including control levels for vibration, shoring support, ground level and groundwater level movements during construction. The implementation program is to nominate suitable hold points at the various stages of the works for verification of the design intent before sign-off and before proceeding with subsequent stages, and

- (e) Provide a certificate that the construction certificate plans are satisfactory from a geotechnical perspective, and
- (f) 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, and
- (g) Inspect the works as they progress. The Inspections are to occur at frequencies determined by the geotechnical engineer. An inspection schedule is to be prepared.

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.

- 97. Prior to the issue of the Construction Certificate, the applicant is to demonstrate the use of the following sustainability measures within the development:
 - a) Provision of photovoltaic cell systems on the rooftop. Detailed design for the photovoltaic cells systems is to be provided, the provision of photovoltaic cells is to be at a rate that maximises the use of available non-trafficable space on the rooftop. The cells shall not exceed the applicable height limit for the site as prescribed by the Rockdale LEP 2013.
 - b) Sensor controlled and zoned internal lighting and air conditioning.
 - Provision of Electric Vehicle (EV) charging car parking spaces. A minimum of four
 (4) EV charging spaces must be provided as part of the development, shared with residential visitor parking spaces and registered club parking spaces.

The above measures shall be implemented on the site prior to the issue of the Final Occupation certificate.

98. The parking bays for the residential component of the development shall be clearly designated (e.g. line-marked and/or signposted) and incorporate suitable secure access control measures (e.g. fencing, roller door or boom gates) so that it is not accessible to the visitors / occupants of the non-residential component.

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

99. Adjoining buildings founded on loose foundation materials As the basement floors including shoring walls are being proposed closer to existing built structures on neighbouring properties, which may be in the zone of influence of the proposed works and excavations on this site, a qualified practicing geotechnical engineer must:

- Implement all recommendations contained in the Preliminary Geotechnical assessment Report prepared by Benviron Group, Ref: G194, dated 1 November 2016.
- (b) Provide a certificate that the construction certificate plans are satisfactory from a geotechnical perspective and
- (c) Confirm the proposed construction methodology

A Construction Methodology report demonstrating that the proposed construction methods (including any excavation, and the configuration of the built structures) will have no adverse impact on any surrounding property and infrastructure. The report must be submitted with the application for a Construction Certificate for the relevant stage of works.

- (d) Inspect the works as they progress. The Inspections are to occur at frequencies determined by the geotechnical engineer.
- (e) Where a Private Certifier issues the Construction Certificate a copy of the above documentation must be provided to Council, once the Construction Certificate is issued for the relevant stage of works.

Note: A failure by contractors to adequately assess and seek professional engineering (geotechnical) advice to ensure that appropriate underpinning and support to adjoining land is maintained prior to commencement may result in damage to adjoining land and buildings. Such contractors are likely to be held responsible for any damages arising from the removal of any support to supported land as defined by section 177 of the Conveyancing Act 1919.

- 100. A detailed Traffic Management Plan for the pedestrian and traffic management of the site during construction shall be prepared and submitted to the principal accredited certifier for assessment and approval. The Plan shall be prepared by a RMS accredited consultant to address, but not be limited to, the following matters:
 - ingress and egress of vehicles to the site;
 - loading and unloading, including construction zones;
 - predicted traffic volumes, types and routes; and
 - pedestrian and traffic management methods and safety;
 - Construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control shall be detailed;
 - nominate a contact person who is to have authority without reference to other persons to comply with instructions issued by Council's Traffic Engineer or the Police;
 - if required, implement a public information campaign to inform any road changes well in advance of each change. The campaign may be required to be approved by the Traffic Committee.

Note: The swept path of the longest construction vehicle proposed to enter and exit 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.

101. A Construction Management Plan (CMP) shall be prepared in accordance with the requirements of all relevant regulatory approval bodies. The program shall also address in detail the following points:

- (a) The proposed method of access to and egress from the site for construction vehicles, including access routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or public reserves being allowed,
- (b) The proposed phases of construction works on the site and the expected duration of each construction phase,
- (c) The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken,
- (d) The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process,
- (e) The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site,
- (f) The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period,
- (g) The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any runoff from the washing down of vehicles shall be directed to the sediment control system within the site,
- (h) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an Accredited Certifier (Structural Engineering), or equivalent,
- (i) Proposed protection for Council and adjoining properties, and
- (j) The location and operation of any on site crane. Please note that a crane may require prior approval from Sydney Airports Corporation.
- (k) The location of any Construction Work Zone (if required) approved by Council's Traffic Committee, including a copy of that approval.
- (I) Obtain Permits required under this consent.

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 excavation and construction. Copy of the CMP shall be submitted to Council.

102. RSL club conditions

- (a) A copy of Permission to Discharge Trade Waste Water shall be obtained from Sydney Water prior to the discharge of trade waste water to the sewer system. A copy shall be provided to Principal Certifying Authority (PCA) prior to issuing the Construction Certificate. A copy shall also be provided to Council if Council is not the PCA.
- (b) The mechanical exhaust system shall comply with the requirements of the Building Code of Australia, and applicable standards AS1668.1-1998 The Use of Ventilation and Air-conditioning in Buildings Part 1: Fire and Smoke Control in Multi-compartment Buildings, and AS 1668.2 - 2002: The Use of Ventilation and Air-conditioning in Buildings Part 2: Ventilation Design for Indoor Air Contaminant Control.

The system shall be certified by a suitably qualified and experienced mechanical engineer prior to the issue of a Construction Certificate. A copy of the certificate shall be provided to the Principal Certifying Authority (PCA). A copy shall also be provided to Council if Council is not the PCA.

- (c) The mechanical exhaust ventilation system shall be installed in the kitchen and food preparation areas where cooking and heat producing processes are conducted. All equipment producing heat or steam shall be placed wholly under the ventilation canopy. The ventilation system shall be designed and installed by an appropriate qualified person in accordance with Australian Standards AS1668.1-1998 & 1668.2 -2002.
- (d) All walls within the kitchen, food preparation, storage and display areas shall be of solid construction. Walls in food preparation areas shall be finished with one or a combination of glazed tiles, stainless steel, aluminium sheeting, laminated thermosetting plastic sheeting, polyvinyl sheeting with welded seams or similar impervious material which is adhered directly to the wall. The finishing materials of the wall surfaces shall provide a smooth even surface free from buckles, ledges, fixing screws, picture rails, open joint spaces, cracks or crevices.
- (e) The intersection of walls and plinths with floors in the kitchen, food preparation, storage and display areas shall be coved with a minimal 25mm radius.
- (f) The floors within the kitchen, food preparation, storage and display areas shall be constructed of a suitable material which is non-slip, durable, resistant to corrosion, non-toxic, non-absorbent and impervious to moisture. Floors which drain to a floor waste shall be evenly graded (at least 1:100) so that water falls to the floor waste.
- (g) The surface finish of the ceiling shall not be perforated and shall be finished in an impervious material which is free from open joints, cracks, crevices, (in accordance with AS 4674-2004, acoustic and decorative panels are not to be used in wet areas, food preparation areas, bin storage areas or other areas where open food is displayed or served). The ceiling over the food preparation, storage and display areas shall be painted with a washable paint of a light colour. The intersection of walls and the ceiling shall be tight jointed, sealed and dust-proof.
- (h) All surfaces of counters, bars, food display units, window display, self -service displays and bain-maries shall be smooth, durable, impervious and free from cracks, crevices and cavities. The underside shall have an impervious finish. Window displays for wet foods shall be coved at all intersections and installed in accordance with AS/NZS 3500.2.- 2003.
- (i) A floor waste fitted with a basket arrestor shall be located outside the cool room adjacent to the door.
- (j) A double bowl sink or two compartment tub which is of a size capable of fully immersing the largest piece of equipment shall be provided with hot and cold water supplied through a single spout in the kitchen/food preparation area. Double bowl sink or tubs shall be supplied with water of at least 45 o C in one bowl for washing purposes; and 80 o C in the other bowl for sanitising purposes if hot water sanitising occurs at the sink.
- (k) Premises shall be provided with a cleaner's or sluice sink, floor waste or other similar facility which is connected to drainage that is not intended for use to prepare food, wash any equipment or for hands/face washing for disposing of mop water and similar liquid waste and shall be located outside of areas where open food is handled.
- (I) Hand wash basins shall be located so that they are not obstructed, are at bench height either permanently fixed to a wall, supporting frame or sunk into the bench top, accessible and no further than 5 metres (excluding toilet hand basins) from any place where food handlers are handling open food, in the parts of the premises where open food is handled, in utensil/equipment washing areas, in staff entrance to areas where open food is handled and in toilet cubicles or immediately adjacent to toilets. Hand basins shall have a permanent supply of warm running potable water delivered through a single outlet and taps which operate hands free shall be provided at all hand basins with sufficient space between the spout and base of basin for the washing of hands and arms.
- (m) The Accredited Certifier shall not issue a Construction Certificate until all structural or equipment requirements for food premises specified in the conditions of development consent, the structural requirements of the Food Act 2003, Food Regulations 2004 and the Australian Standard AS 4674 – 2004 "Design, Construction and Fitout of Food Premises" have been incorporated in the plans and specifications for the Construction Certificate.
- 103. 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. 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.
- 104. The low level driveway must be designed to prevent inflow of water from the road reserve. The assessment of flows and design of prevention measures shall be in accordance with the requirements of Rockdale Technical Specification Stormwater Management. Details shall be included in the documentation presented with the Construction Certificate application.
- 105. Two dedicated car wash bays are required. A tap shall be provided and a sign shall be fixed saying 'Car Wash Bay' for each space. 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.

106. All surface runoff shall be directed through a propriety oil and sediment filtration system prior to discharge. Details of the pit type, location, performance and manufacturer's maintenance and cleaning requirements shall be submitted and approved prior to the issue of the construction certificate.

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

- 107. Prior to the issue of any Construction Certificate, detailed drainage design plans for the management of stormwater are to be submitted to Principal Accredited Certifier for assessment and approval. All drawings shall correspond with the approved architectural plans. The detailed design plans shall incorporate the following provisions:
 - a) Provision of an on-site stormwater detention (OSD) system for the development designed strictly in accordance with Rockdale Technical Specification Stormwater Management, and
 - b) Stormwater discharge from the site must connect via gravity discharge to council's underground pit and pipe stormwater system in Chapel Street/Lister Avenue to the satisfaction of Bayside Council. A new kerb inlet pit is to be provided in the frontage of the site to Chapel Street. The use of a kerb outlet for stormwater discharge from the site is not permitted, and
 - c) Stormwater quality improvement devices are to be provided within the design of the stormwater system to meet the water quality requirements laid out in section 7.5.2 of Rockdale Technical Specification Stormwater Management. MUSIC modelling is to be provided demonstrating compliance with the required stormwater pollution reduction targets in the design of the stormwater system, and
 - d) No tanks are permitted within the deep soil landscape areas, and
 - e) All subsurface structures must be designed with a waterproof retention system (i.e. tanking and waterproofing). Subsoil drainage around the subsurface structures must allow free movement of groundwater around the structure and must not be connected to the internal drainage system. No groundwater is permitted to enter any subsurface structure, and
 - f) All surface runoff in the basements and the ground floor internal driveways shall be directed through a propriety oil and sediment filtration system prior to discharge. Details of the pit type, location, performance and manufacturer's maintenance and cleaning requirements shall be submitted, and
 - g) A pump-out system is to be provided for the basement, with a minimum capacity of 3000L, and
 - h) No pump-out shall be used to drain seepage from the basement due to the elevated water table level. That is the basement structure must be designed as a "fully tanked" structure. The pump-out can only be utilized to dispose stormwater

runoff that may enter the basement carpark from driveway access to the basement. The pump out system from the basement carpark proposed shall discharge to the on-site stormwater detention system.

Design certification, in the form specified in Rockdale Technical Specification Stormwater Management, and drainage design calculations are to be submitted with the plans. Council's Rockdale Technical Specification Stormwater Management sets out the minimum documentation requirements for detailed design plans. Stormwater management requirements for the development site, including the final discharge/end connection point, must comply with Rockdale Technical Specification Stormwater Management.

- 108. Prior to the issue of any Construction Certificate, the construction certificate plans and supporting documentation shall demonstrate compliance with the following:
 - a) Compliance with AS2890 Car, Bicycle and Motorcycle Parking:
 - The longitudinal profile(s) of the access driveway and any ramps within the parking facilities must comply with the Ground Clearance, Gradient (%) and Length requirements of the 2890 Australian Standards Series, and
 - ii. The provision of accessible car parking spaces shall be in accordance with the relevant disability legislation. Accessible car parking spaces shall be designed and located having regard to the means of access from the parking spaces to adjacent buildings, to other areas within the building and to footpaths and roads. All accessible parking spaces shall be located within close proximity and easy access to the lift systems proposed for the building.
 - iii. The design and construction of accessible car parking spaces shall be in accordance with the Building Code of Australia, Australian Standard 2890.6: Parking facilities – Off-street parking for people with disabilities and Australian Standard 1428.1: Design for access and mobility – General requirements for access – New building work, and
 - iv. Car Wash Bay Two dedicated car wash bays are required to be provided as part of the development. The car wash bays shall be 3.5m wide and shall be signposted and appropriately line- marked to state that this space shall be used as a car wash bay, and
 - v. The design of the parking facility (including parking spaces, ramps, aisles, vehicular crossings etc.) must comply in full with AS/NZS 2890.1, and
 - vi. Sightlines are to comply with AS2890.1 and convex mirrors and/or splays shall be provided at blind corners within, and leading to, the car parking levels to provide increased sight distance for vehicles, and
 - vii. All vehicles are to enter and exit the site in a forward direction, and
 - viii. A minimum of twenty (20) bicycle parking spaces and six (6) motorcycle parking spaces must be provided as part of the development and designed in accordance with AS2890.3 and AS2890.1 respectively.
 - b) Compliance with AS2890.2 Commercial (Service) Vehicle Parking:
 - i. Waste collection, loading & unloading within the site shall be restricted to commercial vehicles not exceeding the size and mass description of the SRV with a headroom clearance of 2.3m and or Mini Bus with a seating capacity of 12 to 14 people and headroom clearance of 2.3m from

AS2890.2:2002. Commercial vehicles greater in size and mass than the low height SRV and or Mini Bus are not permitted to enter the site, and

- ii. All driveways/access ramps/vehicular crossings shall conform with Australian Standards AS2890.2 along the travel path of the service vehicles, and
- iii. All service vehicles shall enter the property front in front out, and
- iv. A longitudinal section plotting headroom clearance along the travel path is to be provided for assessment, and
- v. It must be demonstrated that a safe headroom clearance of 2.3m is achieved along the along the entire travel path, parking and manoeuvring areas of the Small Rigid Vehicle (SRV) within the development, and
- vi. Swept path analysis shall be provided for manoeuvring of SRV commercial vehicles, depicting a forward entry and forward exit manoeuvre from the site via the loading dock proposed within the development, and
- vii. Waste collection must be undertaken on the site within the loading bay, and
- viii. Sight distances throughout the development must be in accordance with Australian standards.

The design of the entire car parking facility is to be certified by a civil engineer registered with the National Engineering Register (NER) as being strictly in accordance with the abovementioned requirements and the Australian Standard 2890 parking facilities series.

- 109. Prior to the issue of the Construction Certificate, the following required section(s) are to be submitted to and approved by the Principal Certifying Authority and reflected on the construction certificate design and documentation:
 - (a) The parking facility requires traffic management to manage conflicting two-way movement intersecting with one way vehicular movement. To this effect, a traffic signal management system (including traffic lights and vehicular sensors) to manage conflicting two way movements shall be designed and certified by a suitably qualified traffic engineer for implementation within the parking facility. In particular the top and bottom of vehicular ramps and vehicular aisles around the pedestrian lifts are of concern and must be addressed.
 - (b) A queueing assessment and probability of conflict analysis must be submitted detailing the 95th Percentile queue length expected and the probability of a conflict in any given AM or PM peak hour.
 - (c) Line marking and signage must be provided at the intersection of the one-way and two way aisles of the development to clearly delineate waiting bay areas that provide for passing of vehicles driving within the parking facility. The function of these waiting areas must be demonstrated using swept paths for a B85 passing a B99 vehicle with appropriate clearances as per AS/NZS 2890.1:2004.
 - (d) The above requirements are to be designed and certified by a suitably qualified engineer experienced in traffic management, parking design and traffic signalling systems.

Prior to commencement of works

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

110. For any water from site dewatering to be permitted to go to the stormwater, the water must meet the relevant default guideline values (DGVs) under the Australian & New Zealand Guidelines (ANZG) for Fresh & Marine Water Quality. 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 must be provided in this report.

Reports must be provided to council prior to discharge of any groundwater to the stormwater system.

- 111. 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 must be obtained from Council. Dewatering must not commence until this is issued by Council.
- 112. 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.
- 113. 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.

- 114. Prior to the commencement of any works, a Construction Management Program shall be submitted to, assessed and approved by the Principal Accredited Certifier. The program shall detail, but not be limited to, the following:
 - (a) The proposed method of access to and egress from the site for construction vehicles, including access routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no

access across public parks or public reserves being allowed,

- (b) The proposed phases of construction works on the site and the expected duration of each construction phase,
- (c) The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken,
- (d) The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process,
- (e) The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site,
- (f) The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period,
- (g) The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site,
- (h) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an Accredited Certifier (Structural Engineering), or equivalent,
- (i) Proposed protection for Council and adjoining properties, and
- (j) The location and operation of any on site crane. Please note that a crane may require prior approval from Sydney Airports Corporation.
- (k) The location of any Construction Work Zone (if required) approved by Council's Traffic Committee, including a copy of that approval.
- (I) Obtain Permits required under this consent.

Prior to the commencement of any works, a detailed Traffic Management Plan for the pedestrian and traffic management of the site during construction shall be prepared and submitted to the Principal Accredited Certifier for assessment and approval. The plan shall:

- be prepared by a RMS/TFNSW accredited consultant,
 - address, but not be limited to, the following matters:
 - ingress and egress of vehicles to the site;
 - loading and unloading, including construction zones;
 - o predicted traffic volumes, types and routes; and
 - o pedestrian and traffic management methods.

The Construction and Traffic Management Plans shall be implemented

during excavation and construction.

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

If vibration monitoring equipment detects any vibration at the level of the footings of any adjacent building exceeding the peak particle velocity adopted by the professional engineer as the maximum acceptable peak particle velocity an audible alarm must activate such that the principal contractor and any sub-contractor are easily alerted to the event.

Where any such alarm triggers all excavation works must cease immediately. Prior to the vibration monitoring equipment being reset by the professional engineer and any further work recommencing the event must be recorded and the cause of the event identified and documented by the professional engineer.

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

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

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

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

Note: Professional engineer has the same mean as in Clause A1.1 of the BCA. **Note:** Building has the same meaning as in section 4 of the Act i.e. "building includes part of a building and any structure or part of a structure". **Note:** Supported land has the same meaning as in section 88K of the Conveyancing Act 1919.

116. Erosion and sediment control devices shall be installed and in function prior to the commencement of any excavation or construction works upon the site in order to prevent sediment and silt from site works (including excavation) being conveyed by stormwater into public stormwater drainage system, natural watercourses, bushland, trees and neighbouring properties. In this regard, all stormwater discharge from the site shall meet the legislative requirements and guidelines. These devices shall be maintained in a serviceable condition AT ALL TIMES throughout the entire excavation and construction phases of the development and for a minimum one (1) month period after the completion of the development, where necessary.

- 117. 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.
- 118. A sign must be erected in a prominent position on any work site on which work involved in the erection 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.
 - iii) Any such sign is to be removed when the work has been completed. This condition does not apply to:
 - iv) building work carried out inside an existing building or
 - v) 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.
- 119. 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.
- 120. Where it is necessary to import landfill material onto the site to fill the land to levels shown on the plans forming part of the consent, a certificate, prepared by a suitably qualified and experienced Contaminated Land Consultant, shall be submitted to Council being the Regulatory Authority prior to the commencement of works, certifying that the imported fill is suitable for the land use.
- 121. 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.
- 122. 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.

123.

- (a) A hoarding or fence shall be erected between the work site and the public place when the work involved in the erection of a building:
 - i. is likely to cause pedestrian or vehicular traffic in a public place to bebstructed 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.
- 124. 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.
- 125. A system of fire and smoke alarms and/or detection system (as applicable) shall be provided throughout the building. Details shall be submitted for assessment and approval prior to commencement of works.
- 126. 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.
- 127. 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.

- 128. If an excavation associated with the proposal extends below the level of the base of the footings of a building on an adjoining allotment of land or the common boundary fence the person causing the excavation to be made:
 - a) Must preserve and protect the building/ fence from damage; and,

b) If necessary, underpin and support such building in an approved manner; c) Must at least be 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of the intention to do so to the owner of the adjoining allotment of land and, furnish particulars of the excavation to the owner of the building being erected or demolished;

d) Existing structures and or services on this and adjoining properties are not endangered during any excavation or construction work associated with the above project. The applicant is to provide details of any shoring, piering, or underpinning prior to the commencement of any work. The construction shall not undermine, endanger or destabilise any adjacent structures.
e) If the soil conditions required it:

i. Retaining walls associated with the erection of a building or other approved methods of preventing movement of the soil must be provided and:-

Adequate provision must be made for drainage.

During excavation and construction

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

- 129. Trees located within the footprint of the proposed buildings may be removed.
- 130. For any water from site dewatering to be permitted to go to the stormwater, the water must meet the relevant default guideline values (DGVs) under the Australian & New Zealand Guidelines (ANZG) for Fresh & Marine Water Quality. 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 must be provided in this report.

Reports must be provided to council prior to discharge of any groundwater to the stormwater system.

131. Any new information that comes to light during 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 must 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).

- 132. All remediation work must be carried out in accordance with:
 - a) NSW EPA (2020) 'Consultants reporting on contaminated land';
 - 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 Remedial Action Plan (RAP) required to be submitted prior to the issue of the Construction Certificate.
- 133. For any water from site dewatering to be permitted to go to the stormwater system, the water must meet the relevant default guideline values (DGVs) under the Australian & New Zealand Guidelines for Fresh & Marine Water Quality and the HEPA (2020) PFAS National Environmental Management Plan. All testing must be completed by a NATA accredited laboratory. <u>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 must be provided in this report. Reports must be provided to council prior to discharge of any groundwater to the stormwater system.</u>
- 134. 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 must be obtained from Council. Dewatering must not commence until this is issued by Council.
- 135. All materials excavated from the site (fill or natural) must be classified in accordance with the NSW Environment Protection Authority (EPA) Waste Classification Guidelines (2014) <u>prior to being disposed</u> of to a NSW approved landfill or to a recipient site. Appropriate records must be retained to support this.
- 136. To prevent contaminated soil being used onsite and to ensure that it is suitable for the proposed land use, all imported fill must be appropriately certified material and must 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 must be <u>accompanied by documentation from the supplier</u> which certifies that the material has been analysed and is suitable for the proposed land use.
- 137. Results of the monitoring of any field parameters for soil, groundwater, surface water, air or noise must be made available to Council Officers on request throughout the remediation and construction works.
- 138. 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.

- 139. 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.
- 140. For Class 5-9 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 any stormwater drainage connections, and
 - iii) 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.

- 141. 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.

- 142. 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.

- 143. To protect the stability of the building during steel bracework shall be erected.
- 144. Ground water shall only be pumped or drained to Council's stormwater system if the water is clean and unpolluted. The standard used to determine the acceptability of the quality of the water is the 'Australian and New Zealand Environment and Conservation Council - Australian Water Quality Guidelines for Fresh and Marine Waters 1992'.

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

- 145. All waste generated on site shall be disposed of in accordance with the submitted Waste Management Plan.
- 146. A Registered Surveyor's check survey certificate or compliance certificate shall be forwarded to the certifying authority detailing compliance with Council's approval at the following stage/s of construction:
 - i) After excavation work for the footings, but prior to pouring of concrete, showing the area of the land, building and boundary setbacks.
 - ii) Prior to construction of each floor level showing the area of the land, building and boundary setbacks and verifying that the building is being constructed at the approved level.
 - iii) Prior to fixing of roof cladding verifying the eave, gutter setback is not less than that approved and that the building has been constructed at the approved levels.
 - iv) On completion of the building showing the area of the land, the position of the building and boundary setbacks and verifying that the building has been constructed at the approved levels.
 - v) On completion of the drainage works (comprising the drainage pipeline, pits, overland flow paths, on-site detention or retention system, and other relevant works) verifying that the drainage has been constructed to the approved levels, accompanied by a plan showing sizes and reduced levels of the elements that comprise the works.
- 147. All excavation and backfilling associated with the erection 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 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.

- 148. When soil conditions require it:
 - i) retaining walls associated with the erection 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.
- 149. All contractors shall comply with the following during all stages of 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.
- 150. The following conditions are necessary to ensure minimal impacts during construction:
 - i) Building 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 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 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 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.
- 151. During Excavation and Construction, care must be taken to protect Council's infrastructure, including street signs, footpath, kerb, gutter and drainage pits etc. Protecting measures shall be maintained in a state of good and safe condition throughout the course of excavation and construction. The area fronting the site and in the vicinity of the development shall also be make safe for pedestrian and vehicular traffic at all times. Any damage to Council's infrastructure (including damage caused by, but not limited to, delivery

vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) shall be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Council.

- 152. 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.
- 153. Trees located within adjoining properties or Council's nature strip 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.
- 154. 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 gualifications in Arboriculture.
- 155. All contractors shall comply with the following during all stages of 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 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.

- 156. The following conditions are necessary to ensure minimal impacts during construction:
 - Building 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.
 - 2) Stormwater from roof areas shall be linked via a temporary downpipe to an approved stormwater disposal system immediately after completion of the roof area.
 - 3) All disturbed areas shall be stabilised against erosion within 14 days of completion, and prior to removal of sediment controls.
 - 4) Building 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.
 - 5) 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.
 - 6) Wind blown dust from stockpile and construction activities shall be minimised by one or more of the following methods:
 - i) spraying water in dry windy weather
 - ii) cover stockpiles
 - iii) fabric fences
 - 7) 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 commencement of building operations.

8) 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.

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.

- 157. An Occupation Certificate shall be obtained in relation to the approved works prior to any use or occupation of the building.
- 158. Developers of multi-level buildings are required to submit their schedule of addresses to Council for addressing approval prior to registration of the Occupation Certificate. Finalised architectural and survey plans of the site, identifying the location and nature of the development have to be submitted to Council.
- 159. Prior to issue of Occupation Certificate the applicant shall submit to the Principal Certifying Authority (PCA) an acoustic compliance report to verify that the measures stated in the report by 'Acoustic Logic – , Document Reference 20190095.1/0605A/R0/AR 41-45 Bay Street & 4 Chapel Street Rockdale DA Acoustic Assessment' dated the 6 May 2019 and all other noise mitigation measures associated with the mechanical plants (ventilation systems, garbage exhaust fans, vehicle turntable motor, car park exhaust fans, toilet exhaust fans, exhaust fans, ventilation fans and condenser units) and equipment including air conditioners have been carried out and certify that the construction meets the above requirements. If Council is not the PCA, a copy shall be submitted to Council concurrently. The report shall be prepared by a suitably qualified and experienced acoustic engineer (who is a member of either the Australian Acoustical Society or the Association of Australian Acoustical Consultants).
- 160. At least ten (10) native or ornamental trees of at least 200 litre container size and capable of growing to a minimum height of three (3) metres shall be planted in suitable locations within the property on completion of the building works and prior to the final inspection.
- 161. Should the site require any ongoing management or treatment of water for discharge to the stormwater system, a restriction as to use under Section 88B of the Conveyancing Act 1919 is to be registered on the title of the consolidated title 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] ref: [Enter Details], prepared by [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.

- 162. Site Validation Report (SVR) must be prepared by a suitably qualified contaminated land consultant and must be in accordance with:
 - a) NSW EPA (2020) 'Consultants reporting on contaminated land';
 - b) NSW Environment Protection Authority (NSW EPA) approved guidelines under the Contaminated Land Management Act 1997;
 - c) State Environmental Planning Policy 55 (SEPP55) Remediation of Land.

The site validation report must 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 must be submitted to the Principal Certifying Authority, and the Council if the Council is not the Principal Certifying Authority after completion of remediation works and prior to the issue of any occupation certificate.

163. 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* must be submitted to Council clearly demonstrating that the site is suitable for the proposed development. This must be provided prior to the release of any Occupation Certificate.

Any conditions imposed on the SAS must form part of this consent. The accredited site auditor must provide Council with a copy of the Site Audit Report (SAR) and Site Audit Statement (SAS) <u>prior to the issuing of any</u> <u>Occupation Certificate</u>. In circumstances where the SAS conditions (if applicable) are not consistent with the consent (e.g. changes in the design of the building or landscaping), an application to amend the consent pursuant to the *Environmental Planning & Assessment Act 1979* must be submitted to ensure that they form part of the consent conditions.

- 164. 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.
- 165. 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.
- 166. 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.
- 167. Prior to the issue of any Occupation Certificate, the applicant shall carry out the following works, at no cost or expense to Bayside Council and TfNSW:

- a) On Bay Street and Chapel Street, adjacent to development, remove all redundant driveway crossovers and provide required tree planting and public domain improvements as specified by Bayside Council in accordance with Bayside Council's Infrastructure Specifications and public domain plans, and
- b) On Bay Street and Chapel Street, adjacent to development, demolish existing footpath and construct new paved footpath full width as per Council's Infrastructure, public domain plan and Landscape Architect specifications, and
- c) On Bay Street and Chapel Street, adjacent to development, reconstruct existing kerb and gutter for the full length of the property in accordance with the applicable RMS/TfNSW and Council Infrastructure Specifications, and
- d) On Chapel Street, adjacent to development, construct required embellishments and public domain improvements to Chapel Street generally as per the public domain masterplan for the Chapel Street, Chapel Lane and Lister Avenue development precinct, and
- e) On Chapel Street, adjacent to development, construct new kerb inlet pit and associated stormwater pipe to Bayside Council infrastructure specifications, and
- f) On Bay Street, adjacent to development, construct a new bus shelter and seat adjacent to the bus stop to the specifications of Bayside Council and RMS/TfNSW.

The public footpaths shall be constructed in accordance with the approved Public Domain Plan and Bayside Council specifications. The footpath dimensions, location, paver type and construction methods shall be in accordance with these specifications. Pavers shall be ordered allowing for adequate lead time for manufacture (10-12 weeks). Final inspection reports for the works on the road reserve shall be obtained from Bayside Council and submitted to the Principal Certifying Authority attesting that this condition has been appropriately satisfied.

- 168. A detailed Loading Dock Plan of Management shall be prepared and submitted to Council for assessment and approval prior to the issue of any Occupation Certificate for the development. At minimum the following matters shall be detailed;
 - (a) Site Location
 - (b) Classified Road (Bay Street)
 - (c) Outline the maximum size vehicle that can be used to enter the loading bay and describe its dimensions
 - (d) Proposed shared servicing arrangement for the registered club and residential component of development.
 - (e) Hours of Operation
 - (f) Daily Servicing Schedule
 - (g) General Requirements
 - (h) Induction
 - (i) Loading Dock Manager Responsibilities
 - (j) Drivers Responsibilities
 - (k) Complaints Management System
 - (I) Monitoring
 - (m) Methods to avoid congestion of service vehicles and manage multiple users of the loading areas

- (n) General mitigation measures to prevent amenity impacts to neighbouring properties
- (o) Waste collection
- (p) Forward entry and exit requirement
- (q) Safety requirements

Copies of the approved loading dock plan of management are to be kept available in both lobbies of the development (Registered Club and Residential) and the loading dock at all times.

Note: The loading / unloading bay on site is to be made available for use by all uses on the site (including removalist vans). All loading and unloading is to occur within the loading / unloading bays on the site. The loading / unloading bays shall operate in accordance with the Plan of Management and hours of operation as required by this consent. Private waste collection shall also operate from the loading bays.

169. All excess excavated 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.

- 170. Damage to brick kerb and/or gutter and any other damage in the road reserve shall be repaired using brick kerb and gutter of a similar type and equal dimensions. All works shall be to Council's satisfaction at the applicant's expense. Repairs shall be completed prior to the issue of the Occupation Certificate.
- 171. Ground level surfaces are to be treated with anti-graffiti coating to minimise the potential of defacement. In addition, any graffiti evident on the exterior facades and visible from a public place shall be removed forthwith.
- 172. Lots 1 and 2 in DP 101949, Lot 1 in DP 628851 and Lot 2 in DP 326854 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.
- 173. Prior to issue of any Occupation Certificate, the following must be complied with:
 - a) All landscape works are to be carried out in accordance with the approved landscape plans (refer to Condition 2) 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 plans and documentation. The certificate shall, amongst other matters included in approved plans, confirm compliance with the following requirements:
 - i. Trees planted along bay Street frontage setback are to be at least five (5) canopy trees of at least 200 litres.
 - ii. All trees planted in deep soil areas at time of inspection shall have a minimum height of 2.4 meters, calliper at 300mm greater than

50mm, installed with stakes and ties within a mulch bed or equivalent.

- iii. A fully automated irrigation system has been installed to all above slab/podium landscaping;
- iv. Podium landscaping and paved areas are drained into the stormwater drainage system.
- 174. Prior to issue any Occupation certificate all Public domain landscape improvements and interface between private and public space have been approved by Public Domain Landscape Officer.
- 175. 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.
- 176. 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.
- 177. Prior to the issue of any Occupation Certificate, all above ground utilities along the entire length of all frontages of the development site must be relocated underground to the specifications of the asset owner and any other affected utility provider. These utilities include all overhead high and low voltage electricity reticulation cables along with any other telecommunication cables and associated services. All redundant Ausgrid poles shall be removed and replaced with underground supplied street lighting columns along the frontages of the development site, all street lighting shall comply with relevant electricity authority guidelines and Bayside Council requirements.

All works shall be carried out at the applicant's expense, to the satisfaction of the asset owner and Bayside Council. In the event that further works are required beyond the frontages of the development site (e.g. across a road) to support the required works, these works must also be carried out at no cost or expense to Bayside Council. Bayside Council's Director of City Futures (or delegate) must advise in writing that the works have been completed to their satisfaction, prior to the issue of any Occupation Certificate.

- 178. 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.
- 179. The vehicular entries to Bay Street are to be signposted to the requirements of TfNSW. A notice shall be clearly displayed at the Bay Street frontage of the site to indicate that visitor parking (for the registered club and residential component) is available within the property with access from Chapel Street/Lister Avenue.

- 180. 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".
- 181. 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.
- 182. 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.
- 183. Convex mirrors shall be provided and installed at blind corners within, and leading to, the basement car parking levels to provide increased sight distance for vehicles. The location and installation of the convex mirrors is to be certified by a suitably qualified engineer.
- 184. The gate for the basement shall be located in order to permit the queuing of two (2) vehicles when waiting to enter the basement garage. The control mechanism for the gate shall be arranged such that access to the basement garage for registered proprietors of the commercial units, and their visitors, does not require security clearance or assisted entrance between the hours of 7:30am to 6:00pm Monday to Saturday and 7:30am to 1:00pm on Sunday. Where the hours of operation of the commercial units are approved outside of these hours, the access arrangements shall match the approved hours of operation.
- 185. The dedication to Council of a 6m wide strip of land along the frontage of 45 Bay Street (Lot 1 DP 628851) for road widening purposes. Bayside Council requires proof of lodgement and registration of the signed Subdivision Certificate and 88B Instrument with the Land Titles Office.
- 186. Suitable vehicular bollards shall be provided outside the exit doors and lift doors that adjoin the vehicle circulation area or other exit door(s) that may be blocked by parked vehicles. 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.
- 187. Bollard(s) shall be installed by the developer for all accessible parking spaces in accordance with AS/NZS 2890.6:2009.
- 188. Parking Allocation

Registered Club (Rockdale RSL): A total of Fifty Four (54) off-street car spaces shall be provided in

accordance with the submitted plans for the registered club component of the development. Such spaces shall be paved, linemarked and made freely available at all times during business hours of the site for staff and visitors of the registered club.

Residential Apartments:

A minimum of one hundred and sixteen (116) off-street car parking spaces (including 16 visitor, 98 residential car parking spaces and 2 car wash bays), 6 motorcycle parking spaces and 20 bicycle parking spaces shall be provided for the residential component of the development. Such spaces shall be paved, line marked and made freely available at all times for residents and visitors of the residential component of the development.

Note: Any excess parking spaces are to be allocated to residential apartments.

189. 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.

- 190. Prior to occupation, a registered surveyor shall certify that the driveway(s) over the footpath and within the property have been constructed in accordance with the approved driveway profile(s). The certification shall be based on a survey of the completed works. A copy of the certificate and a works-as-executed driveway profile shall be provided to Council if Council is not the Principal Certifying Authority.
- 191. 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.
- 192. 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.
- 193. 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.

194. Ausgrid (easement)

A new easement will need to be created and this area must be kept free of any other objects, including buildings, trees and shrubs.

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

In addition to above, Ausgrid requires the substation ventilation openings, including duct openings and louvered panels, to be separated from building ventilation system air intake and exhaust openings, including those on buildings on adjacent allotments, by not less than 6 metres. Exterior parts of buildings within 3 metres in any direction from substation ventilation openings, including duct openings and louvered panels, must have a fire rating level (FRL) of not less than 180/180/180 where the substation contains oil-filled equipment.

The development must comply with both the Reference Levels and the precautionary requirements of the Draft Radiation Protection Standard for Exposure Limits to Electric and Magnetic Fields 0 Hz - 3 kHz (ARPANSA, 2006).

For further details on fire segregation requirements refer to Ausgrid's Network Standard 113.

Existing Ausgrid easements, leases and/or right of ways must be maintained at all times to ensure 24 hour access. No temporary or permanent alterations to this property tenure can occur without written approval from Ausgrid.

For further details refer to Ausgrid's Network Standard 143.

- 195. 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.
- 196. 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.
- 197. 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.
- 198. 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.

- 199. The basement area shall be floodproofed to a minimum of 100mm above 1% AEP gutter flow. The levels shall be certified by a registered surveyor prior to construction of the driveway or other openings.
- 200. The premises shall be registered with Councils Environmental Health Unit by the proprietor of the food business by completing the registration form available from Council.
- 201. The proprietor of a food business must ensure that before any food is processed and sold by retail on premises in the course of carrying on the business at least one food safety supervisor has been appointed for the premises. The details of the food safety supervisor including food safety supervisor certificate must be provided to Council prior to the issue of the occupation certificate.
- 202. Waste and recycling must be collected by a private waste contractor. A contract for waste and recycling collection must be entered into prior to issue of the Occupation Certificate and the maximum size of the waste collection vehicle shall be equal to or smaller than a B99 vehicle as per AS 2890.1:2004. The company engaged must ensure that all recycling is collected separately from waste.
- 203. Prior to the issue of the Occupation Certificate, Positive Covenant(s) shall be imposed on the development. The following covenants shall be imposed under Section 88(E) of the Conveyancing Act 1919 and lodged with the NSW Land and Property Information:
 - (a) Positive Covenant for on-site waste collection by private commercial waste collection service.
 - (b) Positive Covenant for the maintenance of the On-Site Detention System.
 - (c) Positive Covenant for the maintenance of the Stormwater Pump out System.
- 204. 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.
- 205. Prior to occupation a Chartered Professional Engineer competent in geotechnics shall certify that the construction works has been constructed in accordance with the approved geotechnical report and include an evaluation of the completed works. A copy of the certificate shall be supplied to the Principal Certifying Authority. A copy shall be provided to Council if Council is not the Principal Certifying Authority.

- 206. Signs shall be displayed adjacent to all stormwater drains on the premises, clearly indicating "Clean water only No waste".
- 207. The owner of the premises is required to comply with the following requirements if installing a rainwater tank:
 - Inform Sydney Water that a Rainwater tank has been installed in accordance with applicable requirements of Sydney Water.
 - The overflow from the rainwater tank shall be directed to the storm water system.
 - All plumbing work proposed for the installation and reuse of rainwater shall comply with the NSW Code of Practice: Plumbing and Drainage and be installed in accordance with Sydney Water "Guidelines for rainwater tanks on residential properties.
 - A first flush device shall be installed to reduce the amount of dust, bird faeces, leaves and other matter entering the rainwater tank.
- 208. Prior to the issue of any Occupation Certificate, the Principal Certifier must ensure that the vehicle access and off street parking facilities have been constructed in accordance with the approved construction plans, AS/NZS 2890.1. AS2890.2, AS2890.3 and AS/NZS 2890.6, line marked and all signage relating to car parking erected. The car parking area is to be clearly and appropriately marked/signposted indicating all the vehicular movements on the site. The internal road network, pedestrian facilities and parking facilities (including visitor parking and parking for persons with disabilities) shall be clearly designated, sign posted and line marked prior to the issuing of an Occupation Certificate. Certification must be provided by a suitably qualified traffic engineer, certifying the design of the completed works.
- 209. Prior to the issue of an Occupation Certificate, a suitably qualified professional shall prepare a detailed porte-cochere management plan to address how to manage coach and taxi/visitor movements through the porte-cochere (drop off/pick up area) will be managed by the registered club to ensure that no queuing of vehicles results on to the state road network (Bay Street).
- 210. Trading of the RSL club shall not commence until a final inspection has been carried out by Councils Environmental Health Officer and all health related requirements have been complied with.

Integrated development / external authorities

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

NSW POLICE

- 211. CCTV is installed at key entry /egress points including the car park.
- 212. The premises are to be operated at all times in accordance with the Plan of Management as may be varied from time to time after consultation with the Local Area Commander of NSW Police Force.

A copy of the Plan of Management is to be kept on the premises and made available for inspection on the request of a police officer, council officer, or liquor and gaming NSW inspector.

- 213. The licensee must maintain a closed-circuit television (CCTV) system on the premises in accordance with the following requirements;
 - a. the system must record continuously from opening time until one hour after the premises is required to close or in the case of premises that is not required to cease trading, continuously at all times
 - b. recordings must be in a digital format and at a minimum of ten frames per second (10 fps)
 - c. any recorded image must specify the time and date of the recorded image
 - d. the systems cameras must cover the following areas;
 - i. all entry and exit points on the premises
 - ii. the footpath immediately adjacent to the premises and
 - iii. all publicly accessible areas (other than toilets) within the premises.

The licensee must also;

- a. keep all recordings made by the CCTV system for at least 30 days
- b. ensure that the CCTV system is accessible at all times the system is required to operate by at least one person able to access and fully operate the system including downloading and producing recordings of CCTV footage and
- c. provide any recordings made by the system to a police officer of authorised officer within 24 hours of any request by a police officer or authorised officer.
- 214. Signage is to be erected in a prominent position near the main exit of the premises reminding patrons to leave quietly.
- 215. In the event of a complaint being received by the licensee from a neighbouring resident with respect to a disturbance to the quiet and good order of the neighbourhood, the licensee must notify Council of the complaint for inclusion on the complaints register within 48 hours. It remains the responsibility of the licensee to respond appropriately to complaints.
- 216. The licensee must ensure no open alcohol containers are taken off the premises.

ROADS AND MARITIME (RMS)

217. TfNSW has previously acquired a strip of land for road along the Bay Street frontage of the subject property, as shown by the blue colour on the attached Aerial – "X" (below). The subject property is affected by a Road Widening Order under Section 25 of the *Roads Act, 1993* as published in Government Gazette No. 17 June, 1932: Folio 1895, as shown by the pink colour on the attached Aerial - "X".

As such, any new buildings or structures, together with any improvements integral to the future use of the site, are to be erected clear of the land

reserved for road widening (unlimited in height or depth) along the Bay Street boundary.

218. The redundant driveway on the Bay Street boundary shall be removed and replaced with kerb and gutter to match existing. The design and construction of the kerb and gutter on Bay Street shall be in accordance with TfNSW requirements. The design and construction of the gutter crossing on Bay Street shall be in accordance with TfNSW requirements. Details of these requirements should be obtained by email to DeveloperWorks.Sydney@rms.nsw.gov.au.

Detailed design plans of the proposed kerb and gutter are to be submitted to TfNSW for approval prior to the issue of a Construction Certificate and commencement of any road works. Please send all documentation to development.sydney@rms.nsw.gov.au.

A plan checking fee and lodgement of a performance bond is required from the applicant prior to the release of the approved road design plans by TfNSW.

219. Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to TfNSW for approval, prior to the commencement of any works. Please send all documentation to development.sydney@rms.nsw.gov.au.

A plan checking fee will be payable and a performance bond may be required before TfNSW approval is issued.

220. The developer is to submit design drawings and documents relating to the excavation of the site and support structures to TfNSW 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 TfNSW. Please send all documentation to development.sydney@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.

- 221. The proposed development should be designed such that road traffic noise from Bay Street is mitigated by durable materials in order to satisfy the requirements for habitable rooms under Clause 102 (3) of *State Environmental Planning Policy (Infrastructure) 2007*.
- 222. If not already in place, "No-Stopping" restrictions shall be implemented along the full Bay Street frontage of the development site.
- 223. All vehicles are to enter and leave the site in a forward direction.
- 224. Driveway ingress and egress on Bay Street is to be adequately signposted to clearly show 'Entry' and 'Exit'. The 'Entry' driveway should be designed for

left in only in accordance with Australian Standards, and 'No Right Turn' shall be signposted on Bay Street. All works and signposting associated shall be at no cost to TfNSW.

- 225. The layout of the proposed car parking areas associated with the subject development (including, driveways, grades, turn paths, sight distance requirements in relation to landscaping and/or fencing, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2890.1-2004, AS2890.6-2009 and AS 2890.2-2018 for heavy vehicle usage. Parking Restrictions may be required to maintain the required sight distances at the driveway.
- 226. Sight distances from the proposed vehicular crossings to vehicles on Bay Street and Chapel Street are to be in accordance with the Austroads Guide to Road Design: Part 4A: Unsignalised and Signalised Intersections (Section 3 – Sight Distance) and AS 2890. Vegetation and proposed landscaping/fencing must not hinder sight lines to and from the vehicular crossings to motorists, pedestrians and cyclists.
- 227. All construction vehicles are to access the site via Chapel Street. A construction zone will not be permitted on Bay Street.
- 228. A Construction Pedestrian Traffic Management Plan (CPTMP) detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council for approval prior to the issue of a Construction Certificate.
- 229. A Road Occupancy Licence (ROL) should be obtained from Transport Management Centre (TMC) for any works that may impact on traffic flows on Bay Street during construction activities. A ROL can be obtained through https://myrta.com/oplinc2/pages/security/oplincLogin.jsf.

WATER NSW

- 230. If groundwater is encountered, the proponent must apply for, and be granted, a licence from WaterNSW prior to commencing dewatering activities on the proposed site.
- 231. Groundwater shall not be pumped or extracted for any purpose other than temporary construction dewatering at the site identified in the development application.
- 232. An authorisation under the relevant water legislation, such as a Water Access Licence (WAL), shall be obtained for the take of groundwater as part of the activity. For avoidance of doubt, these terms do not represent any authorisation for the take of groundwater, nor do they constitute the grant, or the indication of an intention to grant, any required WAL.
- 233. An authorisation under the relevant water legislation, such as an Approval, is also required for the works involved in extracting the groundwater. For avoidance of doubt, these terms do not represent any authorisation for the construction or installation of such works.
- 234. The design and construction of the building must prevent any take of groundwater after the authorisation has lapsed by making any below-ground

levels that may be impacted by any water table fully watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high water table elevations to prevent potential future inundation.

- 235. Sufficient permanent drainage shall be provided beneath and around the outside of the watertight structure to ensure that natural groundwater flow is not impeded and: a. any groundwater mounding at the edge of the structure shall be at a level not greater than 10 % above the level to which the water table might naturally rise in the location immediately prior to the construction of the structure; and b. any elevated water table is more than 1.0 m below the natural ground surface existent at the location immediately prior to the construction of the structure; and c. where the habitable part of the structure (not being footings or foundations) is founded in bedrock or impermeable natural soil then the requirement to maintain groundwater flows beneath the structure is not applicable.
- 236. Construction methods and material used in and for construction shall be designed to account for the likely range of salinity and pollutants which may be dissolved in groundwater, and shall not themselves cause pollution of the groundwater.
- 237. The Applicant is bound by the above terms and any other terms and conditions of the subsequent authorisation(s) required for the extraction of groundwater and the associated works under the relevant water legislation.
- 238. Measurement and monitoring arrangements to the satisfaction of WaterNSW are to be implemented. Weekly records of the volumes of all groundwater pumped and the quality of any water discharged are to be kept and a completion report provided after dewatering has ceased. Records of groundwater levels are to be kept and a summary showing daily or weekly levels in all monitoring bores provided in the completion report.
- 239. Following cessation of the dewatering operations and prior to the surrender of any associated authorisation, the applicant shall submit to WaterNSW the completion report which shall include: a. detail of the volume of water taken, the precise periods and location of water taken, the details of water level monitoring in all of the relevant bores; and b. The location and construction of groundwater extraction works that are decommissioned c. a water table map depicting the aquifer's settled groundwater condition and a comparison to the baseline conditions; and d. a detailed interpreted hydrogeological report identifying all actual resource and third party impacts, including an assessment of altered groundwater flows and an assessment of any subsidence or excessive settlement induced in nearby buildings and property and infrastructure.

Roads Act

240. 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.

- 241. The following works will be required to be undertaken in the road reserve at the applicant's expense:
 - (i) construction of a footpath along the frontage of the development site;
 - (ii) construction of a new fully constructed concrete vehicular entrance/s;
 (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) removal of redundant paving and construction of paving between the boundary and the kerb;
 - (vi) utility relocation;
 - (vii) construction of kerb and gutter;
 - (viii) other works as required by various conditions of this development consent.
- 242. 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.
- 243. 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.
- 244. The design and construction of the gutter crossings shall be in accordance with RMS/TfNSW requirements. Detailed design plans of the proposed gutter crossings to Bay Street are to be submitted to the RMS/TfNSW for approval prior to the commencement of any roadworks. It should be noted that a plan checking fee (amount to be advised) and lodgement of a performance bond may be required from the applicant prior to the release of the approved road design plans by the RMS/TfNSW.
- 245. All works associated with the proposed development shall be at no cost to the RMS/TfNSW.

Development consent advice

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

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

- c. 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.
- d. The water from any rainwater tank should not be used for drinking, Sydney Water shall be advised of the installation of the rainwater tank.
- e. The GTA issued by WaterNSW do not constitute an approval under the Water Management Act 2000. The development consent holder must apply to WaterNSW for the relevant approval after development consent has been issued by Council and before the commencement of any work or activity.
- f. Given the proximity to Sydney Airport, any development on this site may require approval under the Airports (Protection of Airspace) Regulations 1996, including assessment by the Civil Aviation Safety Authority and Airservices Australia. Sydney Airport would be able to confirm the specific details of the relevant airspace above the site.