

Application Details

Application Number:	DA-2016/241/C
Date of Receipt:	15 November 2019
Property:	Lot 1 DP 522410, Lot 2 DP 522410, Lot 1 DP 79509, Lot 19 DP 59816, Lot 1 DP 84102, Lot 1 DP 551369, Lot 2 DP 551369, Lot 1 DP 309448, Lot 2 DP 309448, Lot 1 DP 450104, Lot 2 DP 450104, Lot 61 DP 703624, Lot 3 DP 13570, Lot 4 DP 13570, Lot 5 DP 13570, Lot D DP 420619 and Lot 2 DP 1027204; known as 15-21A Bay Street, 1-11 Chapel street, 1-3 Chapel Lane and 6-12 Lister Avenue, Rockdale
Owner:	Combined Projects (Rockdale) Pty Ltd, Combined Projects (Rockdale) P Rockdale Council
Applicant:	Deicorp Pty Ltd
Proposal:	Pursuant to Section 4.56 of the <i>Environmental Planning and Assessment Act 1979</i> , for integrated development - Modification to approved development (Building A & B), being redesign of floor plan, modifications of façades, landscaping, increase number of apartments by 17, change of dwelling mix, 24 additional car spaces, increase overall height.
Recommendation:	Approval, subject to amendment of conditions
No. of submissions:	Six (6) submissions, raising issues related to the increase in number of apartments and associated traffic, increase in building height, construction noise and cumulative impact of increasing development
Author:	Joe Vescio, <i>JVUrban Pty Ltd</i>
Date of Report:	21 May 2020

Key Amendments

- The proposal relates to a Development consent granted by the Land and Environment Court via a s34 Agreement (*Combined Projects (Rockdale) Pty Ltd v Bayside Council [2017] NSWLEC 1330*). The approved development has been modified twice prior to this application.
- The s4.56 modification is on balance considered substantially the same development;
- The proposed modifications only relate to Building A and Building B. Building C is currently under construction, with work on the internal fitout been undertaken.
- External modifications are generally limited to approved building footprint/envelope, façade works and materials ie maintaining design principle of two distinct components – lower and upper façade, utilising a range of materials to break up massing of façade.

- Building footprints - reduced and increased in some areas with greater activation along public domain.
- Number of public entry points to the building reduced from 3 to 1.
- Internal layout modifications - increase of 17 apartments (from 249 to 266) – total 382 apartments for three buildings.
- Change of dwelling mix– additional 5 x 1-bedroom units; additional 23 x 2-bedroom units and a reduction of 11 x 2 bed + study units and 3-bedroom units.
- Increase number of parking spaces by 24 spaces.
- Increased number of apartments receiving solar access.
- Increase in building height, over the maximum height limit under the LEP (proposed max 40.84m and 1.7m higher than approved 39.14m) due to a part additional level
- Increased communal open space at the ground level of Building B – to be available for groups of residents for a variety of family or group uses.

The review of this application by the Design Review Panel, the Local Planning Panel and the assessment town planner identified a number of matters to be addressed by the applicant prior to finalisation of the plans and preparation of reports. These have substantially been addressed via revised plans. Additional information was also submitted regarding the change in dwelling mix.

Key Issues

- Substantially the same development
- Resolution of external building appearance and interrelationship with the public domain
- Change in building height (over the maximum allowable)
- Proposed change in dwelling mix

Recommendation

That:

- A. That amendment of DA-2016/241/C, pursuant to Section 4.56 of the *Environmental Planning and Assessment Act 1979*, for modification to Building A & B to increase the number of apartments by 17, increase the number of parking spaces by 24, changes to the façade of the buildings and associated landscaping, minor modifications to the building footprint/envelope, internal layout changes, changes to external materials, changes to the dwelling mix and associated changes to conditions of consent at 15-21 Bay Street, be APPROVED, as set out in the attached conditions, which in summary are as follows:
- a) Amend Condition No. 2 to reference the amended plans;
 - b) Amend Condition No. 5 to reflect updated BASIX Certificate;
 - c) Amend Condition No. 11 to reflect the changes and increase in parking;
 - d) Amend Condition No. 25 to reflect updated layout.
 - e) Amend Condition No. 32 to adopt wind impact assessment;
 - f) Amend Condition No. 48 to reflect concurrence from Sydney Airport.
 - g) Amend Condition No. 51(a) to reword relating to the booster (not in cupboard for Buildings A & B)
 - h) Amend Condition No. 58 to reflect current developer contributions payable.
 - i) Amend Condition No. 110 to reflect updated number of parking spaces.
 - j) Add new condition requiring 10% of total units to be 2-bedroom + study or larger.
 - k) Add new condition requiring 20% of units in Building A & B to be liveable.
- B. Those who have made a submission be advised of the decision of the Panel.

Background

History

On 23 December 2015, DA-2016/241 was lodged with Council, seeking development consent for a mixed-use development containing three buildings on the subject site. The site is one of a limited number of sites marked within the Design Excellence map contained within RLEP 2011. The proposal was initially subject to a Design Excellence Competition, in accordance with the requirements of clause 6.14 of RLEP 2011.

The application was initially refused by Council. A Class 1 Appeal to the NSW L&W Court was subsequently approved (Case No. 361926 of 2016) on 27 June 2017. The approved plans were revised from that originally submitted to Council.

DA-2016/241/A was approved by the Sydney Eastern City Planning Panel on 2 November 2017, to allow for staging of the issue of the Construction Certificates.

DA-2016/241/B was approved on 24/9/2019, modifying carpark layouts in the basement, relocation of public lift and rewording of parking related conditions of consent.

DA-2019/97 was approved on 29/9/2019 for the stratum subdivision of the mixed-use development. This has subsequently been amended by DA-2019/97/A which amended conditions 7, 9, 11(4) and 15 relating to parking and stormwater.

DA-2019/142, lodged on 30 April 2019, seeking approval for alterations, additions and use of the ground floor of Building C as a child care centre for 82 children operating 7:00am to 6:00pm Monday to Friday, including modification of DA-2016/241 to delete the through site link, was withdrawn by the applicant on 15 January 2020.

This s4.56 application does not include any changes to Building C.

Site Description

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

This modification application relates only to Building A and Building B.

The image below, shows the location of Building A, B & C for locational context only.



Figure 3: Extract from the proposed amended ground floor plan of Building A (Rev I)

Description of Development

The proposed modifications to Building A and Building B is described in detail as follows:

Building A & B Unit mix and sizes amended:

- Change of apartment Mixes/Sizes/Numbers & Layouts
- Total Units number increased from 249 to 266 (total increase – 17 units)

Refer to Page 4 & 5 of Turner Schedule of Amendments Summary.

Building A Approved DA 172 Unit Size Mix				Building A Proposed- Rev C 187 Unit Size Mix			
1B	51-70 m ²	27%	46	1B	50-51	30%	56
1B+	58-70 m ²	16%	28	1B+	55-60	15%	28
2B	73-87 m ²	45%	77	2B	76- 81m ²	48%	89
2B+	95 m ²	0.5%	1	2B+	-	-	-
3B	93-118	11.5%	20	3B	102- 110m ²	7%	14
Building B Approved DA 77 Unit Size Mix				Building B Proposed 79 Unit Size Mix			
1B	53-63 m ²	47%	36	1B	51-54m ²	42%	33
1B+	69-76 m ²	5%	4	1B+	58-61m ²	3%	2

2B 76-83 m ² 36% 28	2B 76- 82m ² 49% 39
2B+ 85 m ² 9% 7	2B+ - - -
3B 98 m ² 3% 2	3B 101-108m ² 6% 5
Total DA Approved Approved DA 249 Unit Size Mix 1B 53-63 m ² 33% 82 1B+ 69-76 m ² 13% 32 2B 76-83 m ² 42% 105 2B+ 85 m ² 3% 8 3B 98 m ² 9% 22	Building B Total Proposed 266 Unit Size Mix 1B 51-54m ² 42% 89 1B+ 58-61m ² 3% 30 2B 76- 82m ² 49% 128 2B+ - - - 3B 101-108m ² 6% 19
Building C: 116 1B 27% 31 2B 66% 77 3B 7% 8	Total Change in Dwelling Mix in Building A & B 1 br & 1 br+ = additional 5 2br = additional 23 2br+ & 3br = reduction 11
Building A and B Basement 2 • 5 extent & layout <p>Basement efficiency has been increased to allow for the increased parking requirements to be provided without increasing the overall basement footprint by minimising the amount of redundant circulation space and maximising the amount of usable space within the basement.</p> <p>The basement building services are consolidated and separated from the more active ground level uses. They are designed to operate independently of the residents and car parking zones.</p> <p>Waste is stored in the basement and collected directly off the private access off Lister Avenue. Other plant and services rooms are grouped in a common area, minimising conflict between the back of house services and residents/visitors.</p> <p>Along Lister Avenue, the carpark entry has been simplified to reduce the amount of non-active frontage and to allow for increased landscaping to the street. Two car wash bays are proposed for the overall development.</p> <p>Given Buildings A and B share a common basement, it is proposed that 1 wash bay will be shared between the two buildings, which is sufficient to accommodate the needs of the building's residents.</p>	
Approved DA Total - 330 Residential - 271 Visitors - 51 Retail - 6 Service - 1 Car wash bay - 1	Proposed Total – 356 + 26 spaces Residential – 285 + 14 spaces Visitors – 57 + 6 spaces Retail – 12 + 6 spaces Service – 1 No change Car wash bay – 1 No change
Parking layouts, ramp location and service rooms in basements have been amended to increase efficiency and to reduce footprint where possible. The basement has been reduced below the proposed shared zone at the corner of building B to maintain temporary road access to surrounding sites.	

Refer to Page 6 of Turner Schedule of Amendments Summary.	
Approved DA	Proposed
81 - RL -1.20	81 - RL 2.45
82 - RL 1.80	82 - RL 0.55
83 - RL 4.8	83 - RL 3.55
84 - RL 7.8	84 - RL 6.55
85 - RL 10.8	85 - RL 9.55
Entry ramp extended as part of detailed design to comply with Australian standards & accommodate 10.24m service vehicle requirements. Refer to Page 6 of Turner Schedule of Amendments Summary.	
OSD tank location has been incorporated as part of the basement 1 footprint as part of detailed design.	
Building A and B Street Level Interface Amended The street level interface has been re-designed to: <ul style="list-style-type: none"> • Provide clear entry points for residents. • Increase active frontages. • Increase access to ground level units for passive surveillance and active frontage • Increase opportunities for landscaping to increase the street level amenity. Refer to Page 7 of Turner Schedule of Amendments Summary.	
Lobby and Entry location have been amended. Lobbies are connected on ground floor and entrances have been reduced. Level 1: Building A - Chapel Avenue lobby double heights Refer to Page 7 of Turner Schedule of Amendments Summary.	
Approved DA	Proposed
RL 14.60	RL 15.00
Building B: Communal space provided for greater resident amenity and activation of the street interface at Chapel Street and Chapel Lane. Refer to Page 8 of Turner Schedule of Amendments Summary.	
Retail area increased for greater activation of the street interface. Refer to Page 9 of Turner Schedule of Amendments Summary.	
Street entries provided for ground level units for greater resident amenity and activation of the street interface Refer to Page 9 of Turner Schedule of Amendments Summary.	
Car park entry point relocated to work with new OSD tank location and to provide clear entry point from Lister Avenue. Refer to Page 9 of Turner Schedule of Amendments Summary.	
Setbacks and building separation	
Building A: increased setback to the corner of Chapel Lane & Lister Avenue varies from 5.5m to 12m (from south to north). Previously 12m to Chapel Lane, 2m from Lister Ave podium levels and 5m from Lister Ave upper levels. Refer to Page 10 & 11 of Turner Schedule of Amendments Summary.	
Building B setback along Chapel Lane increased varies from 2.5m to 8.0m (from west to east). Previously 2.5 to 7.4m setbacks along upper levels; 2.5m along podium level.	

Refer to Page 11 of Turner Schedule of Amendments Summary.	
Building separation between building A and B increased from 14.075m to 14.6 to 20.65m. Refer to Page 11 of Turner Schedule of Amendments Summary.	
Building A Building extent amended Building extents amended to increase building separation, with the overall area maintained. <ul style="list-style-type: none"> • Setbacks to Building A on level 4 have been increased by 1-2m along Chapel Lane to provide a clearer definition between the podium and upper levels. • Setbacks to Building B on level 3 have been increased by 1-2m along Chapel Street to provide a clearer definition between the podium and upper levels. Refer to Page 12 of Turner Schedule of Amendments Summary.	
Building height increased Refer to explanation on Page 12 of Turner Schedule of Amendments Summary.	
Approved DA RL 52.70 (39.14m) RL 13.56 (street level) Max height: 39.14m	Proposed RL 54.40 (Lift over- run) (40.84m) RL 13.56 (street level) Max height: 41.84m
RL 52.50 (36.52m) RL 13.56 (street level) Max height: 36.52m	RL 54.75 (Lift over- run) (38.77m) RL 15.98 (street level) Max height: 39.07m
Core and corridor changed	
Three (3) lifts deleted overall, to reflect the number of units served and to provide more direct access to the rooftop communal areas. Complies with ADG guidelines.	
Stairs have been amended to reflect the change in layout and compliance with the NCC.	
Increased GFA to site A and B	
Approved DA 14,082 sqm	Proposed 15,887 sqm
Total - 6,992 sqm Residential - 6,768 sqm Retail - 224 sqm	Total - 7,280 sqm Residential - 6,827 sqm + 59sqm Retail - 454 sqm + 230sqm
Communal open space	
Note overall provision of communal space for A, B & C was 23.2% 1,803m ²	1,227 m ² (25% of site area)
Building A and B communal open space area amended to provide for increased amenity and provide 2 areas. Lobby reduced to 1. Level 3 garden removed. Refer to Page 14 of Turner Schedule of Amendments Summary.	
Building B communal open space area amended to provide for increased amenity and to reduce services on the rooftop. Service Rooms have been relocated to basements. Two lobbies combined into one (1). Refer to Page 15 of Turner Schedule of Amendments Summary.	

Rearrange Landscape	
Approved DA Deep soil area: 343m ² 7% of site area	Section 4.56 Proposed deep soil area: 402 m ² 8.4% of site area
Building A and B GFA, Solar Access, Cross ventilation Natural ventilation and solar access for both buildings has been increased to provide greater amenity for residents. Refer to Page 15 of Turner Schedule of Amendments Summary.	
Approved DA Solar Access 44.2% Natural Ventilation 60.5%	Proposed Solar Access 49% Natural Ventilation 61%
Solar Access 55.8% Natural Ventilation 63.4%	Solar Access 77% Natural Ventilation 67%
Building A and B Adaptable Apartments	
Changes in Pre and Post adaptation apartments (types/lay and numbers) due to the change in mix and numbers. The DCP requirement for 10% adaptable units has been maintained with 27 adaptable units and associated car spaces provided.	
Liveable apartments have been provided (in addition to adaptable units) to meet the 20% ADG requirements. Total of 28 units with 10 unit types.	
Changes to material selection to the currently approved sandstone:	
Building A <ul style="list-style-type: none"> Podium material changed from sandstone to brick and off-form concrete along Chapel Lane Render and paint on upper level changed to FC and off-form concrete (Lister Ave. & Chapel St.) Render and paint on upper level changed to brick and off-form concrete (Chapel lane) Refer to Page 2/3 of Schedule of Amendments Summary.	
Building B <ul style="list-style-type: none"> Podium material changed from sandstone to brick and off-form concrete along Chapel Lane to respond to council comments Render and paint on upper level changed to FC and off-form concrete (Lister Ave. & Chapel St.) Render and paint on upper level changed to Brick and off-form concrete (Chapel lane) Refer to Page 3 of Schedule of Amendments Summary.	

As a result of a review of the revised plans by the Design Review Panel on 22 April 2020 and a further briefing of the consultant assessment planner, the applicant made further amendments to the plans as follows:

- Amended western elevation of Building A – increase side boundary setback to 08 apartment stack, additional privacy screens + reduce balcony size (L11)
- Reduce number of balconies looking across western boundary (3 down to 1).

- Amended landscape plans – street trees, deep soil planting along south western alignment of Building A, detailed planting schedule, clarification of laneway status (RoW at end of Chapel Lane),
- Additional glazing on western elevation of Lobby A (increase passive surveillance of laneway)
- Amended entry driveway of Building A to originally approved alignment with landscaping of corner area.

Changes to conditions

In order to facilitate the proposed changes, this modification application seeks the following changes to conditions of consent. The detail of how each condition is proposed to be reworded is outlined in the recommendation section of this report.

Components that are to be deleted are shown in ~~striketrough~~, and proposed new components of conditions are shown in **bold**.

Initial summary comments on proposed changes:

Condition 2: modified to reflect the revised Architectural Plan set and associated information submitted as part of the s4.56 application. Note that the revised Architectural Plans are Revision H.

Condition 5: refers to the updated BASIX Certificate for the development.

Condition 11: refers to the revised parking spaces provided for the development and the revised breakdown of residential, visitor, commercial, bicycle and motorcycle spaces for Building A and Building B.

Condition 25 is proposed to be deleted as it is redundant. The required balcony screens have added to Revision I of the architectural plan set.

Condition 32: A wind impact Assessment Report has been submitted with the s4.56 application. The wording of the condition is modified to ensure that the recommendations of the report are complied with.

Condition 48: Concurrence airports – the amendment, with increased building height was referred to the Department for concurrence.

Condition 51(a): There are no booster cupboards in Building A or Building C. therefore, this condition remains but only applies to Building C.

Condition 58: This condition is to be replaced with revised s7.11 contribution figures that currently payable based on Building A and Building B only.

Condition 110 is modified to reflect the changes to the layout of the carpark and total numbers.

Other recommended changes to conditions:

Add the following condition regarding dwelling mix of Building A and Building B:

<Condition No.> Prior to the issue of the Construction Certificate, in accordance with the objectives of 4K of the ADG and Part 4 and Part 7 of the Rockdale DCP, the architectural plans for Building A and Building B are to be amended to provide a dwelling mix that includes 10% (minimum) of the total units in Buildings A, B & C as either 2-bedroom plus study, 3-bedroom or larger apartments. The plans are to be amended so as not to result in any changes to fenestration to habitable rooms where such elevation is adjacent to any existing residential premises unless written approval is provided by Council beforehand.

Add the following condition to address liveable units:

<Condition No.> Prior to the issue of the Construction Certificate, as required by 4Q Universal design of the ADG, the architectural plans shall demonstrate that a minimum of 20% of the total units in Building A and Building B incorporate the Liveable Housing Guidelines silver level universal design features,

Statutory Considerations

Section 4.56 Modification Considerations

Section 4.56 of the *Environmental Planning and Assessment Act, 1979* states that a consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the Court and subject to and in accordance with the regulations, modify the development consent if:

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

The application seeks approval for incremental changes to the development that do not substantially change the approved landuse from that originally granted consent. That is, the development remains a mixed-use development with the same components, is located on the same development site, with the same number of storeys and general built form and presentation.

Building C of the original development is currently under construction (fitout phase). This application seeks modifications to the Building A and Building B only.

The modifications involve changes to the building envelopes (ie street and boundary setbacks) and to the internal layout of Building A and Building B. The resultant floor layout efficiencies and change of dwelling mix across the two buildings increases the total number of apartments from 249 to 266 – an increase of 17 apartments. Additional onsite parking is provided for the additional GFA and number of apartments. Modifications are also proposed to the external materials and street presentation of Building A, landscaping around the buildings and provision of communal open space at ground level for Building B.

The proposed modifications are to be facilitated via amendment of a number of conditions of consent to DA-2016/241, as amended in DA-2016/241/B and DA-2016/241/C. These are outlined above.

In terms of determining if the development is substantially the same, case law from the NSW L&E Court provides the legal guidance for consideration of the proposed amendment.

The word to *modify* means ‘to alter without radical transformation’ as confirmed in *Sydney City Council v Ilenace Pty Ltd* (1984) 3 NSWLR 414. In this case, the changes are not deemed to be *radical* as the overall envelope, mix of development and interrelationship of the development sites within their locational context are substantially unaltered. On this basis the Council is well within its power to determine the application under S4.56.

Further, in the case of *Vacik Pty Limited and Penrith Council* (unreported 24 February 1992, *Stein J*), the Court held that substantially means “essentially or materially or having the same essence” and that the substance of determining these matters rests with a comparative analysis between the consent being varied and the modification and this approach is supported by the decision of Bignold J in *Moto Projects (No 2) Pty Ltd and North Sydney Council* (NSWLEC 280, Appeal 10741A of 1997, 17/12/99).

When considering material impact, the proposed modifications are on balance not of such significance to warrant a new application. By way of assistance, the Macquarie Concise Dictionary defines material to mean, amongst other things: *of such significance to be likely to influence the determination of a cause*. Other common meanings of material in relation to impacts would include *real, not incidental or slight*.

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

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

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

The s4.56 application was notified to 655 properties in accordance with the provisions of the RDCP 2011 and the *EP&A Act 1979*. In response, six (6) submissions were received. The matters raised are summarised in the following table:

Submission from:	Issues	Comments
J Kirby & YY Wu 14/53 - 55 Bay St	Increase height of building, increase number of units and associated increase in traffic. Traffic report not based on current traffic flows.	1. The additional building height is 1.7m only. As an amendment to the approved development this does not cast additional shadow to that previously approved.
S O'Connor 52 English Street	Commentary submission, no explicit objection.	2. Increase in units and associated traffic impacts. The additional units generate the need for additional parking onsite. These have been provided and the numerical increase does not significantly increase the traffic generated by the development.
Kelly 2A Lister Ave	Constant construction noise already. Increase scale of development	
K Coleman 9 Browns Rd	Increase density of development, increase height and increase profit	
LC	Increase number of units and increase traffic	
P O'Riordan 2A Lister Ave	Increase traffic, increase HOB, tree removal, cumulative impact & add development in the area.	3. Density. There is no FSR control for the development. The additional units increase the population density. The comments relate to the original application. The s96 relates only to changes on timing of the provision of relevant information and amended documentation as part of the Construction Certificate. The original concerns were considered and addressed as part of the deliberation of the original application and many of which resulted in changes to the ultimately approved development. The consent authority is unable to re-visit the

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

The same area of notification was included.

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

Six (6) submissions were received, as listed in (b) above. Each submission has been considered in the assessment of the s4.56 application. The main focus of the submissions related to the additional units, additional traffic, cumulative impact of additional development in the area. The potential impacts of the changes to the development have been addressed throughout this report.

Environmental Planning and Assessment Act, 1979

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

S.4.15(1) - Matters for Consideration – General

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

The following Environmental Planning Instruments are relevant to this application:

Relevant EPI	Compliance with provision
SEPP No. 55 – Contaminated Land	No significant change. Conditions of consent to apply.
SEPP (BASIX)	A revised BASIX Certificate has been lodged with this application. Satisfactory.
SEPP – Vegetation in non-rural areas 2017	Additional landscape details submitted by applicant. Refer comments below.
SEPP No. 65 – Design Quality of Residential Apartment Development	Refer to assessment below.

Relevant EPI	Compliance with provision
Rockdale LEP 2011	Refer to assessment below.

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

SEPP 65 requires Council to consider the design quality of residential flat buildings comprising of three or more storeys and including four or more dwellings. In accordance with SEPP 65, before determining any development application subject to SEPP 65, the consent authority must consider the following:

- (a) the advice (if any) obtained from the design review panel,
- (b) the design quality of the development when evaluated in accordance with the design quality principles, and
- (c) the Apartment Design Guide.

Council referred the s4.56 application to the Design Review Panel (DRP) and the Local Planning Panel (LPP). The DRP comments, applicant's response and assessment planner's comments are below. The applicant addressed the matters raised by the DRP, the assessment planner and the Local Planning Panel within the final plans and reports submitted prior to final assessment of the application.

A number of aspects of the modified design have been commended by the Design Review Panel, including an increase in number of units facing north, improved public domain interface, improved car design and some changes to the external finishes and materials. The DRP was also satisfied that the revised development achieves design excellence, as per Clause 6.14 of the LEP. There was no requirement for a further design competition or similar to satisfy the LEP.

The following updates the ADG assessment of Building A and Building B.

Apartment Design Guide

A summary of the assessment of relevant provisions of the NSW Apartment Design Guide (ADG) - is provided in the table below.

Objectives	Comment
3A Site analysis	
Objective 3A-1 Site analysis illustrates that design decisions have been based on opportunities and	Complies.

constraints of the site conditions and their relationship to the surrounding context.	
3B Orientation	
<p>Objective 3B-1 Building types and layouts respond to the streetscape and site while optimising solar access within the development.</p>	<p>Complies with objectives with improved solar access via more northerly facing units.</p> <p>Bld A: improved 4.8% to 49%.</p> <p>Bld B: improved 21.2% to 77%.</p> <p>14% of apartments receive no-direct sunlight between 9am and 3pm mid-winter across the masterplan.</p> <p>See also comments in 4A below.</p>
<p>Objective 3B-2 Overshadowing of neighbouring properties is minimised during mid-winter.</p> <p>Design guidance</p> <ul style="list-style-type: none"> • Where an adjoining property does not currently receive the required hours of solar access, the proposed building ensures solar access to neighbouring properties is not reduced by more than 20%. • A minimum of 4 hours of solar access should be retained to solar collectors on neighbouring buildings. 	<p>Refer to shadow diagrams.</p> <p>Modified Building A reduces shadow impacts to some areas that previously were impacted.</p> <p>Satisfactory.</p>
3C Public Domain Interface	
<p>Objective 3C-1 Transition between private and public domain is achieved without compromising safety and security.</p>	<p>The number of lobbies for Building A and B has been reduced from 3 to 1, making entry clearer and legible. This will also increase safety and security with reduced public lobby areas.</p>
<p>Objective 3C-2 Amenity of the public domain is retained and enhanced.</p>	<p>Satisfactory.</p>
3D Communal and public open space	
<p>Objective 3D-1 An adequate area of communal open space is provided to enhance residential amenity and to provide opportunities for landscaping</p> <p>Design Criteria</p>	<p>Additional communal open space is provided in Building B at ground floor level for use by residents. This increases amenity and activation of the street frontage.</p>

<ul style="list-style-type: none"> • Communal open space has a minimum area equal to 25% of the site. • Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9am and 3pm on 21 June (mid-winter). • The communal open space should have a minimum dimension of 3m. 	The COS, as amended, is 25% of the site area.
<p>Objective 3D-2</p> <p>Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting.</p>	Satisfactory, particularly the ground floor level COS in Building B. There is also improved lift access to the rooftop COS area.
<p>Objective 3D-3</p> <p>Communal open space is designed to maximise safety.</p>	Satisfactory.
<p>Objective 3D-4</p> <p>Public open space, where provided, is responsive to the existing pattern and uses of the neighbourhood.</p>	Consistent with the strategies set out in the Rockdale Town Centre Masterplan and DCP, as part of the DA approval, a 6m zone was dedicated as for the overall development for the road widening of Chapel Lane.
3E Deep soil zones	
<p>Objective 3E-1</p> <p>Deep soil zones provide areas on the site that allow for and support health plant and tree growth. They improve residential amenity and promote management of water and air quality.</p> <p>Design criteria</p> <p>Deep soil zones are to meet the following minimum requirements:</p> <ul style="list-style-type: none"> • 7% of site area • <650m² - no min dimensions • 650m²-1500m² - 3m min dimensions • >1500m² - 6m min dimensions 	<p>Complies.</p> <p>Proposed for Bld A & B: 8.4% of site area.</p>
3F Visual Privacy	
<p>Objective 3F-1</p> <p>Adequate building separation distances are shared equitable between neighbouring sites, to achieve reasonable levels of external and internal visual privacy.</p>	Additional separation is proposed between adjoining sites and the privacy screens required by Condition 25 have been added

<p>Design Criteria</p> <ul style="list-style-type: none"> Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows: <ul style="list-style-type: none"> 4 storeys: 6m for habitable rooms and balconies; 3m for non- habitable rooms. 	<p>to the revised plans. This condition is now redundant.</p>
<p>Objective 3F-2 Site and building design elements increase privacy without compromising access to light and air, and balance outlook and viewed from habitable rooms and private open space.</p>	<p>Satisfactory.</p>
<p>3G Pedestrian access and entries</p>	
<p>Objective 3G-1 Building entries and pedestrian access connects to and addresses the public domain.</p>	<p>Lobbies are connected at ground floor level and entries reduced from 3 to 1.</p> <p>Satisfactory.</p>
<p>Objective 3G-2 Access, entries and pathways are accessible and easy to identify.</p>	<p>Satisfactory.</p>
<p>Objective 3G-3 Large sites provide pedestrian links for access to streets and connection to destinations.</p>	<p>Satisfactory.</p>
<p>3H Vehicle access</p>	
<p>Objective 3H-1 Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes.</p>	<p>Generally, as previously approved. The amended plans were revised during assessment of the s4.56 application.</p> <p>Satisfactory.</p>
<p>3J Bicycle and car parking</p>	
<p>Integrating car parking within apartment buildings has a significant impact on site planning, landscape and building design. On site parking can be located underground, above ground within a structure or at grade.</p>	<p>Modification to the basement levels with increased parking for additional units.</p> <p>Conditions of consent to be refined to identify breakdown of parking for Building A & B.</p>

	Satisfactory.
Objective 3J-2 Parking and facilities are provided for other modes of transport.	Conditions of consent to be refined to identify parking for Building A & B, including breakdown of number of bicycle racks. Satisfactory.
Objective 3J-3 Car park design and access is safe and secure.	Amendment to the driveway entry to comply with original alignment. Satisfactory.
Objective 3J-4 Visual and environmental impacts of underground car parking are minimised.	Satisfactory.
Objective 3J-5 Visual and environmental impacts of on-grade car parking are minimised.	Satisfactory.
Objective 3J-6 Visual and environmental impacts of above ground enclosed car parking are minimised.	N/A
Part 4 Designing the Building	
4A Solar and daylight access	
<p>Objective 4A-1 To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space.</p> <p>Design criteria</p> <ul style="list-style-type: none"> In all other areas, living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 3 hours direct sunlight between 9am and 3pm at mid-winter. 	<p>The proposed amendments to the building layouts have increased the solar performance of both buildings from the approved DA.</p> <p>Building A increased 5% to 49% from 44% and Building B increased 22% to 77% from 55%.^{*1}</p> <p>Private open space balconies have been integrated into the facade and building design, responding to the context and the desired objectives of the ADG.</p> <p>14% of apartments receive no-direct sunlight between 9am and 3pm mid-winter across the masterplan.</p> <p>The proposal orientates a proportion of the apartments to the south due to the favourable outlook to the central landscaped area and Spurway Drive and given the</p>

¹ * Figures quoted in the ADG table are based on the data and information submitted by the Applicant.

	<p>physical limitations of fitting additional apartments to the northern facade.</p> <p>Integral to the proposal is the provision of communal landscaped roof terraces, which will receive full sunlight between 9am-3pm in mid-winter, offering the residents a high level of amenity. This complements the landscaped communal ground level provided for on improved outlook from above.</p> <p>The location of communal space has been designed to provide choice through the range of different spaces, all with optimised solar access.</p>
Objective 4A-2 Daylight access is maximised where sunlight is limited.	Satisfactory.
Objective 4A-3 Design incorporates shading and glare control, particularly for warmer months.	Measures have been included in modified design and are satisfactory.
4B Natural ventilation	
Objective 4B-1 All habitable rooms are naturally ventilated.	<p>A small improvement in the number of units with natural ventilation is achieved.</p> <p>Building A: increase from 60.5% to 61% Building B: increase from 63.4% to 67%.</p> <p>Satisfactory.</p>
Objective 4B-2 The layout and design of single aspect apartments maximises natural ventilation.	Satisfactory.
<p>Objective 4B-3 The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents.</p> <p>Design criteria</p> <ul style="list-style-type: none"> At least 60% of apartments are naturally cross-ventilated in the first nine storeys of the building. Apartments at ten 	<p>60% of apartments achieve the cross-ventilation guidelines.</p> <p>Natural cross-ventilation is proposed by corner or dual orientation strategy to the living area and bedrooms.</p>

<p>storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.</p> <ul style="list-style-type: none"> • Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line. 	
4C Ceiling heights	
<p>Objective 4C-1 Ceiling height achieves sufficient natural ventilation and daylight access.</p> <p>Design criteria</p> <p>Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</p> <ul style="list-style-type: none"> • Habitable rooms: 2.7m • Non-habitable rooms: 2.4m • 2 storey apartments: 2.7m for main living area floor; 2.4m for second floor where its area does not exceed 50% of the apartment area. 	Complies.
<p>Objective 4C-2 Ceiling height increases the sense of space in apartments and provides for well-proportioned rooms.</p>	Satisfactory.
4D Apartment size and layout	
<p>Objective 4D-1 The layout of rooms within an apartment is functional, well organised and provides a high standard of amenity.</p> <p>Design criteria</p> <ul style="list-style-type: none"> • All apartments are required to have the following minimum internal areas: <ul style="list-style-type: none"> ○ Studio: 35m² ○ 1 bedroom: 50m² ○ 2 bedroom: 70m² ○ 3 bedroom: 90m² 	<p>All apartments meet or exceed the minimum requirements of the ADG.</p> <p>Two bedroom apartments with two bathrooms include an additional 5m² as per the ADG criteria.</p> <p>A range of apartment typologies are provided including apartments with studies, mezzanines. and street accessed apartments, adding to the flexibility and affordability of the development.</p>

<ul style="list-style-type: none"> • 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. <p>Design guidance</p> <ul style="list-style-type: none"> • A window should be visible from any point in a habitable room. 	<p>All habitable rooms include windows so that there is no point where a window is not visible.</p> <p>Satisfactory.</p>
<p>Objective 4D-2 Environmental performance of the apartment is maximised.</p> <p>Design criteria</p> <ul style="list-style-type: none"> • Habitable room depths are limited to a maximum of 2.5 x the ceiling height. • In open plan layouts (where the living, dining + kitchen are combined) the max habitable room depth is 8m from a window. 	<p>Complies.</p>
<p>Objective 4D-3 Apartment layouts are designed to accommodate a variety of household activities and needs</p> <p>Design criteria</p> <ul style="list-style-type: none"> • Master bedrooms have a minimum area of 10m² and other bedrooms 9m² (excluding wardrobe space) • Bedrooms have a minimum dimension of 3m (excluding wardrobe space) • Living rooms or combined living/dining rooms have a minimum width of 4m for 2-br and 3-br apartments <p>The width of cross-over or cross-through apartments is at least 4m internally to avoid deep narrow apartment layouts.</p>	<p>Satisfactory.</p>

4E Private open space and balconies	
<p>Objective 4E-1 Apartments provide appropriately sized private open space and balconies to enhance residential amenity.</p> <p>Design criteria</p> <ul style="list-style-type: none"> • All apartments are required to have primary balconies as follows: <ul style="list-style-type: none"> o Studio: 4m² min o 1 bed: 8m² min + 2m depth o 2 bed: 10m² + 2m depth o 3 bed: 12m² + 2.4m depth <p>The minimum balcony depth to be counted as contributing to the balcony area is 1m.</p>	<p>All apartments meet or exceed the ADG and DCP requirements for balcony and terrace areas.</p> <p>All balconies meet or exceed the ADG recommended widths of 2m for 1 & 2 br apartments and 2.4m for 2 br apartments.</p> <p>Balconies have been integrated into the facade and building design, responding to the context and the desired objectives of the ADG.</p> <p>Balcony forms and the provision of screening elements enhance the facade articulation.</p>
<p>Objective 4E-2 Primary private open space and balconies are appropriately located to enhance liveability for residents.</p>	Satisfactory.
<p>Objective 4E-3 Private open space and balcony design is integrated into and contributes to the overall architectural form and detail of the building</p>	Satisfactory.
<p>Objective 4E-4 Private open space and balcony design maximises safety.</p>	Satisfactory.
4F Common circulation and spaces	
<p>Objective 4F-1 Common circulation spaces achieve good amenity and properly service the number of apartments.</p> <p>Design criteria</p> <ul style="list-style-type: none"> • The maximum number of apartments off a circulation core on a single level is eight • For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40. • Where design criteria 1 is not achieved, no more than 12 apartments should be 	<p>Each circulation core services 8 or less apartments per level.</p> <p>Each circulation core has access to natural light, increasing the amenity of the residents.</p> <p>All lobbies achieve a high level of amenity as they are connected to the facade to facilitate access to daylight and natural ventilation.</p> <p>Satisfactory.</p>

provided off a circulation core on a single level.	
Objective 4F-2 Common circulation spaces promote safety and provide for social interaction between residents.	Satisfactory.
4G Storage	
Objective 4G-1 Adequate, well-designed storage is provided in each apartment. Design criteria • In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided: o Studio: 4m ³ o 1 bed: 6m ³ o 2 bed: 8m ³ o 3 bed: 10m ³ At least 50% of the required storage is to be located within the apartment.	Satisfactory.
Objective 4G-2 Additional storage is conveniently located, accessible and nominated for individual apartments.	Satisfactory.
4H Acoustic privacy	
Objective 4H-1 Noise transfer is minimised through the siting of buildings and building layout.	Building separation revised and increased. Satisfactory.
Objective 4H-2 Noise impacts are mitigated within apartments through layout and acoustic treatments.	Noisy areas within the proposed development including building entries and corridors are generally located above each other and quieter areas above quieter areas. Typically, bedrooms of adjacent apartments have been located next to each other and likewise with living area. Storage, circulation areas and non-habitable rooms are located to buffer noise from external sources.

	<p>The party walls (walls shared with other apartments) will be appropriately insulated in accordance with NCC requirements.</p> <p>Satisfactory.</p>
4J Noise and pollution	
<p>Objective 4J-1</p> <p>In noisy or hostile environments, the impacts of external noise and pollution are minimised through the careful siting and layout of buildings.</p>	<p>Conditions of consent applied and remain valid.</p>
<p>Objective 4J-2</p> <p>Appropriate noise shielding or attenuation techniques for the building design, construction and choice of materials are used to mitigate noise transmission.</p>	<p>Conditions of consent applied and remain valid.</p>
4K Apartment mix	
<p>Objective 4K-1</p> <p>A range of apartment types and sizes is provided to cater for different household types now and into the future.</p> <p>Design guidance</p> <p>A variety of apartment types is provided The apartment mix is appropriate, taking into consideration:</p> <ul style="list-style-type: none"> • the distance to public transport, employment and education centres • the current market demands and projected future demographic trends • the demand for social and affordable housing • different cultural and socioeconomic groups <p>Flexible apartment configurations are provided to support diverse household types and stages of life including single person households, families, multi-generational families and group households.</p>	<p>The change to the dwelling mix in Building A and Building B is summarised as:</p> <p style="text-align: center;">1 br & 1 br+ = add 5 2br = add 23 2br+ & 3br = less 11</p> <p>The ADG does not specify specific percentages for dwelling mix within development. However, the Rockdale DCP does contain provisions for dwelling mix and Rockdale Town Centre provisions for housing choice and diversity.</p> <p>The applicant submitted additional letters from CBRE and Deicorp (in May 2020) reporting low current demand for the larger units in Building C, based on current market prices and comparison to low density dwelling demand for similar size households. The applicant purports that the price for a 3 bedroom apartment cannot compete with similar floor space in a lower density residential typology eg house or multi-dwelling housing.</p>

	Refer to discussion in S.4.15(1)(b) - Likely Impacts of Development below.
Objective 4K-2 The apartment mix is distributed to suitable locations within the building.	Larger apartment types have been located on the top levels where there is opportunity for more open space as well as on the corners of the building and at street level, where more building frontage is available.
4L Ground floor apartments	
Objective 4L-1 Street frontage activity is maximised where ground floor apartments are located.	Street entries for ground floor units have been added, thereby activating the street interface. Pedestrian access has been focused on one entry point, not 3, thereby requiring pedestrians to walk along the street to a more central point to access the building.
Objective 4L-2 Design of ground floor apartments delivers amenity and safety for residents.	As above. Improved access and passive surveillance of the street via direct street entry to ground floor units. Satisfactory.
4M Façade	
Objective 4M-1 Building facades provide visual interest along the street while respecting the character of the local area.	Building facades have been modified as detailed in the at the beginning of this report. A range of materials are used to break up the massing of the façade. The use of materials and the proposed façade modifications assist to divide the built form into two distinct components, a lower and upper component of the building.
Objective 4M-2 Building functions are expressed by the façade.	This has been improved with better ground floor entries to ground floor units, reduction in number of entry points, introduction of communal space on ground floor level and glazing of corner façade to open up views from inside to outside on the street.
4N Roof design	
Objective 4N-1 Roof treatments are integrated into the building design and positively respond to the street.	Roof treatments have been integrated with the building design and materials to compliment the architectural aesthetic. Service elements have been integrated within the roof design. The proposed landscape will utilise predominantly native, sun-loving plants that

	tolerate low water to reduce water use and maintenance requirements.
Objective 4N-2 Opportunities to use the roof space for residential accommodation and open space are maximised.	Improvements in ease of access to the rooftop communal areas and better landscaping of the areas.
Objective 4N-3 Roof design incorporates sustainability features.	N/A
4O Landscape design	
Objective 4O-1 Landscape design is viable and sustainable.	A revised landscape plan has been submitted to address matters raised regarding street trees and deep soil planting. Satisfactory.
Objective 4O-2 Landscape design contributes to the streetscape and amenity.	Revised landscape plans improved landscape outcome for the development. The proposal involves a significant improvement to the public domain with substantial street trees proposed along Spurway Drive, consistent with Bayside Council's requirements for street trees.
4P Planting on structures	
Objective 4P-1 Appropriate soil profiles are provided.	Satisfactory.
Objective 4P-2 Plant growth is optimised with appropriate selection and maintenance.	Subject to conditions.
Objective 4P-3 Planting on structures contributes to the quality and amenity of communal and public open spaces.	Amended landscape plans have been submitted which will improve the overall performance of landscaping of the development, including common open space areas and the public domain.
4Q Universal design	
Objective 4Q-1 Universal design features are included in apartment design to promote flexible housing for all community members. Developments achieve a benchmark of 20% of the total apartments incorporating the Livable Housing Guidelines' silver level universal design features.	Buildings A & B = 266 apartments. 27 adaptable units have been provided which is 10%. Required: 20% or 53.2 Provided: 28 livable apartments.* ² This does not comply.

² This number is provided by the applicant in the SEE submitted with the application.

	Condition of consent to apply requiring 20% of the total number of units in Building A & B to be livable. This is to be demonstrated as part of the construction certificate documentation and approved by the PCA.
Objective 4Q-2 A variety of apartments with adaptable designs are provided.	Satisfactory, subject to demonstrating how the benchmark for livable units will be achieved.
Objective 4Q-3 Apartment layouts are flexible and accommodate a range of lifestyle needs.	
4T Awnings and signage	
Objective 4T-1 Awnings are well located and complement and integrate with the building design.	Satisfactory.
Objective 4T-2 Signage responds to the context and desired streetscape character.	Subject to separate DA.
4U Energy efficiency	
Objective 4U-1 Development incorporates passive environmental design.	Satisfactory.
Objective 4U-2 Development incorporates passive solar design to optimise heat storage in winter and reduce heat transfer in summer.	The proposed development incorporates passive solar design measures including overhangs and shading devices. insulated walls, roofs and floors, and seals on window and external door openings. Satisfactory.
Objective 4U-3 Adequate natural ventilation minimises the need for mechanical ventilation.	Satisfactory. Refer to 4B above. A small improvement is achieved by the amended units and internal layout changes.
4V Water management and conservation	
Objective 4V-1 Potable water use is minimised.	Satisfactory.
Objective 4V-2 Urban stormwater is treated on site before being discharged to receiving waters.	As per previous approvals & subject to Stormwater Management Plan and conditions of consent.
Objective 4V-3 Flood management systems are integrated into site design.	As per previous approvals & subject to conditions of consent.
4W Waste management	

Objective 4W-1 Waste storage facilities are design to minimise impacts on the streetscape, building entry and amenity of residents.	As per WMP. Satisfactory.
Objective 4W-3 Domestic waste is minimised by providing safe and convenient source separation and recycling.	Satisfactory.
4X Building maintenance	
Objective 4X-1 Building design detail provides protection from weathering.	Subject to conditions of consent.
Objective 4X-2 Systems and access enable ease of maintenance.	Subject to conditions of consent.
Objective 4X-3 Material selection reduces ongoing maintenance costs.	Subject to conditions of consent.

Rockdale Local Environmental Plan 2011

A summary of the assessment of relevant provisions of the RLEP 2011 is provided in the table below. Discussion on relevant parts follow the table.

Relevant clauses	Compliance with standard/provision
2.3 Zone B4 Mixed Use	Yes
4.3 Height of buildings	Previous cl4.6 variation granted. Modification increases height above 40m height limit. Cl 4.6 variation not required with modification application. Merit assessment. No significant impact in this case as no additional shadow impacts as a result of the additional height.
4.4 Floor space ratio - Residential zones	N/A – site not affected.
5.1 Relevant Acquisition Authority	N/A – no change to land acquisition.
5.10 Heritage conservation	Previously assessed as satisfactory. No significant change that impacts on any heritage item in proximity to the subject site.
6.1 Acid Sulfate Soil - Class 5	Yes

Relevant clauses	Compliance with standard/provision
6.2 Earthworks	Yes
6.3 Development in areas subject to aircraft noise	N/A – no change of use proposed
6.4 Airspace Operations	N/A – no change to building form, however overall height has increase. Amended application was referred to Department of Infrastructure and Regional Development.
6.7 Stormwater	Yes – no change
6.12 Essential Services	Yes – no change
6.14 Design Excellence	Yes – see discussion

Clause 6.14 Design Excellence

This clause applies to development that relies upon the height bonus within 4.3(2A)(a) and which relates to the erection of a building on marked within the Design Excellence Map.

The original development was the outcome of a design competition for the three sites. Legal Advice was provided by the applicant stating that the LEP clause does not apply in this case.

The Design Review Panel noted that a number of the proposed modifications were considered to be an improvement to elements of the two buildings. These included increased building separation between Buildings A & B, increased setbacks and alignment of Building B, improvements to the interface of the retail and the public domain, increased setbacks and clear interface between podium uses and street, improvements in amenity – maximising the number of north facing apartments and possibilities for natural ventilation, provision of communal landscaped roof terraces with good solar access.

Where the DRP raised issue with aspects of the modifications the applicant has provided additional information either modifying the development further or providing justification for the revised design and layout, as submitted. In both cases, the submission is accepted, subject to conditions of consent.

DRP Comment	Applicant Response	Comment
1. In overall terms, the panel considers that changes which have been made to the approved DA are an improvement on the originally approved scheme. The panel also commends the consideration given to the public spaces (at street level) and the increased	Noted	Agreed.

distances between buildings A & B.		
2. The interface with surrounding properties (especially to the west of Site A and the south of Site B) is left ambiguous. The panel believes that the interface with these adjacent properties could be improved.	<p>The western elevation of Building A by increasing the side boundary setback in the vicinity of the 08-apartment stack and introducing additional privacy screens to orientate the balconies of the 08 and 09 apartments on levels 1 to 10 towards the north. On level 11 the 08-apartment balcony has been reduced in size to maximise the separation from the western boundary.</p> <p>The proposed modifications reduce the currently approved number of balconies per floor in Building A looking directly across the western side boundary from 3 to 1. It should be noted that the side boundary setback of the balcony to the 09 apartments exceeds the 12m standard prescribed by the ADG while windows to habitable rooms on this elevation otherwise comprise secondary bedroom windows.</p>	Agreed.
3. In addition, there are mature street trees on Chapel Street and Lister Avenue. These provide a positive green amenity to the area and help to define its neighbourhood character. Recognition of this character and amenity appears to be missing from the documentation.	The amended landscape plans clearly identify the existing street trees which are proposed to be retained and incorporated in the landscape scheme for the development.	Agreed.
4. The panel notes and commends the positive changes to setback and alignment of building on Site B. These will result in improvements to public domain of public open space of Chapel Lane.	Note	Agreed.
5. Building footprints are reduced in some areas but increased in	Note	Agreed.

others. The panel notes that the revised development has pulled back from the approved DA line along Lister Avenue for building to Site A as well as to west of Site B.		
6. The panel welcomes the reductions but is concerned about some of the areas where the building now projects beyond the line of the approved DA, especially to the west of building on A. The panel would encourage the architects to pull the development back in from the approved DA line along this rear boundary.	Refer comments in 2. above and 10 below.	Agreed.
7. The panel is also concerned about the relationship of the solid wall between the lobby and (the dog-leg in) Chapel Lane. It would be desirable if this could be modified with window(s) to provide better visual connection I passive surveillance of Chapel Lane.	The amended architectural plans include additional glazing on the western elevation of Lobby A providing passive surveillance of Chapel Lane and improved amenity within the lobby.	Improved solution.
8. The redesign of carpark and reduction in footprint is commended.	Note	Agreed.
9. The panel recommend that these reduced areas prioritize deep soil and landscape provision.....	While landscape planting has been maximised throughout the site, the reduced basement footprint at the northern end of Building B is required to provide vehicle access to the car parking spaces of the adjoining properties to the north preventing additional planting in this area.	Agreed.
10.and would be keen to see if the basement can also be reduced along the south- west alignment of Site A (within approved alignment). The revised development projects beyond the approved DA in this location, effectively reducing the possibility for deep soil landscape along this boundary.	Additional sections have been provided in the landscape and architectural drawings demonstrating how deep soil planting (over structure) is achieved along the south western alignment of site A. The soil depths and volumes are capable of supporting the nominated species	Agreed.

	including trees which grow to a mature height of up to 10m.	
11. It is noted that height of Site A building projects beyond approved height. The panel has no concerns with this from building/development standpoint.... 12.	Note	Agreed.
13.however note (based on Council advice) that it could represent a legal complication.	Legal advice by HWLE (dated 15.4.20) confirmed that minor variation of height control creates no legal complication.	Noted.
14. Entry to apartments for Building A and B have been made more legible. This is supported. Building separation increased between Building A and B is also supported.	Note	Agreed.
15. There is an increase in unit numbers (from 249 to 266). The applicant says that this results from a more efficient layout. This represents an increase in GFA of 1805 sqm to building A and 288sqm m to Building B. In light of this increase, it would be desirable if the building could be brought back within the originally approved building line along the west of Building A.	The variation to the originally approved building line along the west of Building A is minor and is compensated by the reduced building footprint of the wing facing Lister Ave which creates a more spacious landscaped void between Building A and the neighbouring apartment building on Lister Ave. Further, reducing the building line along the west of Building A narrows the floorplate and compromises the ability to plan regular apartments with appropriate internal amenity. The variation is so minor there would be little discernible benefit in terms of the already compliant building separation.	Agreed.
16. The increased level of solar access to apartments is commended.	Note	Agreed.

17. However over and beyond maximizing passive environmental criteria there was limited information provided about the sustainability initiatives of the development, which given that it is a competition scheme subject to design excellence, should be expected. The Panel notes that there are further opportunities for including sustainability initiatives in the design above and beyond those required by BASIX, such as solar energy generation, rainwater harvesting, etc. and considers that more consideration should be given to this.	This modification application is not subject to clause 6.14 (design excellence) and therefore there is no basis to require sustainability measures in addition to those included in the original application or required by BASIX. As noted above, the proposal improves passive solar design and therefore the sustainability performance compared with the originally approved development.	Agreed.
18. The panel notes the absence of a dedicated landscape plan. There is no plan identifying existing surrounding vegetation as well as showing the type and character of new vegetation. There is a lack of detail information on how landscape and built form can be integrated. New tree species are not identified.	The submitted landscape plans included a detailed planting schedule.	Noted.
19. The panel also considers that there could be opportunities for new trees to north-west of Building B, commensurate with access provisions required by council.	While the basement has been reduced in this area, there is a right of way to north-west of Building B which is required to provide access to car parking of adjacent properties to the north.	Noted.
20. The panel commends the improvements to interface of retail and public domain at street level.	Note	Agreed.
21. It also commends the key features of the revised design to Buildings A and B including increased setbacks and clear interface between podium uses and street.	Note	Agreed.

22. The increase to landscape area at Chapel Lane for Building B is supported. Exact landscape character (nature of "building interface") could benefit from further detail.	Plant species are nominated on the landscape plans while the architectural plans provide detail regarding materiality of structures.	Noted.
23. The panel commends the improvements in amenity; including maximizing number of north-facing apartments and possibilities for natural ventilation.	Note	Agreed.
24. In general the increased access to the street for ground level units provides more opportunities for active frontages and passive surveillance. This is supported.	Note	Agreed.
25. The panel has concerns about the safety of the dog-leg to Chapel Lane and feel that a better relationship can be provided between the development and the streetscape in this location. A better relationship between green open space (on site) and the street at the end of this section of the lane is also sought.	<p>As noted earlier, glazing has been provided on the western elevation of Lobby A improving surveillance of the western extent of Chapel Lane.</p> <p>The status of the right of way at the end of Chapel Lane has been clarified and the landscape plan amended to treat this as an extension of the 'street'.</p> <p>The amended landscape plans not incorporate palisade fencing on the western boundary adjacent to the land to enable surveillance and 'ownership' of the land while providing safety and security.</p> <p>The external access from the fire doors has been rearranged to avoid creating places of concealment and to maximise the areas for landscape planting along the lane.</p>	Agreed.
26. The panel notes that there has been a reduction in the number of 3-bedroom units. It notes Council's concern that this will result in less housing diversity for larger demographic needs.	The proposal includes five (5) additional 1-bedroom dwellings, twenty-five (25) additional 2-bedroom dwellings and three (3) fewer 3-bedroom dwellings. The proposed number of 3-bedroom dwellings represents seven (7) percent	Refer to discussion in S.4.15(1)(b) - Likely Impacts of

	<p>of the total number of dwellings in buildings A and B.</p> <p>The proposed dwelling mix responds to market demand being experienced by the developer in relation to Building C - which is nearing completion. Further details of the experienced market demand will be provided.</p>	Development below.
27. Communal open space has been increased. This is endorsed.	Note	Agreed.
28. The panel also highly commends the provision of communal landscaped roof terraces (which will received winter sunlight between 9am and 3pm).	Note	Agreed.
29. The change from render and paint (to off-form concrete and brick) on upper levels of Chapel Lane is commended.	Note	Noted
30. The proposed design changes indicate a much clearer and simpler definition and articulation between massing and materials. The architecture does, as a result, appear more harmonious in terms of scale and materiality. There also appears to be a better relationship between internal layout and expression on the facades. All of these changes are commended.	Note	Agreed.

The following matters were also raised by Council's assessment planners:

Additional Matters	Response	Comment
31. Architectural resolution of Building A corner of Lister Avenue and Chapel Lane.	The design methodology for the facades is to achieve an appropriate level of articulation and to create an expressive frontage to Chapel Street, Chapel Lane and Lister Avenue.	Satisfactory.

	<p>Two languages, both taking inspiration from the residential character of the surrounding context and the future desired character for the area have been developed for the facades and applied to both building forms to reduce the perceived bulk and scale of the buildings into smaller discrete and interconnected forms.</p> <p>Facade articulation is achieved through the breakup of materials, variation in balcony forms and the introduction of regular vertical blade walls. These blade walls are separated by balconies and full height glazing set back to add depth to the facade.</p> <p>The top levels have been set back and treated differently to help break up the bulk and mass and assist in minimising the perceived scale of the proposal.</p> <p>In order to provide greater articulation, separation and variety along the elevations, projected bay windows have been provided to the corner of Building A at the corner of Chapel Lane. These windows, projecting forward from the main facade line and roof line, are read as a series of individual vertical elements which assist to break up the horizontal scale of the development.</p>	
32. Proximity of the Lister Avenue driveway to the adjacent residential flat building.	As shown on the amended architectural plans, the driveway entrance has been adjusted to follow the alignment of the originally approved development. The increases the separation to the adjacent residential flat building. Additional landscaping is proposed in this area as shown in the amended landscape plans.	Agreed.

S.4.15(1)(a)(ii) - Provisions of any Draft EPI's

There are no draft planning instruments that will affect the proposed development.

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

The following Development Control Plan is relevant to this application:

Rockdale Development Control Plan 2011

The amended proposal makes incremental changes to the approved Building A and Building B layout, design, interrelationship between the two buildings and the public domain. A detailed reassessment of the development against each provision of the DCP is not warranted in this case. Numerical changes to the car parking numbers as a result of the additional 17 units and GFA is addressed via amended conditions. New landscape plans are adopted via Condition 2 – list of plans.

The focus of the DCP review is based around the achievement and satisfaction of the objectives of Rockdale Town Centre provisions – Part 7.5 of the DCP.

7.5.2 Building form and character

Objectives

- A. To ensure building heights relate to street widths to create a scale to the public domain which improves the sense of space and experience for the user.*
- B. To ensure there is adequate separation between buildings to maintain a sense of openness and allow sunlight to penetrate into the public domain.*
- C. To create buildings which interface with the street and provide a positive contribution to the built environment.*
- D. Ensure the appearance of buildings adds to the richness and experience of the Centre.*

Comment: The revised design, height and layout of Building A and Building B include some reconfiguration of street setbacks, an increase in setback of Building B, increased overall height by 1.7m and increased separation between the two buildings. These have improved the interrelationship of the building with public domain, providing improved street edge and street character at the lower and upper levels. The Design Review Panel commended the changes from an urban design and built form viewpoint.

Chapel Street Precinct

The Chapel Street Precinct is defined as properties at No.s 13, 15 19, 21 and 21A Bay Street and 1-9 and 11 Chapel Street and 1 and 3 Chapel Lane: and No.s 6, 8, 10 and 12 Lister Avenue.

- 1. This Precinct is subject to clause 6.14 Design Excellence and Competition Clause in Rockdale LEP 2011. The purpose of a design competition is to deliver the highest*

standard of architectural and urban design over the Chapel Street Precinct. Refer to Council's Design Competition Guideline - Chapel Street Precinct for further information.

Comment: Legal advice was received that the amended proposal does not require further consideration against clause 6.14 of the LEP. The Design Review Panel was satisfied that the modified design achieved design excellence.

2. Public roads and pedestrian links are to be included in the redevelopment of this precinct and dedicated to Council which achieve:

- a. Vehicle access to Chapel Lane from either Lister Avenue or Chapel Street,*
- b. Pedestrian access from Chapel Street to the new public open space and Bay Street,*
- c. Pedestrian access between Bay Street and Chapel Lane.*

Comment: The proposed modifications do not alter the vehicular access arrangements around the site. Pedestrian entry points to the ground floor level are modified and more efficient.

3. At least 40 public car spaces are to be provided at-grade in a single location, either on or off street. These spaces are to be dedicated to Council.

Comment: This was amended in a previous modification – condition of consent states 43 spaces.

4. A new public open space is to be provided fronting Bay Street. Buildings fronting this public open space are to be designed with a 'Contributory Retail' role as per Part 7.5.1, and an 'Open Space' frontage as per Part 7.5.2. The space is to be publicly accessible by pedestrians from both Chapel Street and the new public carparking. It is to be located either:

- a. Adjoining the side boundary of Chapel of 1 Bay Street, or*
- b. Opposite the termination of George Street.*

Comment: No change as part of this application.

S.4.15 (iia) - Any planning agreement that has been entered into or any draft planning agreement that a developer has offered to enter into.

A VPA exists for the development but is not altered by this s4.56 application.

S.4.15(1)(a)(iv) - Provisions of regulations

There are no applicable regulations of particular relevance to the proposed modification.

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

Potential impacts associated with the proposed development have been discussed in detail within this report. The following discussion regarding dwelling mix relates to the social and economic impacts of the development resulting from the change in dwelling mix proposed for Building A and B.

A breakdown of the proposed change in the dwelling mix of both Building A & B and the total development (Building A, B & C) is provided in the following table:

Dwelling Mix – Building A, B & C							
Approved		Unit No.		Unit No.		Unit No.	%
Bldg A + B	1 br	114	Bldg C	31	Total	145	39.7
	2br	105		77		182	49.9
	3br	<u>30</u>		<u>8</u>		<u>38</u>	10.4
		249		116		365	
Proposed							%
Bldg A + B	1 br	119	Bldg C	31	Total	150	39.3%
	2br	128		77		205	53.7%
	3br	<u>19</u>		<u>8</u>		<u>27</u>	7.1%
		266		116		382	

Note: 1br & 1br+ units are combined and 2br+ & 3br are combined in the above table.

The ADG: 4K Apartment Mix states:

A mix of apartment types provides housing choice and supports equitable housing access. By accommodating a range of household types, apartment buildings support the needs of the community now and into the future. This is particularly important because apartment buildings form a significant and often long-term part of the urban fabric.

The objective 4K-1 states:

A range of apartment types and sizes is provided to cater for different household types now and into the future <our emphasis>

Design guidance

A variety of apartment types is provided.

The apartment mix is appropriate, taking into consideration:

- the distance to public transport, employment and education centres*
- the current market demands and projected future demographic trends*

- the demand for social and affordable housing
- different cultural and socioeconomic groups

Flexible apartment configurations are provided to support diverse household types and stages of life including single person households, families, multi-generational families and group households

The Rockdale DCP (@27.4.18), Part 4 General Principles for Development, 4.5.1 Housing Diversity and Choice contains the following in relation to dwelling mix:

Objectives

- A. To maximise housing choice to meet the needs of diverse household types
- B. To make provision for equality of access to new housing
- C. To promote the design of buildings that are adaptable and flexible in design to suit the changing lifecycle housing needs of residents over time <our emphasis>

Controls

1. Residential flat buildings and shoptop housing are to comply with the following dwelling mix:

Dwelling type	Of total dwellings
3 bedroom and/or more	10%-20%
2 bedroom	50%-75%
1 bedroom and/or studio	10%-30%

2. The required dwelling mix may be refined having regard to
 - a. the location of the development in relation to public transport, public facilities, employment areas, schools and retail areas;
 - b. population trends; and
 - c. whether the development is for the purpose of public housing or the applicant is a community housing or not-for-profit organisation.

Part 7 Special Precincts, 7.5 Rockdale Town Centre, states:

Residential apartment design

Given the Centre's high frequency and choice of public transport service and the available range of retailing, greater population density in the Centre is encouraged. Increased population within the Centre's walking catchment will also add to the Centre's activity and vibrancy. Rockdale Town Centre is the ideal location to provide dense inner-city style apartment living for a variety of household demographics.

3. *A diversity of housing choice is to be offered by mixed use developments by providing a variety of apartment types and sizes. Innovative solutions to meeting current and future housing demands and changing household structures is encouraged. <our emphasis> This includes but is not limited to:*
- a. 3 bedroom units which can be divided into a 2 bedroom unit and studio unit, sharing a common entry,*
 - b. 2 or 3 bedroom units with all bedrooms having ensuites,*
 - c. Units with large home office space which is separable from private living areas, d. Operable internal walls to allow multiple rooms or larger single rooms to be created as needed,*

The ADG objectives, Council's DCP controls and precinct-based Rockdale Town Centre provisions all seek to encourage, support and provide housing choice and housing diversity now and into the future. This is clearly stated in each of the extracts above.

Part 7.5 provides some design alternatives to support choice and design flexibility, essentially future proofing design within the emerging Rockdale Town Centre precinct. Council's DCP defines how the objectives are to be achieved through a range or benchmark of controls for each size category.

The approved development of the three sites (Building A, B & C), met the DCP control for the percentage of 2-br and 3-br units, being 49.9% and 10.4% respectively. Albeit this was at the lowest end of the range in each case.

The original approval permitted a significant variation to the DCP controls for the number and percentage of 1-bedroom units. That is, 145 units or 39.7% of total units approved were 1-br units. To comply with the DCP control, that number should have been between 37 (10%) and 110 (30%) 1-br units.

The approved number of 1-bedroom units was therefore a substantial allowance above the DCP requirements.

The proposed amendment seeks to make the following changes to the numbers and dwelling mix for Building A & Building B:

No. of bedrooms	Total units (Bldg A + B)	Increase or decrease in unit numbers	% of proposed total units (382)
1 br & 1 br+	119	add 5	39.3%
2br	128	add 23	53.7%
2br+ & 3br	19	less 11	7.1%

The additional 1-br and 2-br units (28 in total) come at the expense of the provision of the 2-br+/3-br units, reducing the percentage of larger units from 10% overall to 7% overall. That is, eleven (11) less larger units.

The applicant argues against the retention of the higher percentage of the larger units, submitting, via letters to Council (May 2020) that inter alia submits:

*“that purchasers in the Rockdale area are seeking properties that are **affordable for new entrants** into the housing market. By virtue of the cost structure of larger, apartments, there remains extremely limited demand for this type of housing. The advent of COVID-19 and the dramatic impacts it has had on the property market has only magnified this trend.*

Our most recent sales evidence from Building C at The Banks, Rockdale confirms this. Of the available 3-bedroom apartments in this project, only 38% have sold, compared to 81% of 1-bedroom apartments and 64% of 2-bedroom apartments.

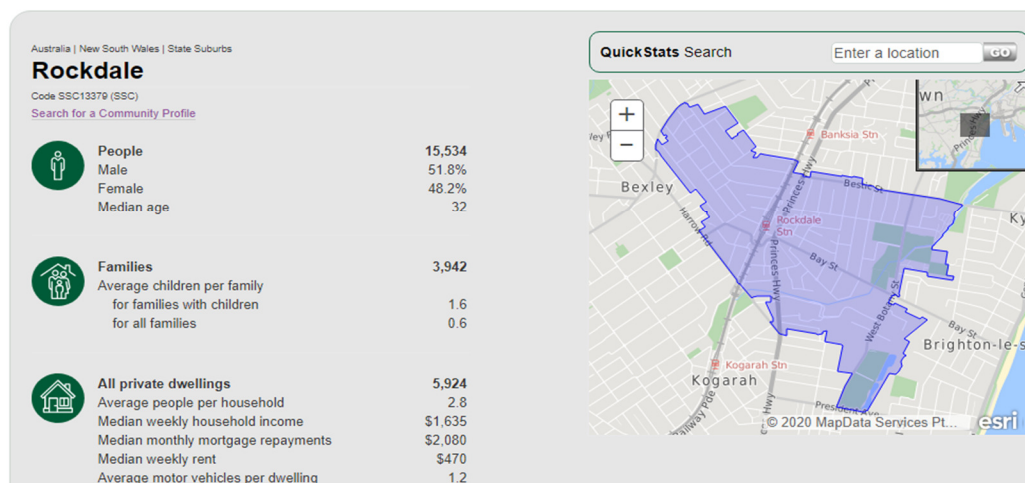
Purchase prices for larger apartments are proportionally higher than smaller 1- and 2-bedroom units due to the additional area required. In Rockdale Building C, the average sale price for the small number of 3-bedroom apartments sold is \$1,150,000. (By comparison, the median 3-bedroom house price in Rockdale is \$1,160,000). This compares to average prices for 1- and 2-bedroom apartments of \$630,000 - \$800,000.

It is noted that Building C contains only 8 x 3-bedroom units, suggesting that at least three or four of the 8 units have sold.

The 2016 Census statistics for the Rockdale Suburb (not LGA) provides the following data:

[ABS Home](#) > [Census](#) > [Quickstats](#)

2016 Census QuickStats



Number of bedrooms <i>Occupied private dwellings</i>	Rockdale	%
None (includes bedsitters)	28	0.5
1 bedroom	433	8.3
2 bedrooms	2,869	55.0
3 bedrooms	1,151	22.1
4 or more bedrooms	571	10.9
Number of bedrooms not stated	164	3.1
Average number of bedrooms per dwelling	2.4	--
Average number of people per household	2.8	--

Family composition	Rockdale	%
Couple family without children	1,654	42.0
Couple family with children	1,676	42.5
One parent family	473	12.0
Other family	138	3.5

Employment <i>People who reported being in the labour force, aged 15 years and over</i>	Rockdale	%
Worked full-time	4,898	55.3
Worked part-time	2,876	32.5
Away from work	425	4.8
Unemployed	662	7.5

Employment location of resident workers			export
Bayside Council area	2016		
Location	Number	%	
Live and work in the area	17,626	23.3	
▪ Live and work in the same LGA	13,320	17.6	
▪ Live in the area and work in different LGA	4,306	5.7	
Live in the area, but work outside	55,053	72.7	
No fixed place of work	3,035	4.0	
Total employed residents in the area	75,714	100.0	

The above shows that there is a high percentage of people working – full-time or part-time; a high percentage of couples with children or one parent families and an average occupancy rate of 2.8 persons per dwelling. Further, some 73% of workers currently travel outside the area to work.

Prior and current trends during the CoVid19 pandemic are not necessarily indicative of the likely trends post CoVid19. There is already anecdotal discussion that work from home opportunities that have arisen out of the 'lockdown' during the pandemic will continue thereby changing the benchmark of demand (ie unit composition, number of bedrooms and need for

separate studies). The provision of 2-br+ or 3-br units to serve that future trend will be foregone should this development reduce the overall percentage of larger units in Buildings A & B, as proposed.

Council's DCP provides for some refinement of the benchmark dwelling mix controls based on site location and population trends. In this case, the approved development has received a substantial allowance for 1-br units in the original dwelling mix, allowing for its town centre location close to shops, services and public transport. The reported unit sales demonstrate that the convenience of the town centre location is attractive to buyers, particularly those seeking the lifestyle and convenience of the town centre. Notwithstanding, Building C only had 8 3-br units, a much smaller market share to begin with and it is not clear as to whether targeted marketing of the 3-br units has been undertaken.

Prior and current markets may change in the post CoVid19 era. There is no justification for the reduction of the larger 2-br+/3-br units within the development given the current situation. The community profile statistics from the 2016 Census shows that there is a population sector within the Rockdale Town Centre and suburb area that has a need for housing choice going forward into the future. With the current pandemic there is no guarantee that existing trends will continue and good planning informs us that change based purely on price per square metre and economic benefit is not justification, when in the medium-term supply and demand are predicted to change.

On this basis, it is proposed that a new condition of consent be applied that requires the development plans for Building A and Building B to be amended to achieve a minimum of 10% of the units in the total development (that is, Building A, B & C) as 2-br+, 3-br or larger units, in accordance with the objectives of the ADG and the Rockdale DCP controls. The amended plans would be part of the Construction Certificate documentation, to be approved prior to issue of the Construction Certificate.

S.4.15(1)(c) - Suitability of the site

The suitability of the site for the approved development has been determined by the granting of development consent, subject to conditions, by Order of the Land and Environment Court in June 2017. The development consent has been amended on two occasions. This s4.56 application relates to Buildings A & B only as Building C has been constructed as Stage 1 and finalised. No part of this modification affects the suitability of the site to accommodate the development.

S.4.15(1)(d) - Public Submissions

The proposed development was notified in accordance with the provisions of the RDCP 2011 and the requirements of the *EP&A Act 1979*. In response, six (6) submissions were received. These are addressed elsewhere in this report. A number of submissions raised the overall impact of the additional units and traffic generation; some commentary on the cumulative impacts of increased density and population in the area.

Assessment of the proposed amendments by the Design Review Panel and assessment planner generally commends the exterior design changes and the improvements between the private and public domain. The proposed height, density and mixed use of the development was anticipated as part of the masterplanning of the Town Centre. The proposal is a result of that strategic planning. The matter of proposed changes to the dwelling mix are addressed throughout this report.

S.4.15(1)(e) - Public interest

For the reasons outlined previously within this report, the proposed development is not inconsistent with the masterplanning of the Rockdale Town Centre. Subject to the proposed amendment to conditions of consent as outlined in this report, the proposal is deemed to be satisfactory and within the public interest. In relation to dwelling mix, a new condition of consent is proposed that requires the larger percentage of 2br+ and/or 3br units be retained.

Developer Contributions

Contributions are payable pursuant to Condition 58 of the development consent. The amount of the contributions will alter to reflect the approval of this modification. A replacement Condition 58 is provided to reflect contributions payable for Building A & B only.

Conclusion

Development Application No. DA-2016/241/C for modifications to approved development (Building A & B), being redesign of floor plan, modifications of façades, landscaping, increase number of apartments by 17, change of dwelling mix, 24 additional car spaces, increase overall height, at 15-21A Bay Street, Rockdale has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979* and is recommended for approval, subject to the amendment of the conditions of consent, as outlined in this report.

Recommended modifications to conditions

Condition 2:

*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 and **except as amended by the following plans relating to Buildings A and B.***

Plan/Dwg No./Issue	Drawn by	Dated
DA0000; DA0001; DA0002; DA0003; DA0004; DA0005; DA0006; DA0007; DA0010; DA0014; DA0016; DA0017; DA0018; DA0019; DA0020; DA0021; DA1001; DA1002; DA2008; DA2009; DA2010; DA2011; DA2012; DA2013; DA2014; DA2015; DA2016; DA2017; DA2019; DA2020; DA2050; DA2051; DA2052; DA2053; DA2054; DA2055; DA2056; DA2057; DA2058; DA2059; DA2060; DA2061; DA2062; DA2063; DA64; DA2065; DA2067; DA2068; DA2076; DA2077; DA2078; DA2079; DA2080; DA2081; DA2082; DA2083; DA2084; DA2087; DA2088; DA3000; DA3001; DA3002; DA3003; DA3004; DA3005; DA3006; DA3007; DA3010; DA3011; DA4000; DA4002; DA6000; DA6001; DA6002; DA6003;	Architecture & Building Works	April, 2017

DA2001; DA2002; DA2003; DA2004; DA2005; DA2006; DA2007;	Architecture & Building Works	4 September, 2019
DA2069; DA2070; DA2071; DA2072; DA2073; DA2074; DA2075	Architecture & Building Works	9 August, 2019
DA3008; DA3009	Architecture & Building Works	12 September, 2019
DA000 Rev 4; DA100 Rev 4; DA101 Rev 4; DA102 Rev 4; DA103 Rev 4; DA104 Rev 4; DA105 Rev 4; DA106 Rev 4; DA0107 Rev 4; DA108 Rev 1; DA109 Rev 1; DA110 Rev 1; DA200 Rev 4; DA201 Rev 4; DA202 Rev 4; DA203 Rev 4; DA204 Rev 4; DA000 Rev 4; DA000 Rev 4;	Scott Carver	Rev 1 dated 26.11.17; Rev 4 dated 20.4.17 – all print date 20 April, 2017

Plans relating to Building A and Building B

Architectural Drawing by Turners Architects			
Drawing No	Drawing Name	Rev	Date
Siteworks			
DA-010-000	Location Plan	A	30.09.19
DA-010-010	Site Plan	B	30.09.19
DA-010-091	Site Analysis	A	30.09.19
GA Plans			
DA-110-003	Basement 05	C	30.09.19

DA-110-004	Basement 04	C	30.09.19
DA-110-005	Basement 03	C	30.09.19
DA-110-006	Basement 02	C	30.09.19
DA-110-007	Basement 01	F	27.04.20
DA-110-008	Ground Level	I	11.05.20
DA-110-010	Level 01	F	27.04.20
DA-110-020	Level 02	D	27.04.20
DA-110-030	Level 03	F	27.04.20
DA-110-040	Level 04	F	27.04.20
DA-110-050	Level 05	F	27.04.20
DA-110-060	Level 06	D	27.04.20
DA-110-070	Level 07	D	27.04.20
DA-110-080	Level 08	D	27.04.20
DA-110-090	Level 09	F	27.04.20
DA-110-100	Level 10	G	27.04.20
DA-110-111	Level 11	H	27.04.20
DA-110-112	Roof	H	27.04.20
GA Elevations			
DA-210-001	Building A - East Elevation	F	27.04.20
DA-210-101	Building A - West Elevation	F	27.04.20
DA-210-201	Building A - South Elevation	F	27.04.20
DA-210-301	Building A - North Elevation	E	10.03.20
DA-210-401	Building B - East Elevation	E	10.03.20
DA-210-501	Building B - West Elevation	E	10.03.20
DA-210-601	Building B - South Elevation	F	27.04.20
DA-210-701	Building B - North Elevation	E	10.03.20
GA Sections			
DA-310-101	Section AA	B	10.03.20
DA-310-102	Section BB	B	10.03.20
DA-310-103	Section CC	B	10.03.20
DA-310-104	Section DD	C	27.04.20
DA-310-005	Sections GG	A	27.04.20
Adaptable/Livable Typology			
DA-450-101	Adaptable/Livable Apartment Plans 01	A	30.09.19
DA-450-102	Adaptable/Livable Apartment Plans 02	A	30.09.19
DA-450-103	Adaptable/Livable Apartment Plans 03	A	30.09.19
DA-450-104	Adaptable/Livable Apartment Plans 04	A	30.09.19
DA-450-105	Adaptable/Livable Apartment Plans 05	A	30.09.19
DA-450-106	Adaptable/Livable Apartment Plans 06	A	30.09.19
DA-450-107	Adaptable/Livable Apartment Plans 07	A	30.09.19

DA-450-108	Adaptable/Livable Apartment Plans 08	A	30.09.19
Amenity Diagrams (ADG)			
DA -720-008	Solar & Cross Vent. Diagram Ground Level to Level 04	A	30.09.19
DA-720-040	Solar & Cross Vent. Diagram Level 05 to Level 08	A	30.09.19
DA-720-080	Solar & Cross Vent. Diagram Level 09 to Level 11	A	30.09.19
Deep Soil and Communal Space Diagrams (ADG)			
DA-730-001	Communal Open Space Diagram	A	30.09.19
DA-730-002	Deep Soil Diagram	A	30.09.19
GFA Diagrams			
DA-770-001	Ground to Level 03	A	30.09.19
DA-770-002	Level 04 to Level 09	A	30.09.19
DA-770-003	Level 10 to Level 11	A	30.09.19
Solar Analysis Comparison			
DA-798-001	June 21st - 9am-10am	A	30.09.19
DA-798-002	June 21st - 11am-12pm	A	30.09.19
DA-798-003	June 21st - 1pm-2pm	A	30.09.19
DA-798-004	June 21st - 3pm	A	30.09.19
3d Views			
DA-910-010	View from Lister Avenue	A	30.09.19
DA-910-020	View from Chapel Square	A	30.09.19
DA-910-030	View from Lister Avenue	A	30.09.19
DA-910-040	View from Chapel Lane	A	30.09.19
Materials & Finishes			
DA-950-001	Building A Sample Board	A	30.09.19
DA-950-002	Building B Sample Board	A	30.09.19

Landscape Drawings by Isthmus			
Drawing No	Drawing Name	Rev	Date
Landscape			
IS0268DA1	Site Plan	B	May 2020
IS0268DA2	Ground Floor	B	May 2020
IS0268DA3	Detail Area A - Ground	B	May 2020
IS0268DA3a	Ground	B	May 2020
IS0268DA4	Detail Area B - Ground	B	May 2020
IS0268DA5	Detail Area C - Ground	B	May 2020
IS0268DA6	Rooftops	B	May 2020
IS0268DA7	Building A – Level 11	B	May 2020
IS0268DA8	Building B – Level 10	B	May 2020

IS0268DA9	Details and Schedules	B	May 2020
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In the event of any inconsistency between conditions of this approval and the drawings/ documents referred to above, the conditions of this approval prevail.

*[Amendment B - s4.56 amended on 24 September 2019; **Amendment C – s4.56 amended on <date>**]*

Condition 5:

5. The development must be implemented and all BASIX commitments thereafter maintained in accordance with BASIX Certificate Number ~~1011168372~~ dated ~~14 June 2017~~ 683956M_06, dated 1 November 2019 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 154(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."

Condition 11:

Parking spaces shall be allocated to residential apartments / non-residential uses in the development in the following manner and this shall be reflected in any subsequent strata subdivision of the development:

Allocated Spaces:

*Residential Spaces - ~~395~~ **428** spaces (~~Building A & B~~) (**comprising 143 spaces in Building C and 285 space in Building A & B**) to be specified and ~~3~~ **2** car wash bays (**1 car wash bay for building C and 1 car wash bay for Buildings A & B**) as shown in the approved plans.*

*Commercial Units - ~~38~~ **46** spaces (**comprising 34 in Building C and 12 space in Buildings A & B**) to be specified as shown in the approved plans.*

*Bicycle requirements - ~~37~~ **69** (**comprising 42 in Building C and 27 in Buildings A & B**) residential places, ~~8~~ **2** retail staff (**2 in Buildings A & B**) spaces ~~and 2 retail visitor spaces~~*

*Motorcycle - ~~25~~ (**8 residential in Building C and 10 residential in Buildings A & B**) ~~residential and 2~~ **7** staff (commercial **in building A & B**) and optimization of the public parking area to provide*

as many motorcycle spaces as possible.

Non-Allocated Spaces

Residential Visitor Spaces ~~70~~ **76 76 (19 in Building C and 57 in Buildings A & B)** spaces as shown in the approved plans.

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

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

Forty ~~three~~ **(40 43)** car parking spaces shaded yellow on the plans for basement levels one and two of Building C shall be allocated, provided and managed for public use in accordance with the Voluntary Planning Agreement offered by the applicant and required to be entered into under this consent.

This parking allocation condition is to be applied and reflected in any Stratum and/or Strata Certificate issued with respect to a Consent issued in accordance with Section 81 (1) (A) of the Environment 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.

The above car parking numbers may only be varied with the lodgement of a further application to council.

[Amendment B - s4.56 amended on 24 September 2019; Amendment C – s4.56 amended on <date>]

Condition 25:

~~25. The Balcony screens to A407 and A411 and above are to extend along internal returns as blind battens as aesthetic treatment to emphasise the return and recess. Amended plans to be provided for the approval of the Director of City Futures prior to issue of any Construction Certificate for Building A.~~

[Amendment C – s4.56 amended on <date>]

Condition 32:

~~32. The recommendations of the wind impact assessment report, for above ground works, shall be implemented unless otherwise advised by Council. A wind impact assessment report, prepared by a suitably qualified person shall be submitted to Council for approval prior to issue of any Construction Certificate for above ground works. The recommendations of the report shall be implemented unless otherwise advised by Council. NB: If any structures or mitigation measures are required, a s96 or DA may need to be submitted for those works.~~

Condition 48:

48. Sydney Airport Conditions

The proposal shall be constructed to the maximum height approved by the Department of Infrastructure and Regional Development and conditions in letter with File Reference F17/87-42 dated 31 March 2017 **and any subsequent correspondence from the Department in relation to Amendment C.**

[Amendment C – s4.56 amended on <date>]

Condition 51(a):

51. Services

(a) Fire Boosters -The fire hydrant booster valves (of Building C only) shall be enclosed in a cabinet and provided with appropriate locks and signage in accordance with AS2419.1. The boosters can be provided vertically to reduce space requirements. The Fire Booster location must be approved in writing by Council's Director of City Futures prior to the issue of any Construction Certificate.

Replace Condition 58 with a new Condition 58:

~~58. A Section 94 contribution of \$2,183,529.15 \$1,605,515.52 shall be paid to Council. Such contributions are only used towards the provision or improvement of the amenities and services identified below. The amount to be paid is adjusted at the time of payment, in accordance with the contribution rates contained in Council's current Adopted Fees and Charges. The contribution is to be paid prior to the issue of any construction certificate for works above the floor level of the ground floor. (Payment of the contribution is not required prior to any separate construction certificates issued only for demolition, site preparation works and the construction of basement levels). Payment of the Contribution can be apportioned according to the particular buildings included in the relevant above ground works for staged construction certificates as follows: Building C and associated Bay Street and Chapel Grove works = 30% and Buildings A and B and other public works = 70%. The contribution is calculated from Council's adopted Section 94 contributions plan in the following manner:~~

Open Space	\$1,695,943.85
Community Services & Facilities	\$ 172,465.15
Town Centre & Streetscape	\$ 88,649.95
Pollution Control	\$ 255,766.80
Plan Administration & Management	\$ 10,929.60

A Section 7.11 contribution of \$1,605,515.52 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.

<i>Regional Open Space Fund</i>	<i>206,241.00</i>
<i>City Wide Open Space Fund</i>	<i>326,418.26</i>
<i>Rockdale Local Open Space Fund</i>	<i>683,468.50</i>
<i>Rockdale Local Car Parking Fund (retail only)</i>	<i>0</i>
<i>City Wide Town Centre & Streetscape Fund</i>	<i>36,663.80</i>
<i>Rockdale Local Town Centre & Streetscape Fund</i>	<i>28,737.18</i>
<i>Pollution Control Contribution</i>	<i>188,689.79</i>
<i>Child care services</i>	<i>7,685.99</i>
<i>Community services</i>	<i>8,237.54</i>
<i>Library services</i>	<i>111,309.47</i>
<i>Administration & Management Contribution</i>	<i>8,064.00</i>
<i>Total in 2019/20</i>	<i>\$1,605,515.52</i>

Condition 110:

Suitable vehicular bollards shall be provided within adaptable shared areas.

~~544-547~~ **All** off-street car spaces (~~plus a 2-3 car wash bays~~) shall be provided in accordance with the submitted plan and shall be linemarked to Council's satisfaction. The pavement of all car parking spaces, manoeuvring areas and internal driveways shall comply with Australian Standard AS3727 - Guide to Residential Pavements. The above car parking numbers may only be varied with the lodgement of a further application to Council.

[Amendment B - s4.56 amended on 24 September 2019]

Add the following condition:

<Condition No.> Prior to the issue of the Construction Certificate, in accordance with the objectives of 4K of the ADG and Part 4 and Part 7 of the Rockdale DCP, the architectural plans for Building A and Building B are to be amended to provide a dwelling mix that includes 10% (minimum) of the total units in Buildings A, B & C as either 2-bedroom plus study, 3-bedroom or larger apartments. The plans are to be amended so as not to result in any changes to fenestration to habitable rooms where such elevation is adjacent to any existing residential premises unless written approval is provided by Council beforehand.

[Amendment C – s4.56 amended on <date>]

Add the following condition:

<Condition No.> Prior to the issue of the Construction Certificate, in accordance with 4Q Universal design of the ADG, the architectural plans shall demonstrate that a minimum of 20% of the total units in Building A and Building B incorporate the Liveable Housing Guidelines silver level universal design features.

[Amendment C – s4.56 amended on <date>]