



## STATEMENT OF ENVIRONMENTAL EFFECTS

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Proposed six storey mixed use building comprising a supermarket, retail outlets, food and drink premises and 44 residential apartments.

Nos. 277 The Grand Parade  
Ramsgate Beach

Prepared for: Bronx Pty Ltd.

REF: M220002

DATE: 21 December 2023





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# 1. Introduction

This Statement of Environmental Effects (Statement) has been prepared on behalf of the applicant, and is to accompany a development application to Bayside Council that seeks consent for the demolition of existing site improvements and the construction of a six storey mixed-use development comprising retail uses, residential accommodation with ancillary food and drink premises, above three storeys of basement carparking at No. 277 The Grand Parade, Ramsgate Beach.

More specifically, the proposed mixed-use building will provide 2,926m<sup>2</sup> of retail floor space at ground level with a 2,270.4m<sup>2</sup> Coles supermarket, specialty retail uses sleeving the northern frontage of the supermarket at ground level, and residential entrance and lobby facing north, providing access from Ramsgate Road. Car parking for 279 cars (including 10 click and collect spaces) will be located on B1, B2 and B3 basement levels, and servicing areas including a loading dock with turntable will be provided at ground level.

On levels 2 to 5, the proposed development will provide for 44 residential apartments offering quality residential accommodation in the Bayside region.

Vehicle access to the site will be provided from the Council car park parallel to Ramsgate Road into the basement car parking levels. Due to the flood prone nature of the site, the basement carpark will be protected from flooding with the entry point being designed above the PMF level.

The applicant has met with Council staff prior to submitting the application and has sought to respond to preliminary comments in this submission. In particular, a series of sub-consultant reports are submitted as outlined in Table 1.

The Statement demonstrates the proposal meets the objectives of the MU1 Mixed Use zone and generally satisfies the relevant controls within the *Bayside Local Environmental Plan 2021* and Apartment Design Guideline. Where there are variations to controls, these are justified throughout this SEE and the development remains consistent with the objectives of the relevant controls. The application includes a Clause 4.6 variation request in relation to building height.

The development application is supported by a series of consultant reports and plans, listed at **Table 1**.

**Table 1 Supporting Documentation**

Document	Author
Architectural Plans	Craft Architecture
Access Review	MBC Group
Acoustic Report	Renzo Tonin & Associates
Arborist Report	Abnoba Arbor Arboricultural Services
BCA Report	BCA Logic
Contamination	JK Environments
Energy Efficiency (and Section J Assessment Report)	BCA Energy
Flood Impact Assessment Report	SCP Engineers and Development Consultants
Geotechnical Report	JK Geotechnics
Landscape Plan	Site Design + Studios



**Table 1 Supporting Documentation**

Stormwater Management Plan	SCP Engineers & Development Consultants
Survey Plan	CitiSurv Pty Ltd
Traffic and Parking Assessment	Transport and Traffic Planning Associates
Waste Management Plan (operational)	TTM
Wind Impact Assessment	Vipac Engineers and Scientists Limited

The purpose of this Statement is to address the planning issues associated with the development proposal and specifically to assess the likely impact of the development on the environment in accordance with the requirements of Section 4.15 of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

The proposal has a capital investment value ("CIV") of \$49.7 million. Therefore, as the CIV is greater than \$30 million, under Schedule 6 of the State Environmental Planning Policy (Planning Systems) 2021, the proposal is identified as regionally significant development. As such, the proposal will be determined by the Sydney Eastern City Planning Panel.

This Statement is divided into five sections. The remaining sections include a locality and site analysis; a description of the proposal; an environmental planning assessment; and a conclusion.





## 2. Site Analysis and Context

### 2.1 THE SITE

The subject site is located on the corner of The Grand Parade and Ramsgate Road, Ramsgate Beach. The site is known as No 277 The Grand Parade, Ramsgate Beach. The site comprises eight allotments and is legally identified as Lots 6-11 DP 11037, Lot 55 DP 613007 and Lot 8 Section D DP 10747.

The combined sites have a frontage to The Grand Parade of 55m, a frontage to Ramsgate Road of 86m, being to an at-grade public parking area, a western boundary of 38m and a southern boundary of 99m, giving a site area is 4,479m<sup>2</sup>. The site has a slight fall from west to east.

An aerial image of the subject site is provided in **Figure 1**.



**Figure 1** Aerial image of subject site (source: Six Maps)

The site is comprised of eight lots, as described in **Table 2** below.





Table 2 Property Description	
Legal Description	Area
Lot 6 DP 11037	492m <sup>2</sup>
Lot 7 DP 11037	492m <sup>2</sup>
Lot 8 DP 11037	492m <sup>2</sup>
Lot 9 DP 11037	505.6m <sup>2</sup>
Lot 10 DP 11037	500.7m <sup>2</sup>
Lot 11 DP 11037	500.7m <sup>2</sup>
Lot 55 DP 613007	487.4m <sup>2</sup>
Lot 8 Sec D DP 10747	108.9m <sup>2</sup>

Currently standing on the site is a single storey retail building presently occupied by a Coles supermarket. The eastern frontage of the supermarket is effectively a blank wall facing The Grand Parade and the northern façade is glazed but partly painted. The southern elevation of the Coles building is built to the boundary. The building is of poor architectural design, has reached the end of its economic life and contributes little to the character of the locality. To the west of the building is a paved car parking area with capacity for approximately 50 vehicles.



**Figure 2** Existing site as viewed from The Grand Parade.





**Figure 3** The subject site viewed from the council carpark on the site's north boundary



**Figure 4** The western part of the subject site viewed from the council carpark on the site's northern boundary.



## 2.2 SURROUNDING DEVELOPMENT

The area is characterised by a mixture of retail premises and both low rise and medium density residential developments with several recently constructed multi storey mixed use developments on the northern side of Ramsgate Road. The site is located within a mixed-use zone (Zone MU1 Mixed Use).

The land to the south of the site along both The Grand Parade and Alfred Street is characterised by medium density villa and townhouse developments and detached dwelling houses. This built form is consistent with the area's R2 Low Density Residential zoning. Figure 5 below indicates the typical residential development found to the south of the site.

Land to the west of the site along Ramsgate Road is occupied by traditional two storey retail and commercial development as far as Alfred Street. The three storey Ramsgate Beach Plaza is located on the western side of Alfred Street. This type of development is indicated in Figure 6. The condition of at-grade public parking extending across the northern frontage of the retail and commercial uses persists throughout the centre.

Several sites on the northern side of Ramsgate Road have recently been developed as six storey mixed use developments. These developments, providing ground floor retail uses and residential apartments above include Nos. 152, 154-156 and 158-162 Ramsgate Road. The north-western corner of The Grand Parade and Ramsgate Road is occupied by a Shell service station and a Coles Express. These developments are indicated in Figures 8 to 9.

Directly opposite the site on the eastern side of The Grand Parade is Cook Park which extends the full length of the western shore of Botany Bay from Kyeemagh to Dolls Point and the clubhouse of the Ramsgate and Ramsgate Surf Life Saving Club as indicated in Figure 10.



**Figure 5** Low density housing to the south of the subject site viewed from The Grand Parade



**Figure 6** Medium density housing to the south of the subject site.



**Figure 7** Commercial and retail development to the west of the subject site.





**Figure 8** Multi storey shop top housing development on northern side of Ramsgate Road.



**Figure 9** Service station and multi storey apartment building on the northern side of Ramsgate Road viewed from The Grand Parade.



**Figure 10** Open space and recreational facilities within Cook Park to the north-east of the site.

## 2.3 CONNECTIVITY AND ACCESS TO PUBLIC TRANSPORT

The subject site is located on the western side of The Grand Parade south of its intersection with Ramsgate Road. The Grand Parade is designated as a State Road (MR194) and Ramsgate Road is a Regional Road (MR 624) under the *Roads Act 1993*.

The subject site has good access to public transport and is located within walking distance of regular bus services to Hurstville and Kogarah (Route 947), Miranda (Route 478) and Randwick (Route 303) and is 7.4km south of Sydney Airport.

All relevant utility services including water, sewer, electricity and telephone are available and connected to the subject property.



## 3. Description of the proposal

### 3.1 BACKGROUND

The following site history is relevant to the proposed development:

Table 3 Site History		
Date	Application & Description	Decision
29 June 2006	DA 2004/758/A Development Application - S.96 Application - Alterations to the Approved Loading Dock including Awning and Carpark Lighting	Approved
24 April 2013	CDC 2013/114 Complying Development - Supermarket fitout	Approved by certifier
13 August 2013	DA 2013/323 Development Application - Addition of attached awning to Coles Supermarket	Approved
8 November 2013	DA 2013/343 Development Application - Addition of non-illuminated signage to Coles Supermarket	Refused
1 November 2019	CDC 2019/376 Complying Development - Internal alterations to existing retail premises.	Approved
10 August 2022	DA-2022/237 Integrated Development Application - Demolition of existing structures and construction of a six storey mixed-use development comprising retail uses, hotel accommodation, food and drink premises, basement carparking, public domain works and tree removal	Undetermined

### 3.2 PRE-DA ADVICE

A Pre-DA meeting was held with planning officers from the Bayside Council on 23 November 2023 where the development proposal was presented and discussed. Formal advice was provided via email on 1 December 2023. The following comments were provided by Council:

Table 4 Pre-Lodgement Advice	
Issue	Response
<b>Planning Comments</b>	
<i>Cost of Works</i>	
Schedule 6 of the State Environmental Planning Policy (Planning Systems) 2021 triggers the development to be determined by the Sydney Eastern City Planning Panel if the capital	A QS Report has been prepared by Napier and Blakeley and estimates the CIV for the proposed development is \$49.7 million. It therefore surpasses the \$30 million threshold and will be determined by the Sydney Eastern City Planning Panel.





#### Table 4 Pre-Lodgement Advice

investment value (CIV) of the proposal is greater than \$30 million and it is identified that the overall CIV for this project is proposed at \$28.3 million. Any future application will be required to be supported by a detailed Cost of Works statement by a registered quantity surveyor.

##### *Height of Buildings*

A maximum height standard of 20.5m is subjected to the site under Clause 4.3 of the BBLEP. The application appears to seek an overall height of approximately 22.750m requesting a variation to the development standard by 2.75m or 13.4%.

The maximum height of the proposed building is 23.46m and exceeds the maximum height. The height breach is a maximum of 2.96m. This results in a variation of 14.4%. The building height, excluding the lift overrun, exceeds the height limit by 2.36m or 11.5%.

Please also note that to ensure compliance with Section 3.3 of the Bayside Development Control Plan (BDGP) 2022 photovoltaic solar panels are to be provided at a rate that maximises the coverage of the non-trafficable roof area and may cause an additional increase in building height.

Solar panels have been considered as shown on the Roof Plan prepared by Craft Architecture.

Compliance with the standard is recommended in this instance, however it is acknowledged that the site is flood impacted. Should a Clause 4.6 variation statement be submitted, the statement must demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, address how the proposed development successfully complies with the objectives of the development standard and objectives of the zone.

A Clause 4.6 Variation has been provided at **Annexure C**.

##### *Floor Space Ratio*

A maximum Floor Space Ratio (FSR) standard of 2:1 (equating to a Gross Floor Area, or "GFA" of 8,958sqm) applies to the subject site and proposal. Council position on the calculation of FSR is that of which has been outlined in DA-2022/237 and presented to the SECPP on the 21 November 2023.

The following areas are to be included:

- All lobby spaces,
- Internal area adjoining loading dock,
- First floor bar and undercroft area; and
- Internal corridors within the tower element.

Council has calculated a total GFA of approximately 12,249.1sqm, or an FSR of 2.7:1. This will equate to a breach of 3291sqm in GFA or a FSR variation of 36%. This is a significant increase on the site which has created unnecessary bulk and scale which will

The proposed FSR is 2:1 and complies with the LEP maximum. Refer to **Section 4.2.9**.

## Table 4 Pre-Lodgement Advice

not be supported. The development must be redesigned to ensure that compliance is met.

### Setbacks

The southern boundary is treated as a side setback. As can be seen in the image below, Lot 8 in DP 10747 fronts The Grand Parade, shares a side boundary with SP 46143 to the south and has a clear rear boundary to the western end of the lot. The existing Coles development on the site treats this as a side boundary also. Irrespective, as discussed later in this SEE, the ADG separation controls for the residential component override the DCP controls with regard to setbacks (and treat side and rear boundaries in the same way).



The setback between the development and the southern boundary is a rear setback. A requirement of the ADG is to provide a 6m deep soil zone, to provide and support plant and trees. By providing this setback along the rear boundary this should ensure amenity of the adjoining residential areas and meet the required deep soil zone.

Accordingly, the arrangement of side and rear boundaries is identified as follows:

- Lot 8 DP 10747 is the southernmost lot located in the site boundary. The southern side boundary allocated to the site is also the logical side boundary for Lot 8 DP 10747.
- Lot 55 DP 613007 is the westernmost lot located in the site boundary. The western side boundary is the logical side boundary for Lot 55 DP 613007.
- The rear setbacks for the site, are the rear setbacks for Lot 8 DP 10747, Lot 55 DP 613007 and Lot 6 DP 11037.

The pre-DA notes incorrectly apply the ADG to the southern boundary. The commercial uses at lower levels are not required to meet the residential separation controls. In any case, the DCP controls clearly require a podium form to three storeys with a set back residential component above. The approach to setbacks referred to in the pre-DA response letter is not one that has been applied to any commercial or mixed use zones across Bayside LGA. The typical approach to the commercial component, or podium, is confirmed in Part 2F of the ADG:

Table 4 Pre-Lodgement Advice

*"No building separation is necessary where building types incorporate blank party walls. Typically this occurs along a main street or at podium levels within centres."*

Should the entry to the supermarket be located along The Grand Parade, the public domain interface is required to be profoundly modified to ensure the development meets the requirements of Section 6.9 Active Street Frontage of the BLEP 2021. As deliberated at the meeting; the existing footpath width of 2m does not have the capacity to suit a supermarket entry as well as the bus stop. To enable a desired public domain designed, the building at ground level must be setback at least by 3m, but preferably 5m.

The entrance to the proposed Coles Supermarket will be located along The Grand Parade. A 3m setback has been provided from the site boundary to the supermarket entrance, meeting the minimum desired by Council.

The tower element containing the residential apartments must be setback in accordance with section 2F and 3F of the ADG for the southern and western boundaries. Noting that the adjacent site is a different zone (R3 Medium Density) containing a lower density, a further 3m must be provided. Developments up to a height of 12m are to be setback 9m. Any building elements associated with the residential tower that is higher than 12m must be setback to a distance of 12m. Should this additional 3m still not provide the required solar access for the development to the south; the development may need to be setback further. With regards to front setback the BDCP 2022 requires a setback of 2m above the podium and the secondary frontage requires a setback of 3m.

Compliance with Section 3F – Visual Privacy of the ADG is discussed in length in **Section 4.2.7**. The minimum 9m setback from habitable spaces is achieved for all apartments, with the exception of Units 2.1, 2.2, 2.10 and 2.11. Those units do not strictly comply in a numeric sense, however the privacy objective of the clause can be met.

#### Landscaping

The design has yet to provide the required 15% (671.895sqm) deep soil zone with a minimum depth of 6m to support plant and trees growth. A variation to minimum landscaping requirements will not be supported and there is scope to provide this along the rear boundary.

Given the mixed use nature of the building, and requirement for commercial land uses to be located on the podium level with minimal setbacks, ground level landscaping is not achievable. The basement carpark further restricts the creation of a DSZ at ground level.

Extensive above ground landscaping is provided, with intended soil depths outlined in the Landscape Plans prepared by Site Design and Studio.

Compliance with Section 3E – Deep Soil Zones of the ADG is discussed in length in **Section 4.2.7**. In summary, it is accepted by the ADG that in town centres, landscaping and deep soil is not required at ground level. This is an approach again that has been adopted widely in Bayside in relation to mixed use development.

## Table 4 Pre-Lodgement Advice

### *Communal Open Space*

The design has yet to provide the required 25% (1119.825sqm) Communal Open Space in accordance with Objective 3D-1 of the ADG. The site is of an adequate size to provide this at either the ground level or podium level. As part of any future design direct, equitable access must be provided to communal open space areas from common circulation areas, entries and lobbies. Furthermore, the space is to be designed to allow for a range of activities, respond to site conditions and be attractive and inviting by providing seating for individuals or groups, barbecue areas and even play equipment or play areas.

Communal open space has been provided in the form of a community garden at Level 2.

The deficit in communal open space is compensated by large private open space areas in each unit and proximity to public amenities and infrastructure associated with San Souci Beach and Cook Park.

Compliance with Section 3D – Communal Open Space of the ADG is discussed at length in **Section 4.2.7**.

### *Overshadowing*

Overshadowing plan have not been provided, however it is clear from the design that the development has failed to protect the amenity of the residential areas which adjoins the site. The adjoining dwellings to the south will be adversely affected by the proposal including arising from the non-compliances to the setback. The development is required to comply with the ADG and BDCP 2022.

Solar access and sun view plans have been provided by Craft Architecture. The solar access diagrams confirm the proposed building would have less impact than a building that aligns with the RDCP envelope. This has been achieved by skilful design of the building envelope.

Further discussion regarding solar access is contained in **Section 4.4.1**.

### *North Elevation*

The visual bulk of the building as proposed is massive and long which does not meet the controls in the BDCP 2022 requiring the façade of the levels above the podium to be broken with significant recesses. These recesses are to be no greater than 24m with breaks 4.5m wide and 3m deep

The northern façade of the building has been articulated through significant variation in alignment, expression of building form and variation of materials in the facade. The façade will include glass balustrading, rendered balcony edges, concrete planters and privacy screens to create visual interest and reduce bulk and scale.

The proposed building has been concentrated along the northern and eastern frontages to minimise impacts to the residential dwellings to the south.

As previously advised by the DRP, the location of a key entry stair on the corner of Ramsgate Road and The Grand Parade creates an awkward pinch point with minimal width to cater for the anticipated foot traffic and an alignment with a planter rather than the larger paved area further west. The key entry stair would best be located away from the corner so as to allow for an active use such as café or bar. This would also reduce the impact of its blank side wall on The Grand Parade.

The key entry stairs to level 1 remain on the corner of Ramsgate Road and The Grand Parade. The stairs are located at a point which provides ample public domain to accommodate patrons entering and existing the Level 1 venue. The location of the entry stairs potentially in between the specialised ground floor retail uses would likely disrupt the operation of the premises. It is further critical that the entry stairs are located away from the vehicular access point to the west. We note that this stair location was considered to be acceptable in assessment of the current DA for a hotel development on the site.

## Table 4 Pre-Lodgement Advice

### *Zoning Objectives*

The subject site is zoned Mixed Use MU-1 under the provisions of the BLEP 2021. The proposal is defined as shop top housing, including retail premises (noting there is no specific definition of a supermarket) and floor to be dedicated to "food and beverage". As proposed the development does not meet all the objectives of the zone. The development has yet to be designed to minimise conflict between land uses within this zone and land uses within adjoining zones.

The proposed development has been designed to minimise land use conflict between adjoining zones. The use is permitted and entirely in line with the type of development that would be expected for the site.

A discussion regarding alignment with the MU1 zone objectives is contained in **Section 4.2.9**.

### *Active Street Frontages*

However, concerns are raised about the interaction towards The Grand Parade, given the narrow nature of the pedestrian strip and location of the bus stop. As noted above a preferable solution would have been to increase the setback to 3m, but preferable 5m. Frontage activation shall be setback from the boundary line and allow the public verge to function as a footpath and bus stop only.

The entrance to the proposed Coles Supermarket will be located along The Grand Parade. A 3m setback has been provided from the site boundary to the supermarket entrance.

### *Basement Design*

The proposed design is not typical of that which would contain residential apartment noting that there is no indication what is to be used by residents or the commercial use and any future design must ensure that the minimum requirement for deep soil are met as requested above.

The basement carpark has been delineated between private and public use. B3 is to be utilised solely by residents and visitors of residents. B1 and B2 will form retail and click and collect parking spaces associated with the commercial podium.

## Engineering Comments

### *Parking and Traffic*

This development requires 77 bicycle parking spaces, 12 visitor bicycle spaces and 19 motorcycle spaces designed in accordance with AS2890.3:2015 and AS2890.1:2004 respectively and the BDCP 2022.

Adequate parking for various modes of transport is provided in the three basement levels.

Refer to Section 4.6.2 for further discussion regarding parking and traffic.

Bicycle parking for residents/staff of a building is to be in the form of individual bicycle lockers/cages or as bike racks within a well-lit secure room/structure monitored by security camera surveillance (security level A or B from table 1.1 of AS2890.3:2015).

Bicycle parking for residents is located in enclosed garages.

Bicycle parking for staff and visitors is located in secure bike racks with end of trip facilities on B1.

All visitor bicycle spaces shall be located at the entrance to the development and be designed as

Refer to the Traffic and Parking Assessment prepared by Varga Traffic Planning.

#### Table 4 Pre-Lodgement Advice

security level C from table 1.1 of AS2890.3:2015  
Bicycle parking in basements is to be located on the uppermost level of the basement close to entry/exit points.

The BDCP 2022 section 3.5.6 table 5 requires the development to provide 1 SRV loading bays for the residential component of the development and 2 van and 1 HRV loading bay for the commercial component of the development. The loading dock needs to be designed to be shared by the residential and commercial components of the site.

The BDCP 2022 section 3.5.9 C3 requires 1 car share space per 50 car parking spaces. This development requires 216 car spaces which means five car share spaces need to be provided.

This is a matter that can be conditioned.

Accessible parking spaces are to be provided for the development as calculated by the requirements of the disability – access to premises standards act and the DCP.

Accessible parking provided.

The BDCP 2022 section 3.5.9 requires all car parking spaces to be "EV ready". Please refer to C6, C7, C8, C9 & C10 of the BDC

EV charging available.

Traffic and Parking Impact Assessment report, prepared by a qualified traffic engineer shall be submitted as per section 3.5.2 of BDCP 2022

Refer to the Traffic and Parking Assessment prepared by Varga Traffic Planning.

#### *Vehicular Access, Internal Dimensioning and Design*

The design of the vehicular entrance needs to be able to accommodate the largest vehicle proposed to enter the site.

The first 6m into the property on the driveway is to have a gradient no steeper than -5% to comply with AS2890.1.

Refer to the Traffic and Parking Assessment prepared by Varga Traffic Planning.

The gradients along the entire driveway profile and vehicular crossing are to comply with AS2890.2 and AS2890.1.

Refer to the Traffic and Parking Assessment prepared by Varga Traffic Planning.

A longitudinal driveway profile prepared by a suitably qualified civil engineer shall be submitted for assessment. The profile shall start in the centre

A longitudinal driveway section has been provided in by Craft Architecture.

**Table 4 Pre-Lodgement Advice**

of the road and be along the critical edge (worst case) of the driveway. Gradients and transitions shall be in accordance with AS/NZS 2890.1 & AS2890.2. The profile shall be drawn to a scale of 1 to 25 and shall include all relevant levels, grades (%), headroom clearances and lengths.

Pedestrian sightlines for vehicles exiting the site are to comply with AS2890.1 and AS2890.2.

Refer to the Traffic and Parking Assessment prepared by Varga Traffic Planning.

The design of the entire parking facility is to comply with AS/NZS2890.1:2004 and, the design of the parking facility along the travel path of the service vehicles is to comply with AS2890.2:2018.

Refer to the Traffic and Parking Assessment prepared by Varga Traffic Planning.

The architectural plans are to clearly number, dimension and show the use of each parking space proposed.

The architectural plans clearly identify parking spaces and their intended use.

#### *Waste*

Due to the scale of the development, on-street waste collection will not be supported. As such the development will be required to be redesigned to support off-street waste collection in which the waste collection vehicle must be able to enter and exist the site in a forward direction.

On site waste collection is proposed, as outlined in the Operational Waste Management Plan.

Section 3.5.7 of the BDCP 2022 requires all waste collection to be undertaken onsite; no bins are permitted to be presented to the street for collection. Waste collection can be undertaken in the developments required loading bay and the waste holding rooms shall be designed and located to facilitate waste collection internally within the property. The collection bay within the required loading bay may be considered where a require a headroom clearance of 3.5m is provided.

On site waste collection is proposed, as outlined in the Operational Waste Management Plan.

Details are to be provided demonstrating compliance with these above-mentioned requirements. Access must be designed to accommodate a Council garbage truck, or any vehicles used by private waste contractors.

Refer to Traffic Assessment Report.

#### *Flooding*

A Flood Advice Letter will be required to be obtained for all lots from Council prior to lodging any development application for the property. The developments habitable and non-habitable areas

The Stormwater Report and Flood Report prepared by *SCP Engineers and Development Consultants* has addressed this issue.



**Table 4 Pre-Lodgement Advice**

will need to be physically protected from inundation during the flooding event (including any basement and fire stairs). The flood impacts of the development footprint on the floodplain need to be assessed using a 2D flood model through a recognised computer software. The flood related development controls and other flood related requirements that affect the site will be detailed in Council's Flood Advice Letter. The development shall comply in full with BDCP 2022 section 3.10.

*Stormwater*

In lieu of an OSD system, a flood storage tank to compensate for the lost flood storage resulting from the development shall be provided on-site. This needs to be supported by the 2D TUFLOW flood modelling.

The development application is supported by a Stormwater Management Plan and Report addressing water quality in accordance with Council's technical requirements.

Full details of the flood storage tank design shall be provided including demonstrating how the flood storage tank will collect floodwaters from Ramsgate road and how the flood storage tank will drain after the flood event ends.

The development requires the implementation of Water Sensitive Urban Design (WSUD) in the design of the drainage system. Bayside Technical Specification Stormwater Management section 7.1 requires the development to confirm the targets for the stormwater pollution reduction and to justify using MUSIC modelling.

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

The development application is supported by a Stormwater Management Plan and Report addressing water quality in accordance with Council's technical requirements.

A WSUD catchment plan highlighting the impervious and pervious areas for water quality treatment and areas which bypass the treatment system as well. The WSUD catchment plan is to show the non-trafficable roof areas draining into the rainwater tank.

A WSUD catchment plan has been provided.

The concept stormwater plans are to include at minimum all basement levels, the ground floor and first floor level and roof drainage plan.

The concept stormwater plans at minimum these plans.

**Table 4 Pre-Lodgement Advice**

A civil stormwater management report is to be provided addressing the stormwater management, WSUD, flooding, Services, sediment and erosion control, and Earthworks.

The development application is supported by a Stormwater Management Plan and Report addressing water quality in accordance with Council's technical requirements.

A concept sediment and erosion control plan to be provided. Sediment basin calculations to be shown.

A sediment and erosion plan has been provided.

Section 7.2 requires the development to provide a minimum 10,000L rainwater tank connected for internal non-potable stormwater re-use including connections to all ground level toilet flushing, the cold water tap that supplies the ground level clothes washing machines, the car wash bay, and the landscape irrigation system.

A rainwater tank in excess of 10,000L is provided across all three basement levels.

All surface run-off from the car parking facility is to be directed through an oil separator in accordance with section Bayside Technical Specification Stormwater Management. Manufacturer details for the oil separator to be provided.

Complies.

The basement levels may need be required to be fully tanked due if the presence of shallow groundwater. No groundwater is permitted to enter the basement.

Noted, no groundwater is intended to enter the basement.

The pump-out for the basement needs to comply with requirements set in Bayside Technical Specification Stormwater Management. No pump-out is to be used to capture and discharge groundwater from the basement.

Complies.

#### *Geotechnical*

The type and extent of substrata formations by the provision of a minimum of two representative bore hole logs which are to provide a full description of all material from the ground surface to 1.0m below the finished basement floor level and include the location and description of any anomalies encountered in the profile.

The development application is supported by a Geotechnical Report prepared by JK Geotechnics.

The surface and depth of the bore hole logs shall be related to Australian Height Datum;

The appropriate means of excavation/shoring in light of point (a) above and proximity to adjacent property and structures. Potential vibration caused by the method of excavation and potential settlements affecting nearby

Excavation will be carried out in accordance with the recommendations of the Geotechnical Report prepared by JK Geotechnics.

**Table 4 Pre-Lodgement Advice**

footings/foundations/buildings shall be discussed and ameliorated;

The proposed method to temporarily and permanently support the excavation for the basement adjacent to adjoining property, structures and road reserve if nearby (full support to be provided within the subject site);

The proposed methods to temporarily support basement excavation is outlined in the Geotechnical Report prepared by JK Geotechnics.

Determine the groundwater levels for the site via long term groundwater monitoring.

Groundwater levels for the site have been determined in the Geotechnical Report prepared by JK Geotechnics.

Recommendations to allow the satisfactory implementation of the works.

*Additional Information*

The DA plans are to contain detailed dimensions of all elements of the development. Plans as submitted are not acceptable. Further; additional cross sections are required to support the proposed setbacks and built form. A photomontage is also required.

Refer to Architectural Plans by Craft Architecture.

### 3.3 PROPOSAL

The proposed development involves the demolition of all structures on the site and associated site clearance, and the construction of a six-storey mixed use development. The building is configured as a two-storey podium containing 2,879.9m<sup>2</sup> retail floor space with a food and drink premises on Level 1. The four-storey tower component contains residential accommodation in the form of 44 apartments. Three levels of basement carparking for 279 (including 10 click and collect) vehicles is provided underneath the ground level.

Vehicle access to the site will be provided from Ramsgate Road through the public parking area within the road reserve to the northern frontage of the site. A loading dock is provided at ground level with a turntable. The basement car parking area will also provide areas for bicycle parking, end of trip facilities, loading area, storage, plant rooms and a rainwater tank.

Detailed architectural plans have been prepared by *Craft Architecture* and are included with the development application.

#### 3.3.1 Building Arrangement and Configuration

The proposed development provides a six storey mixed use development, which comprises a two storey podium and four storey residential tower. The proposed residential accommodation involves 44 apartments provided over four levels. These apartments can be accessed from the basement carpark and ground floor via two lifts.

The development proposes a 2,270.4m<sup>2</sup> supermarket on the ground floor of the building along with a 'click and collect' facility within the B1 basement carpark.

Level 1 of the development involves a 867.4m<sup>2</sup> food and drink premises. This venue will be open to the public with expansive indoor-outdoor dining, providing views of the Brighton Le Sands foreshore.



Levels 2-5 comprise a residential flat building containing 44 apartments over four levels. The residential apartments will comprise a mix of 2- and 3-bedroom units.

Below the podium level is three floors of basement carparking proposed to accommodate 279 vehicles, bicycle parking, waste storage, mechanical plant, building services, end of trip amenities and locker/storage areas.

The proposal is described in architectural plans prepared by *Craft Architecture* and submitted with the application.

**Table 4** below provides a description of the proposed development.

Table 5 Proposal			
Floor	Description	GFA (sqm)	Drawing number
B3 RL -6.4	44 resident double garages (88 resident spaces), 3 visitor spaces. Bin storage, plant room and rainwater tank.	0	A-0200
B2 RL -3.15	109 retail car parking spaces, plant room and rainwater tank.	0	A-0201
B1 RL 0.1	69 retail car parking spaces, 10 click and collect car parking spaces, end of trip facilities, locker room, plant room and rainwater tank.	0	A-0202
Ground Floor RL 3.5	Supermarket, carpark entry, loading dock, residential lobby, specialty retail.	2,879.9	A-0203
Level 1 RL 8.5	Food and beverage outlet.	867.4	A-0204
L2 RL 12.8	11 residential apartments with mix of 2 and 3 bedroom units.	1,302.7	A-0205
L3 RL 16	11 residential apartments with mix of 2 and 3 bedroom units.	1,302.7	A-0206
L4 RL 19.2	11 residential apartments with mix of 2 and 3 bedroom units.	1,302.7	A-207
L5 RL 22.4	11 residential apartments with mix of 2 and 3 bedroom units.	1,302.7	A-0208
Roof RL 25.6	Concrete roof, PV panels and two lift overruns	0	A-0210

### 3.4 LANDSCAPING

The proposed development will provide above ground landscaping above the podium.

The proposed development will provide areas of landscaping around the site commensurate with its urban location and mixed-use zoning. The podium contains significant landscaping with street trees proposed along Ramsgate Road at ground level. Level 1 contains perimeter planting and a central landscaped courtyard. Above the podium, there will be





significant landscaped area on Level 2, including a communal garden. Levels 3-5 contain landscaping adjacent to the eastern common circulation area. Plant and tree species that are wind and salt tolerant have been prioritised given the location of the site to the foreshore. The total landscaped area, including the podium and upper level planting for the site is 2,301.4m<sup>2</sup>.

Details of the proposed landscaping are provided in the Landscape Plans prepared by *Site Design + Studios* and submitted with the application.

### **3.5 WASTE MANAGEMENT**

An operational waste management plan has been prepared and is submitted with the development application. The plan addresses the management and disposal of waste generated during the operational phases of the development, in particular the retail and residential uses.





## 4. Environmental Planning Assessment

### 4.1 PREAMBLE

This section of the Statement provides a planning assessment of the proposed development covering all relevant heads of consideration under Section 4.15 of the EP&A Act, 1979.

### 4.2 STATUTORY AND POLICY COMPLIANCE

The relevant matters for consideration under Section 4.15(1)(a) of the EP&A Act, 1979, are identified in the following Table:

Table 6 Section 4.15 Matters For Consideration				
EP & A Act, 1979.	Matters for Consideration	Applies	See Comments	N/A
4.15(1)(a)(i)	State Environmental Planning Policy (Biodiversity and Conservation) 2021	✓	✓	
"	State Environmental Planning Policy (Industry and Employment) 2021	✓	✓	
"	State Environmental Planning Policy (Planning Systems) 2021	✓	✓	
"	State Environmental Planning Policy (Resilience and Hazards) 2021	✓	✓	
	State Environmental Planning Policy (Transport and Infrastructure) 2021			
	State Environmental Planning Policy No 65 (Design Quality of Residential Apartment Development) 2002	✓	✓	
"	Bayside Local Environmental Plan 2021	✓	✓	
S.4.15(1)(a)(iii)	Rockdale Development Control Plan 2011	✓	✓	
S.4.15(1)(a)(iv)	Any other prescribed matter:- <ul style="list-style-type: none"><li>AS 2601-1991: Demolition of structures.</li></ul>	✓		

The matters identified in the above table as requiring specific comment are discussed below. The primary statutory document that relates to the subject site and the proposed development is *Bayside Local Environmental Plan 2021*. The primary non-statutory document relating to the subject site and proposed development is the *Rockdale Development Control Plan 2011*. The relevant provisions of these documents and other relevant planning controls are summarised below and the proposal's compliance with them assessed.



#### 4.2.1 Water Management Act 2000

The proposed development is nominated Integrated Development as it will require an approval under the *Water Management Act 2000* from Water NSW to dewater the site during construction work.

The Geotechnical Report submitted with the development application states the following:

*“groundwater was observed in most of the boreholes dug at the site ranging from about 1.6m to 2.0m below the existing surface levels. On completion of drilling, and up to two days following the completion of drilling, groundwater was measured in the boreholes at depths ranging from 1.6m to 1.98m”*

In response the report has proposed:

*“As dewatering will be required, we expect Council will refer the project to WaterNSW who will require a temporary dewatering licence in order to allow the dewatering to proceed. The WaterNSW temporary dewatering licence application be a Dewatering Management Plan, evidence of groundwater level monitoring for at least three months from at least three groundwater monitoring wells, as well as permeability testing, groundwater sampling and groundwater quality testing. It will also be necessary to undertake analysis of the expected seepage volumes into the excavation during construction”.*

These matters can be dealt with by conditions of development consent.

#### 4.2.2 State Environmental Planning Policy (Biodiversity and Conservation) 2021

##### 4.2.2.1 Chapter 2 – Vegetation in Non-Rural Areas

Chapter 2 of State Environmental Planning Policy (Biodiversity and Conservation) 2021 replaced the provisions of *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017* (Vegetation SEPP). All of the provisions of the Vegetation SEPP were transferred into the new SEPP.

Chapter 2 of the SEPP works together with the *Biodiversity Conservation Act 2016* and the *Local Land Services Amendment Act 2016* to create a framework for the regulation of clearing of native vegetation in NSW. The chapter regulates clearing that is not ancillary to development requiring consent. Whereas, clearing that is ancillary to development requiring consent will be assessed as part of the development assessment process.

As such, the proposed removal of trees is ancillary to development requiring consent and will be assessed by Council's Tree Officer.

The proposed development involves the removal of several trees of low significance and low retention value. New tree planting is proposed on the podium and tower structures, as indicated in the accompanying landscape plan. Replacement street trees are also proposed within the Ramsgate Road frontage of the site. As such, the development will enhance the landscape quality of the site and is consistent with the aims of the SEPP.

#### 4.2.3 State Environmental Planning Policy (Industry and Employment) 2021

##### Chapter 3 Advertising and Signage

This Chapter contains the provisions of the former *State Environmental Planning Policy No 64 – Advertising and Signage*.

There will be limited business identification signage erected and displayed on the building to advertise the building's tenants. Directional and building identification signage will also be displayed in appropriate locations to indicate the





location of the carparking areas, loading docks, residential entrance, Level 1 entrance, supermarket entry and other building features.

At this stage, the development application is not seeking consent for the display of any signage and separate development applications will be submitted to Council for any future signage proposals.

#### **4.2.4 State Environmental Planning Policy (Planning Systems) 2021**

##### **Chapter 2 – State and regional development**

The proposal has a capital investment value (“CIV”) of \$49.7 million. Therefore, as the CIV is greater than \$30 million, under Schedule 6 of the State Environmental Planning Policy (Planning Systems) 2021, the proposal is identified as regionally significant development. As such, the proposal will be determined by the Sydney Eastern City Planning Panel.

#### **4.2.5 State Environmental Planning Policy (Resilience and Hazards) 2021**

##### **4.2.5.1 Chapter 2 - Coastal Management**

The site is subject to Chapter 2 of this Policy.

The Policy provides matters for consideration by a consent authority when assessing development applications within these areas, which require consideration of potential impacts on the coastal environment including ecological values, water quality, vegetation, public access as well as a consideration of the visual amenity and scenic qualities of the coast.

The Policy gives effect to the objectives of the Coastal Management Act 2016 from a land use planning perspective, by specifying how development proposals are to be assessed if they fall within the coastal zone.

Mapping associated with the Policy indicates that the site is partially affected by Division 3 Coastal Environment Area and entirely affected by Division 4 Coastal Use Area of the Policy.

The Coastal Management Act 2016 sets out management objectives for land located within different coastal areas. See below for the list of objectives for the areas that apply to the subject site.

##### **Coastal Environment Area**

The management objectives for the coastal environment area are as follows:

- (a) to protect and enhance the coastal environmental values and natural processes of coastal waters, estuaries, coastal lakes and coastal lagoons, and enhance natural character, scenic value, biological diversity and ecosystem integrity,*
- (b) to reduce threats to and improve the resilience of coastal waters, estuaries, coastal lakes and coastal lagoons, including in response to climate change,*
- (c) to maintain and improve water quality and estuary health,*
- (d) to support the social and cultural values of coastal waters, estuaries, coastal lakes and coastal lagoons,*
- (e) to maintain the presence of beaches, dunes and the natural features of foreshores, taking into account the beach system operating at the relevant place,*



(f) to maintain and, where practicable, improve public access, amenity and use of beaches, foreshores, headlands and rock platforms.

### **Coastal Use Area**

The management objectives for the coastal use area are as follows:

(a) to protect and enhance the scenic, social and cultural values of the coast by ensuring that—

- (i) the type, bulk, scale and size of development is appropriate for the location and natural scenic quality of the coast, and
- (ii) adverse impacts of development on cultural and built environment heritage are avoided or mitigated, and
- (iii) urban design, including water sensitive urban design, is supported and incorporated into development activities, and
- (iv) adequate public open space is provided, including for recreational activities and associated infrastructure, and
- (v) the use of the surf zone is considered,

(b) to accommodate both urbanised and natural stretches of coastline.

The proposal is not antipathetic to the above stated objectives of the Coastal Environment and Coastal Use areas.

Clauses 2.10 and 2.11 of the Policy provide development standards for consideration by Council when assessing development within these areas. Annexure A of this Statement provides a response to each matter for consideration specific to the proposal.

### **Chapter 4 - Remediation of Land**

Chapter 4 of *State Environmental Planning Policy (Resilience and Hazards) 2021* replaced the former State Environmental Planning Policy No 55 – Remediation of Land (SEPP 55). All of the provisions of SEPP 55 were transferred into the new SEPP.

The site has a history of commercial land uses since 1977 when the current Coles Supermarket was erected. Before 1977 the site was used as a recreation facility (Ramsgate Baths). Given the site's history, a Stage 1 Preliminary Site Investigation Report has been prepared by JK Environmental and accompanies the application. The report states the following :

*"The boreholes encountered fill materials to depth of approximately 0.3m below ground level, underlain by sandy soils. The fill contained inclusions of igneous gravel, silt, concrete and terracotta fragments and ash. Asbestos and nickel were identified in soil at concentrations that exceeded the human health and ecological SAC (site assessment criteria) respectively. Heavy metals (arsenic, copper and zinc) were also identified in groundwater above the ecological (marine) SAC".*

In light of the findings, the report makes the following conclusions:

*"The PSI (preliminary site investigation) has not identified contamination that would preclude the proposed development/use of the site. However, a Detailed Site Investigation (DSI) is required to address the data gaps identified, characterise the risks and establish whether remediation is necessary (and inform the preparation of a RAP (remediation action plan) where required".*

It is acknowledged that the abovementioned PSI recommends further investigation via a Detailed Site Investigation (DSI) to be prepared. However, as concluded in the PSI, the site can be made suitable for the proposed development subject to the recommendations of the PSI, which can be the subject of conditions of development consent.

#### **4.2.6 State Environmental Planning Policy (Transport and Infrastructure) 2021**

##### **4.2.6.1 Chapter 2 – Infrastructure**

Chapter 2 of *State Environmental Planning Policy (Transport and Infrastructure) 2021* replaced the repealed *State Environmental Planning Policy (Infrastructure) 2007* (ISEPP). All of the provisions of the ISEPP were transferred into the new SEPP.

##### **Clause 2.48 – Determination of development applications – other development**

This clause applies to development likely to affect an electricity transmission or distribution network. The following types of development applications are affected:

- (a) the penetration of ground within 2m of an underground electricity power line or an electricity distribution pole or within 10m of any part of an electricity tower,*
- (b) development carried out—(i) within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists), or (ii) immediately adjacent to an electricity substation, or (iii) within 5m of an exposed overhead electricity power line.*

All above ground electricity power lines adjacent to the site's boundaries have previously been undergrounded. It is likely that the proposed development will involve excavation adjacent to those underground electricity mains and for this reason, referral to Ausgrid for comment would be likely.

Furthermore, there is a small Ausgrid kiosk substation (substation 10559) located on the site within the Coles supermarket carpark that will be removed as part of the development proposal.

##### **Clause 2.119 – Development with frontage to classified road**

This clause applies to development with a frontage to a classified road and requires the consent authority to be satisfied that:

- (i) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and*
- (ii) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:-*
  - 1. the design of the vehicular access to the land, or*
  - 2. the emission of smoke or dust from the development, or*
  - 3. the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
- (iii) the development is a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

The proposed development does not propose any vehicle access into the site from The Grand Parade. It is proposed that all vehicle access into and from the proposed development will be from Ramsgate Road only. Therefore, the proposed development satisfies the requirements of this clause of the Policy.

In respect of the impact of noise and emissions on the proposed development, the proposal is for residential accommodation on the tower component. There is nothing to suggest that the proposed use will be unduly impacted

by external traffic noise and vehicle emissions, subject to suitable building design and construction as recommended in the accompanying acoustic report prepared by *Renzo Tonin and Associates*.

The Acoustic Report recommends the following measures be implemented to mitigate the effects of external traffic noise:

#### Glazed Windows and Doors

*The minimum glazing specification for the project is detailed in Table 4-3. The installation of façade elements in building openings and the design of window mullions, door frames and perimeter seals, must not reduce the sound insulation of the glazing assembly (i.e. glass, frame and seals) below the values nominated in Table 4-3. Key items to note to prevent this include:*

*Acoustic seals nominated for all external windows and doors, are required to be fitted with Q-lon type acoustic seals or equivalent rubber bulb acoustic seals. Mohair or fin type seals are not acceptable for the windows and doors requiring acoustic seals.*

*Perimeter of opening around façade element is acoustically sealed i.e. space between frame (before architraves are installed for windows) and wall structure is sealed with silicone or polyurethane acoustic sealant and foam backing rod.*

#### External Walls

*Masonry construction will provide adequate sound insulation (in principle, external wall constructions with a sound insulation rating 15dB higher than the recommended glazing specifications, are sufficient to maintain the acoustic performance of the overall facade system) against site road traffic noise and no further upgrade is required for acoustic purposes. There should not be vents on the internal skin of external walls. All penetrations in the internal skin of external walls should be acoustically sealed (i.e. airtight).*

#### Roof and Ceiling

*The proposed concrete roof is also acoustically acceptable and does not require any additional treatments.*

#### Ventilation Requirements

*It is recommended that a mechanical engineer is consulted to ensure the ventilation requirements of the Building Code of Australia and Australian Standard AS 1668.2:2012 "The use of ventilation and air-conditioning in buildings" are achieved. The project internal noise goals are to be met with mechanical ventilation systems not operating.*

*Where alternative forms of ventilation are to be provided, it must be ensured that the solution does not provide a new noise leakage path into the dwelling and also does not create a noise nuisance to neighbouring premises.*

These matters can be the subject of conditions of development consent.

### **Clause 2.122 – Traffic-generating development**

This clause applies to traffic generating development (as specified in Column 1 of the Table in Schedule 3). The clause requires the consent authority, before it determines a development application for development to which the clause applies, to do the following:

- (a) *give written notice of the application to Transport for NSW within 7 days of the application being made and*
- (b) *take into consideration-*
  - *any submission provided in response to the notice to Transport for NSW received within 21 days of the notice being given, and*

- *the accessibility of the site concerning including the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips and the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail; and*
- *any potential traffic safety, road congestion or parking implications of the development.*

The proposal includes three basement levels, facilitating 178 retail car parking spaces, 10 click and collect, 44 resident garages (88 resident spaces) and 3 visitor spaces. Although the site does not provide direct vehicular or pedestrian access to a classified road (The Grand Parade), it does provide access to a road (Ramsgate Road) that connects to a classified road with access within 90m of the connection. As such referral of the development application to Transport for NSW is required.

The traffic implications of development proposals primarily concern the effects that any *additional* traffic flows may have on the operational performance of the nearby road network.

Those effects can be assessed using the SIDRA NETWORK program which is widely used by TfNSW (formerly RMS) and many LGA's for this purpose. Criteria for evaluating the results of SIDRA analysis are reproduced in the following pages.

The results of the SIDRA NETWORK capacity analysis at the two surrounding intersections, *plus* the proposed site access driveways off Ramsgate Road and Alfred Street are reproduced in Appendix C and summarised in the table on the following pages.

It is pertinent to note in this regard that the two separate driveways off Ramsgate Road are to be consolidated to a single two-way driveway which is to be located in approximately the same location as the existing "exit-only" driveway. This will allow the existing deceleration/slip-lane in Ramsgate Road to be extended a further 30m to the west from the signalised intersection at The Grand Parade.

Accordingly, it is considered that there would be no impediment to the proposal being supported by TfNSW.

#### **4.2.7 State Environmental Planning Policy No 65 (Design Quality of Residential Apartment Development) 2002**

SEPP No. 65 – Design Quality of Residential Flat Buildings (SEPP 65) was gazetted on 26 July 2002 and applies to the assessment of Development Applications for residential flat developments of three or more storeys in height and containing at least four dwellings. Amendment 3 to SEPP 65 commenced on 17 July 2015 and implemented various changes including the introduction of the Apartment Design Guide (ADG) to replace the Residential Flat Design Code. Due to the composition of the proposed development SEPP 65 applies to the proposal.

Schedule 1 of the Policy sets out the 9 'Design Quality Principles' and Clause 28(2) requires that the consent authority, in determining a development application to take into consideration:

- The advice (if any) of a relevant design review panel;
- The design quality of the residential flat development when evaluated in accordance with the design quality principles and The Apartment Design Guide.
- A Design Verification has been submitted with the application by a qualified designer detailing compliance with the design quality principles and objectives in Parts 3 and 4 of the ADG in satisfaction of Clause 29 of the EP&A Regulation 2021.

A compliance table is provided at **Annexure D** detailing compliance with the applicable Design Criteria contained within the Apartment Design Guide. The compliance table identifies that the proposal is consistent with the relevant design criteria or is acceptable on merit for the reasons detailed in the compliance table.



A Design Verification Statement has been submitted with this development application by *Craft Architecture Sydney* demonstrating compliance with the design quality principles and objectives in Parts 3 and 4 of the ADG in satisfaction of Clause 29 of the EP&A Regulation 2021.

Furthermore, Clause 6A of the SEPP states that development control plans cannot be inconsistent with the Apartment Design Guide in relation to; '(a) visual privacy, (b) solar and daylight access, (c) common circulation and spaces, (d) apartment size and layout, (e) ceiling heights, (f) private open space and balconies, (g) natural ventilation, (h) storage'.

In addition, Clause 30(1) of the SEPP states that a development application cannot be refused if it complies with the prescribed criteria of the Apartment Design Guide in relation to ceiling heights, parking and internal apartment sizes.

#### **4.2.7.1 Deep Soil Landscaped Area**

Design Criteria 1 of Part 3E of the ADG requires development on sites with an area exceeding 1,500m<sup>2</sup> to provide 7% (i.e. 313.53m<sup>2</sup>) deep soil area with a minimum dimension of 6m. The proposed development will provide no deep soil landscaping on site, which is non-compliant with this requirement.

Nonetheless, the ADG allows for non-compliance with the deep soil recommendations based on context. In particular, design guidance under Objective 3E-1 states the following:

*"Achieving the design criteria may not be possible on some sites including where:*

- the location and building typology have limited or no space for deep soil at ground level (e.g. central business district, constrained sites, high density areas, or in centres)*
- there is 100% site coverage or non-residential uses at ground floor level*

*Where a proposal does not achieve deep soil requirements, acceptable stormwater management should be achieved and alternative forms of planting provided such as on structure"*

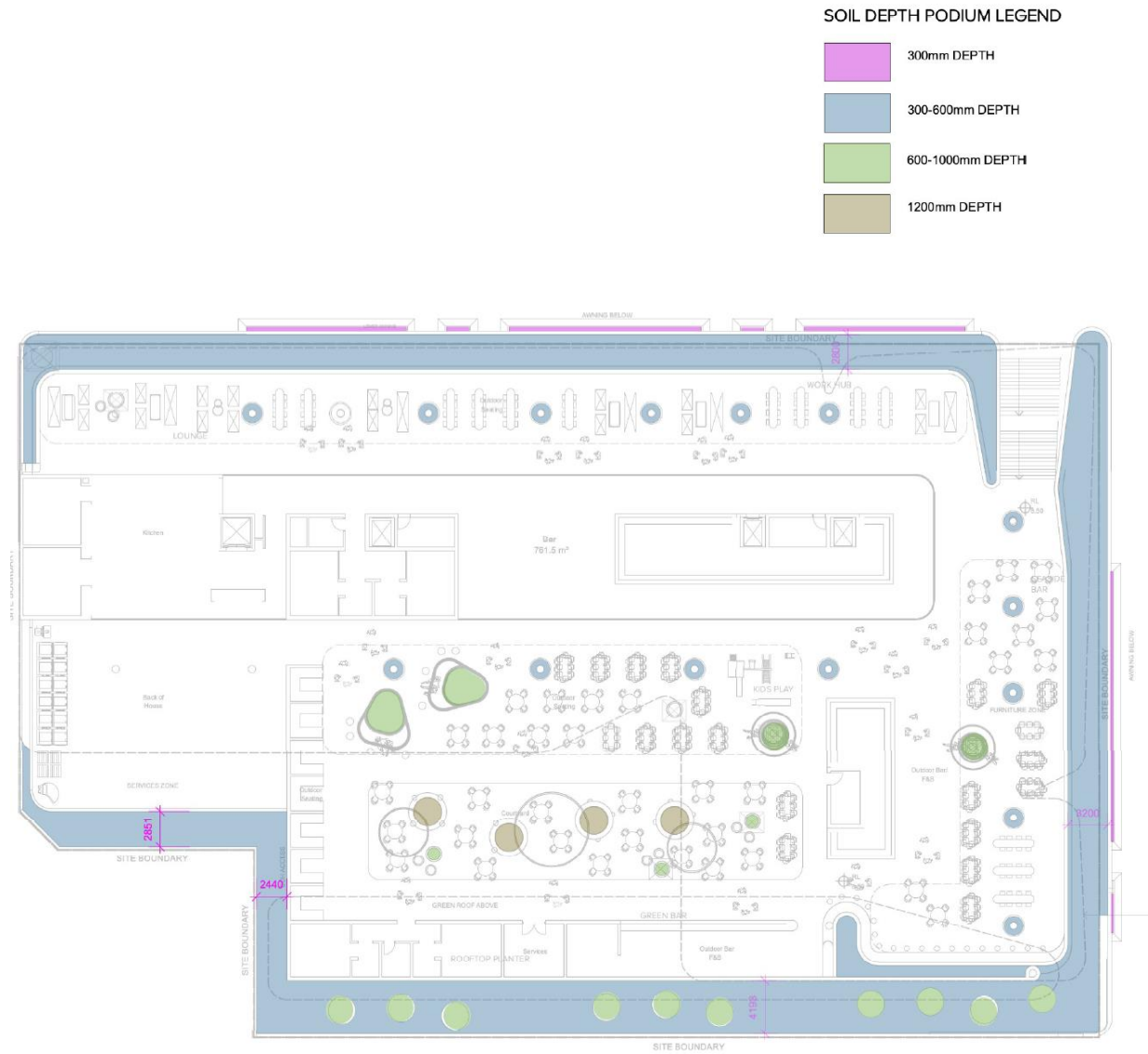
It is considered that the proposed development meets the abovementioned design guidance and therefore the proposed non-compliance with the numerical deep soil requirement is acceptable, for the reasons outlined below.

The proposed development is for a higher density mixed use development, that is consistent with the objectives of zone MU1 and compatible with the desired future character of the locality in terms of form, massing and scale. Specifically, the proposed development is provided with nil setbacks to the street frontages and public domain areas up to the podium level as is anticipated by the Rockdale DCP. Further to this, the site requires excavation to provide basement car parking that consumes the site, in order to provide greater commercial parking availability.

The subject site is a key site and is strategically located for mixed use development. Given the ideal location, in an area well serviced by private and public transport and in close proximity to a town centre, the commercial use situated on the ground and first floor are deemed appropriate. It follows that the proposed development will meet the design guidance where the required deep soil landscaped area will not to be achieved; being a high-density development and providing 100% non-residential uses at ground level. Further, the site is located opposite San Souci Beach and Cook Park, providing significant and protected vegetation in the immediate vicinity.

Notwithstanding the above, it is noted that development is still capable of supporting adequate vegetation. As detailed in the accompanying Landscape Plans, street tree planting is proposed along Ramsgate Road, in the public domain. The majority of onsite landscaping is located on Level 1 and Level 2. On Level 1 (food and drink premises), perimeter landscaping is provided as well as larger tree planting within the courtyard. Level 2 also provides perimeter planting and a paved communal garden, scattered with tree species including fiddle leaf fig. Proposed soil depths on Level 1 and Level 2 are depicted in **Figure 11 and 12**.





**Figure 11** Proposed soil depths for Levels 1 (Source: Site Design + Studios)







## LEVEL 2

**Figure 12** Proposed soil depths for Levels 2 (Source: Site Design + Studios)

Despite the deficit in DSZ, ample above ground landscaping is provided throughout the development. The total landscaped area provided (on podium or structure) is 2,281.2m<sup>2</sup>, which equates to 50% of the site area. A breakdown of the landscaped areas attributed to each level is provided below:

- Ground: 22.9m<sup>2</sup>
- Level 1: 848.8m<sup>2</sup>
- Level 2: 1,18.1m<sup>2</sup>
- Level 3: 73.8m<sup>2</sup>
- Level 4: 73.8m<sup>2</sup>
- Level 5: 73.8m<sup>2</sup>

In light of the above, it is considered that despite the numerical non-compliance with design criteria under Part 3E of the ADG, the development is consistent with the design guidance and is still capable of supporting healthy vegetation growth. Further, the landscaping will improve residential amenity and promote management of water and air quality. Thus, the development remains consistent with Objective 3E-1 of the ADG.

### 4.2.7.2 Communal Open Space

Design Criteria 1 of Part 3D of the ADG requires a minimum area, equal to or greater than 25% of the site, be provided as communal open space (COS). The primary COS on site is provided on Level 2, with a community garden proposed. The community garden equates to an area of 296m<sup>2</sup>. Further landscaping is provided across Levels 2-5, however, this

landscaping has not been designed for the provision of COS. The required COS for the site in accordance with the ADG is 1,120m<sup>2</sup>.

In accordance with the design guidance under Part 3D of the ADG, exception to the minimum COS area can be considered, should the proposed development be aligned with the following:

*Where developments are unable to achieve the design criteria, such as on small lots, sites within business zones, or in a dense urban area, they should:*

- provide communal spaces elsewhere such as a landscaped roof top terrace or a common room
- provide larger balconies or increased private open space for apartments
- demonstrate good proximity to public open space and facilities and/or provide contributions to public open space

In considering the site and development characteristics, variation to the COS requirement should be considered for the following reasons:

- The site is zoned MU1 – Mixed Use which is effectively a business zone; and
- The ground floor commercial podium has been designed with zero setbacks in line with RDCP. Therefore, COS and landscaping has been provided above ground; and
- The provided private open space areas for each unit far exceed the minimum requirements of the ADG. It is likely future residents will favour using POS as opposed to COS; and
- The site is across the road from the Ramsgate Beach foreshore and Cook Park. These public open space areas provide multiple amenities including the Sans Souci Walking Path, children's playground, outdoor gym amenities, BBQ equipment and cabanas.

The site is located in an advantageous area with expansive protected natural amenities and public infrastructure. This, in conjunction with the generous POS areas provided to each unit are considered suitable grounds for a reduction in required on site COS.

#### 4.2.7.3 Visual Privacy

Design Criteria 1 of Part 3F of the ADG prescribes separation (setback) requirements between proposed buildings and the side or rear boundaries of an allotment which are reproduced at **Table 7**. The objective of the design criteria is to ensure adequate separation distances are shared equitably between neighbouring sites to achieve reasonable levels of external and internal visual privacy. It is pertinent to note that the objective relates solely to visual amenity and is satisfied by the proposed development.

Table 7 Setback distances prescribed by the ADG				
Building height	Habitable rooms & balconies	Non-habitable rooms	DCP Requirements	Proposed
Up to 12m (4 storeys)	6m	3m	Refer to Section 4.2.10	<p><b>Side and Rear Setbacks</b></p> <p><u>Ground Floor to Level 1 (Commercial):</u> Nil setback</p> <p><u>Level 2 (Residential):</u> 1.8m setback along western side boundary, 6.3m and 7.3m side setback along southern boundary from private terraces.</p>
	PLUS 3m at zone interface			



Table 7 Setback distances prescribed by the ADG

Up to 25m (5-8 storeys)	9m	4.5m		Level 3 to Level 5: Side and rear setbacks >9m from balconies.
	PLUS 3m at zone interface			

The site adjoins the R3 Medium Density zone along the southern (side) and rear setbacks. Resultingly, an additional 3m is required from the standard setback control.

It is noted that the terraces associated with Units 2.1 and 2.2 overlook the blank façade of a two-storey commercial building, with limited amenity impacts anticipated. The remaining non-compliant terraces at Units 2.10 and 2.11 still provide a generous setback from the southern side boundary. The units across Level 2 are concealed by extensive planting along the southern edge of terraces and as a result will meet the privacy objectives of the ADG at this level.

Above Level 2, a 9m or greater setback is provided for habitable rooms/balconies, noting that above level 4 an additional setback is avoided in order to avoid a ziggurat form which is discouraged by the ADG.

The proposal will maintain the visual privacy of both the neighbouring properties and future residents, therefore satisfying the objective of Part 3F-1.

#### **Western and Southern Side Setback**

The non-compliant balcony separation from the sites side boundaries only occurs on Level 2, otherwise known as the first residential floor. Levels 3-5 comply with the ADGs 9m setback control from balconies to site boundaries.

In accordance with the RDCP, the setbacks have been established in response to the character of built forms within the locality and that established on-site. It is solely the terraces that protrudes into the 9m side setback. A minimum building separation measured from the southern façade of Unit 2.10 to the side boundary is 9.3m. Further, the western façade of Unit 2.2 to the side boundary is 10m. This ensures the provision of privacy from living areas and bedrooms is maximised.

The proposed terraces/balconies will include additional design interventions to ensure overlooking onto adjacent properties, particularly to the south is minimised. This includes perimeter planter landscaping on Level 2 and privacy screens to obscure views. Angled privacy screens will maximise solar gain, whilst protecting the visual privacy of neighbouring properties and future residents.

As noted, the proposal provides side setbacks on Level 2, ranging from 1.8m to 6.3m, measured from respective terraces. The commercial building to the west has virtually been built to the boundary. The residential dwellings on the adjacent southern lot achieve an approximate 1.5m side setback. Taking into consideration the building setbacks in the broader context of the site, separation which is shared equitably between the proposal and neighbouring properties. This directly satisfies objective 3F-1, which requires separation to be *shared equitably between neighbouring sites* and is therefore acceptable despite non-compliance.

As indicated, an additional 3m setback above Level 4 is not provided to the residential form as this would result in a ziggurat form which is discouraged by the ADG and is not necessary to achieve the privacy objective of the ADG.

#### **Summary**

Despite numerical non-compliance with the ADG criteria, the objective stipulates that separation distances are to be *shared equitably between neighbouring sites* with regard to internal and external amenity. To the side boundaries, the





proposal provides equitable separation to the neighbouring properties. This ensures that despite numerical variations, the separation distances and proposed mitigation measures (such as privacy screens, orientation and landscaping) will maintain visual privacy and therefore satisfy the objective of Part 3F-1.

When considering the Planning Principle established in *Meriton vs. City of Sydney Council* [2004] NSWLEC 314, the following needs to be considered:

- (i) The ease with which privacy can be protected is inversely proportional to the density of development.*
- (ii) Privacy can be achieved by separation. The required distance depends upon density and whether windows are at the same level and directly facing each other.*
- (iii) The use of a space determines the importance of its privacy. Within a dwelling, the privacy of living areas, including kitchens, is more important than that of bedrooms. Conversely, overlooking from a living area is more objectionable than overlooking from a bedroom where people tend to spend less waking time.*
- (iv) Overlooking of neighbours that arises out of poor design is not acceptable.*
- (v) Where the whole or most of a private open space cannot be protected from overlooking, the part adjoining the living area of a dwelling should be given the highest level of protection.*
- (vi) Apart from adequate separation, the most effective way to protect privacy is by the skewed arrangement of windows and the use of devices such as fixed louvres, high and/or deep sills and planter boxes.*
- (vii) Landscaping should not be relied on as the sole protection against overlooking.*
- (viii) In areas undergoing change, the impact on what is likely to be built on adjoining sites, as well as the existing development, should be considered.*

In relation the principles above, the following response is provided in relation to the privacy of the properties to the north and south:

- The site is located within a mixed use zone and contains a variety of shop top housing in the vicinity. The density of the locality makes privacy harder to protect for the neighbouring properties. The zone interface is dealt with sensitively through the mid section of the development being setback well beyond both ADG and DCP requirements;
- The proposal will provide a mixture of blank facades and privacy screens to protect the amenity of future residents and neighbouring properties;
- The proposed development is not considered a poor design with all practicable measures taken to minimize direct overlooking through separation and design solutions;
- The primary living areas and private open spaces for the apartments will largely be orientated to Ramsgate Road and The Grand Parade; and
- Above ground landscaped areas will be provided to assist in mitigating privacy impacts (but is not relied upon).

The central requirement of the ADG is the achievement of the relevant objective rather than achieving the numeric requirements. If it is not possible to satisfy the design criteria, applications must demonstrate what other design responses are used to achieve the objective. As such, for the reasons discussed above the proposed development is considered to satisfy the only objective of Part 3F-1 and will provide satisfactory building separation distances that are *shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy.*



#### 4.2.8 SEPP (Building Sustainability Index: BASIX) 2004

SEPP (Building Sustainability Index: BASIX) 2004 commenced on 1 July 2004 and applies to the proposed development. In accordance with the provisions of the SEPP, a BASIX Certificate is submitted with the application and confirms that the proposal (once operational) will comply with the water, thermal comfort and energy efficiency requirements of the policy.

In addition to the submitted BASIX Certificate, an ESD Report has been submitted with this application, which deals with environmental sustainability.

#### 4.2.9 Bayside Local Environmental Plan 2021

Bayside Local Environmental Plan 2021 (LEP 2021) applies to the subject site which is identified as being within the Zone MU1 Mixed Use. The proposed development is characterised as a mixed-use development comprising the following land uses:

- Commercial Premises (shops, supermarket, food and beverage premises), and
- Residential Flat Building – residential accommodation

These land uses are permissible with consent.

The objectives of the Zone MU1 are as follows:

- *To encourage a diversity of business, retail, office and light industrial land uses that generate employment opportunities.*
- *To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.*
- *To ensure built form and land uses are commensurate with the level of accessibility, to and from the zone, by public transport, walking and cycling.*

**Annexure B** provides a compliance table which addresses the relevant provisions of LEP 2021 for which compliance is achieved. The development proposes non-compliances with the maximum building height development standard. A written variation request is provided at **Annexure C** to demonstrate that despite the numeric non-compliance, the objectives of the controls and zone are met, there are demonstrated sufficient environmental planning grounds for the variations and the public interest is met, despite non-compliance. Accordingly, the variations are justified in the circumstances.

#### Clause 4.3 Height of Buildings

BLEP 2021 provides for a maximum building height of 20.5m in respect of the subject site.

The main part of the building's roof has a height of 22.86m (RL 25.60) whilst the building's lift overrun contains a height of 23.46m (RL 26.20m). The design of the building has been heavily influenced by the specific requirements of the future tenants/uses. The development provides a new supermarket on the ground floor level and the design of this space requires a certain floor to ceiling clearance of approximately 5.0m to accommodate the functional and operational needs of a supermarket business. The level 1 food and beverage use have a functional requirement for a floor to ceiling clearance that is greater than a traditional residential level. The proposal involves a floor to ceiling height of approximately 4.3m. These both contribute to greater building height than a typical shop top housing development. The site is flood affected. The FPL for the site is the 1% AEP level plus a 0.5m freeboard being RL 3.5m, further impacting



the building height. The proposal provides for a relatively efficient floor plate, with the proposed floor area being provided in additional height that maintains generous setbacks to site boundaries and allows for a highly articulated built form.

A Clause 4.6 variation request in respect of the non-compliance with Clause 4.3 of BLEP 2021 has been prepared and is provided at **Annexure C**.

#### Clause 4.4 Floor Space Ratio

Clause 4.4 of the BLEP 2021 provides for a maximum FSR of 2:1 in respect of the subject site. The LEP provides for a maximum GFA of 8,958m<sup>2</sup>.

The proposed development comprises a Gross Floor Area of 8,958.1m<sup>2</sup>. This is distributed through the building as follows:

Table 8 GFA Distribution	
Level	Gross Floor Area
B3	0m <sup>2</sup>
B2	0m <sup>2</sup>
B1	0m <sup>2</sup>
Ground Floor	2,879.9m <sup>2</sup>
Level 1	867.4m <sup>2</sup>
Level 2	1,302.7m <sup>2</sup>
Level 3	1,302.7m <sup>2</sup>
Level 4	1,302.7m <sup>2</sup>
Level 5	1,302.7m <sup>2</sup>
<b>Total</b>	<b>8,958.1m<sup>2</sup></b>

Based on the proposal having a gross floor area of 8,958.1m<sup>2</sup>, the development proposes a FSR of 2:1 and complies with the numeric standard in BLEP 2015.

#### 4.2.10 Rockdale Development Control Plan 2011 (Amendment 8)

The Rockdale Development Control Plan 2011 (Amendment 8) applies to the subject site.

A response to the requirements of Rockdale Development Control Plan is provided at **Annexure E**, where it is demonstrated that the proposed development achieves compliance with the majority of the DCP provisions. Where the proposal does not comply with the relevant controls of the DCP, it has been demonstrated that the objectives are still achieved and the variations are acceptable on merit, as described in the compliance table.

The DCP requires the levels above the podium to achieve a 2m setback from the front property boundary. For the purpose of applying the DCP to the proposed development, the Ramsgate Road frontage and The Grand Parade frontage have been taken to be the front property boundary. The development provides a 0m front setback to the property boundary at the podium, mirroring the existing Coles building arrangement. Greater front, side and rear setbacks are provided for the upper levels of the building.

The front and side setbacks provided to the residential upper levels exceed the minimum standards in order to provide greater privacy and amenity for lower density neighbouring dwellings to the south of the site. The building is well





articulated to minimise bulk and scale. The provided setbacks further ensure adequate solar access is achieved to the proposed apartments and neighbouring dwellings to the south, as discussed in Section 4.4.1.

Variation to RDCP 2011 is requested with respect to the following controls:

- Section 4.4.5 Visual and Acoustic Privacy – Control 9 – Building Separation
- Section 7.4 Ramsgate Beach Commercial Area – Control 8 – Built Form and Setbacks

#### 4.2.10.1 Building Separation

##### Control

9. For residential flat buildings and shoptop housing, the building separation for internal courtyards and between adjoining sites increases in proportion to building height in accordance with the following minimum dimensions:

Height	Between habitable rooms and balconies	Between habitable rooms/ balconies and non-habitable rooms	Between non-habitable rooms
Three to four storeys (12m)	12m	9m	6m
Five to eight storeys (25m)	18m	13m	9m
Nine storeys and above (over 25m)	24m	18m	12m

##### Objectives

- To site and design buildings to ensure acoustic and visual privacy for occupants and neighbours

##### Extent of Variation

The proposed units that do not meet the applicable building separation from residential dwellings to the south are identified below:

- Unit 2.1/2.2 habitable balcony to non-habitable commercial building (approx. 1.5m separation)
- Unit 2.10 habitable balcony to neighbouring residential property (approx. 8.5m separation)
- Unit 2.11 habitable balcony to neighbouring residential property (approx. 10m separation)
- Unit 3/4/5.1 and 3/4/5.2 habitable balcony to non-habitable commercial building (approx. 9.1m-9.4m)
- Units 3/4/5.10 habitable balcony to neighbouring residential property (approx. 10.5m separation)
- Units 3.4.5.11 habitable balcony to neighbouring residential property (approx. 11m separation)

##### Justification

Despite the proposed units at the south-eastern extent of the mixed use building not providing numerically compliant separation from existing neighbouring dwellings, alignment with the relevant DCP objectives is still achieved. Acoustic and visual privacy for future and existing residents in the area is prioritised through the following design interventions:



- Appropriate building setbacks have been provided. The residential podium prioritises the northern and eastern extents of the site where overshadowing to properties to the south is minimised. The bulk and scale of the podium is in the form of an L shape which ensures solar and privacy impacts to neighbouring properties is minimised.
- Only 4 of the 11 units on each level do not meet the numeric building separation requirements. Two (2) of these units overlook the commercial building to the west that contains zero side setback. As such, amenity impacts are negligible. Balconies will contain privacy screens to minimise overlooking impacts.
- Windows along the southern façade of Units 10 and 11 have been minimised to give the appearance of a non-habitable wall. This will further reduce privacy impacts to existing dwellings.
- Section 3F of the ADG outlines separation requirements for habitable and non-habitable rooms/balconies to the site boundary. Compliance with the ADG numeric standard is achieved for Units 3/4/5(10) and Units 3/4/5(11). Remaining units 2.10 and 2.11 minimally non-comply.

Based on the above, the controls in Section 3F of the ADG should take precedence over RDCP 2011. The non-compliant building separation is anticipated to have a negligible impact on neighbouring dwellings.

#### **4.2.10.2 Built Form and Setbacks**

##### Control

*8. For development situated on the southern side of Ramsgate Road, any part of a building above the 4th floor must provide a minimum rear setback of 24m.*

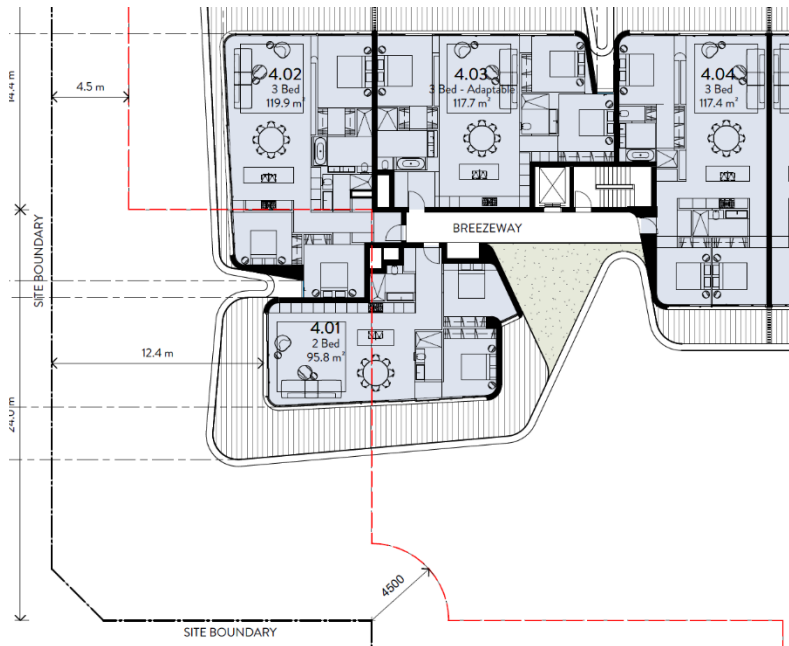
##### Objectives

- *To facilitate growth and revitalisation of Ramsgate Beach commercial area which enhances the Centre 's commercial functions.*
- *To provide high quality buildings which create a varied and interesting streetscape which reflects to the Centre 's beach side location.*
- *To ensure new development allows significant solar access to Ramsgate Road, and creates a sense of openness in the Centre, allowing distant skyline views from the public domain.*
- *To protect the amenity of the low and medium residential areas which adjoin the Centre.*

##### Extent of Variation

The site contains dual frontages and is irregular in shape. Resultingly, the site contains two rear boundaries. The south-eastern most rear boundary building setback well exceeds the 24m requirement. The north-western rear boundary building setback is approximately 9m. This represents a deficit of 15m.





**Figure 13** DCP 24m setback in red (Source: Craft Architecture)

#### Justification

Despite the non-compliant rear setback, the proposed mixed-use building provides an adequate design outcome for the following reasons:

- The proposed development remains aligned with the relevant DCP objectives:
  - The proposal provides for a far more advantageous utilisation of the site, that is aligned with the strategic vision for Ramsgate Beach commercial centre.
  - The mixed use building is well articulated and provides visual interest from the streetscape through bulk and scale, landscaping and high quality finishes.
  - The mixed use building ensures adequate solar access is still achieved to private properties and the public domain.
  - The amenity of low and medium density residential dwellings to the south has been carefully considered. The rear setback provided along the south-eastern rear boundary is well in excess of 24m. Further, the proposed building has been designed in an L shape, prioritising the northern and eastern site boundaries for development that would incur minimal overshadowing impacts to adjacent dwellings.
- Given the irregular shape of the site, the rear and side setbacks overlap. The site, along the western boundary, adjoins two storey commercial buildings. A compliant 4.5m side setback is achieved. It is unnecessary to impose a 24m rear setback, into the western side setback, as this extent of the site does not have any measurable impact on neighbouring residencies.
- In accordance with Section 3F of the ADG, the maximum required rear setback applicable is 9m. As measured from the balcony of Unit 1 (Levels 3,4,5) to the rear boundary, the minimum rear setback is 9m and therefore compliant.

Based on the above, the controls in Section 3F of the ADG should take precedence over RDCP 2011. The non-compliant rear setback is anticipated to have a negligible impact on neighbouring dwellings.



## 4.3 IMPACTS ON NATURAL & BUILT ENVIRONMENT

### 4.3.1 Topography & Scenic Impacts

The site is level with some earthworks required to excavate the proposed three levels of basement carparking for the development. The earthworks are required to enable the proposed car parking to be provided below ground and will not have any adverse topographical impacts on the locality. The proposed excavation will be carried out to a depth of RL -6.4 or 9.9m below the proposed ground FFL.

There are no prominent scenic features such as significant trees, rock outcrops or the like existing on the site.

Given the proposal's height, it will be readily visible building from the surrounding area, including the heritage-listed Cook Park and from the shore of Botany Bay. The design of the proposed development will be of a very high architectural standard that will make a positive contribution to the character of the Ramsgate Beach town centre. Further consideration of the building's design is provided in Section 4.3.5.

### 4.3.2 Micro-climate Impacts

The proposal will not have any significant adverse impact on surface or groundwater regimes. The proposed development will have no significant impact on the micro-climate of the locality.

### 4.3.3 Water & Air Quality Impacts

The proposed site development area is 0.4479Ha. As the development proposes a boundary-to boundary building, the building drainage shall be captured via the building hydraulic stormwater system and reticulated to a 50kL rainwater tank (RWT) located in Basement Level 1. Flows from the RWT will discharge into the existing stormwater pit located in the existing Council carpark.

The site's proximity to the Botany Bay foreshore requires the proposal to give appropriate regard to both water quality and the management of stormwater runoff from the site. Existing stormwater from the site is conveyed via a pipe beneath The Grand Parade through Cook Park and discharges into Botany Bay to the south-east of the site. A Stormwater Management Plan for the proposed development has been prepared by *SCP Engineers and Development Consultants* in accordance with Council's engineering standards and specifications.

The development application is supported by a Water Quality Management Plan that has been modelled using MUSIC (Model for Urban Stormwater Improvements Conceptualisation) to estimate the performance of the proposed system against the performance targets relevant to the proposed development. The proposal will achieve Bayside Council's stormwater quality targets in terms of gross pollutants, total suspended solids, phosphorous and nitrogen.

In terms of air quality, the site will be managed during construction to mitigate potential for dust generation. During operation, the proposed use, being for the purpose of commercial uses, is not anticipated to generate any unusual odour or fumes. Appropriate mechanical ventilation will be installed to manage any emissions from the basement carparking areas and from the kitchen areas within the building. Therefore, the proposal is unlikely to have any detectable impact on air quality.

### 4.3.4 Flora & Fauna Impacts

The development works require the removal of twenty-eight (28) trees on the site (located within and on the edges of the supermarket carpark). Retention of these trees is not possible given the footprint of the proposed development at ground level extends from boundary to boundary. The trees have been assessed by an arborist and the majority of the impacted trees have been determined be low retention value.





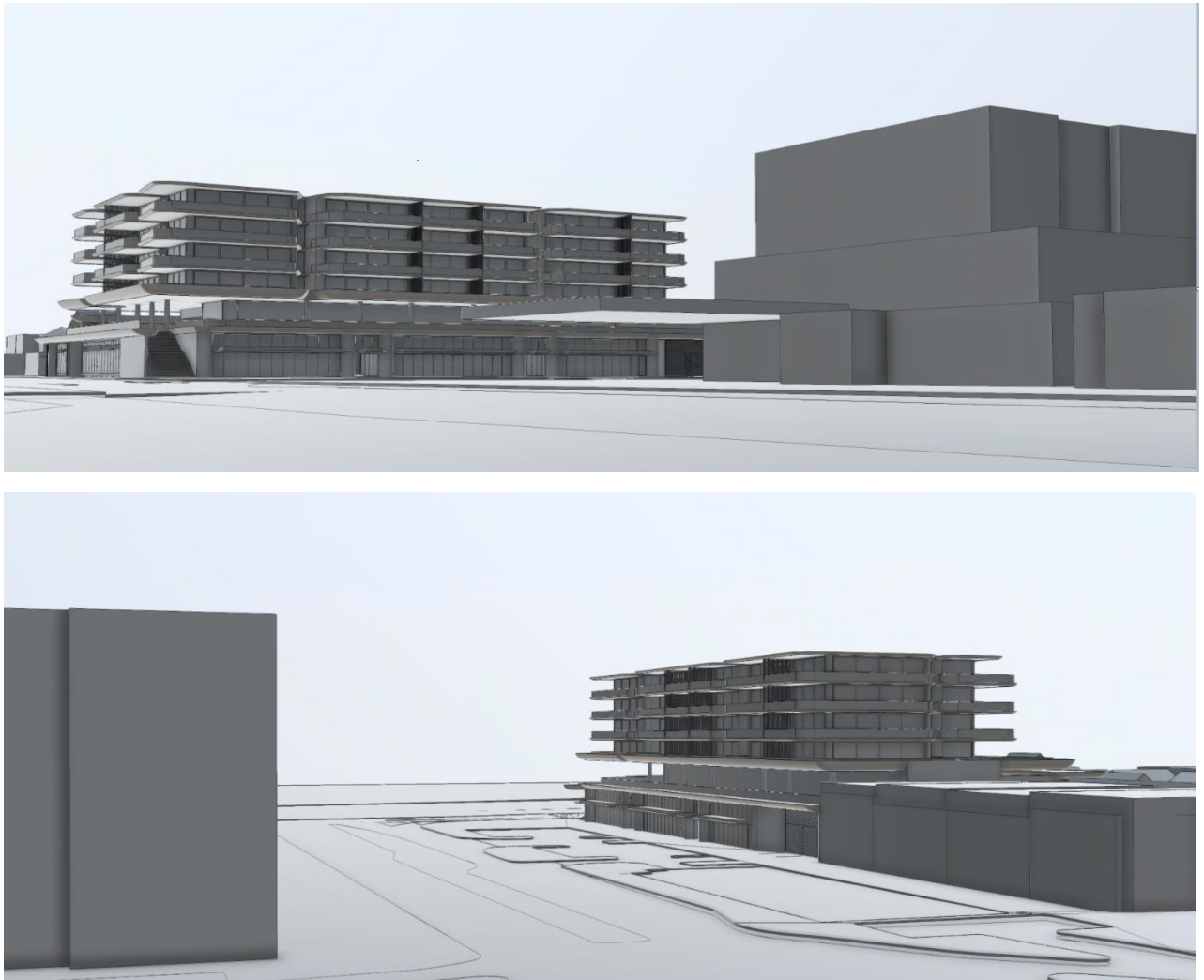
All of the site trees have little retention value and no significant flora or habitat for threatened fauna is identified on the site. The proposed development will result in 2 high retention value trees to be retained, 10 medium retention value trees to be retained and 5 low retention value trees to be retained. These trees will be protected by tree protection measures during construction.

The proposed development is unlikely to have adverse impacts on native flora or fauna as the site is not proximate to any significant area of natural habitat. The site is more than 2km from the Towra Point Nature Reserve and over 800m from Scarborough Lakes wetlands. Therefore, the proposal is unlikely to have an adverse impact on significant flora or fauna.

#### **4.3.5 External Appearance & Design**

The proposed development provides a contemporary architectural design that has addressed the significance of the site and its location adjacent to Ramsgate Beach and Botany Bay. The built form has been developed in conjunction with urban designers and sets out the site analysis and key development design drivers. The design has responded to the site's orientation by locating the bulk of the building towards the north and the east to provide minimal amenity impacts to the residential townhouses that border the southern boundary. The building provides a clear podium level incorporating the ground and first level. Above the podium level there are four levels of residential accommodation provided in a highly modulated tower form. A perspective of the proposal's dominant northern façade viewed from the corner of The Grand Parade and Ramsgate Road is provided below at **Figure 14**.





**Figure 14** Perspective of proposed development amongst existing commercial and mixed use buildings on the northern side of Ramsgate Road and to the west of the site (Source: Craft Architecture)

An appropriate palette of materials and finishes has been selected to create interest in the buildings and provide an attractive environment for people to live and recreate. The materials and finishes also contribute to the development's sustainability outcomes, particularly with regards to energy and water efficiency.

The key design elements of the proposal that provide a positive outcome include the following;

- creation of a commercial development mixing complementary land uses,
- provision of active street level frontage at ground level,
- create a publicly accessible Level 1 providing a range of food and beverage options open to the general public,
- provision of soft landscaping, soft edges and green amenity,
- locate higher built form to the north-east of the site, minimising impacts to townhouses to the south of the site.





## 4.4 RELATIONSHIP TO NEIGHBOURING PROPERTIES

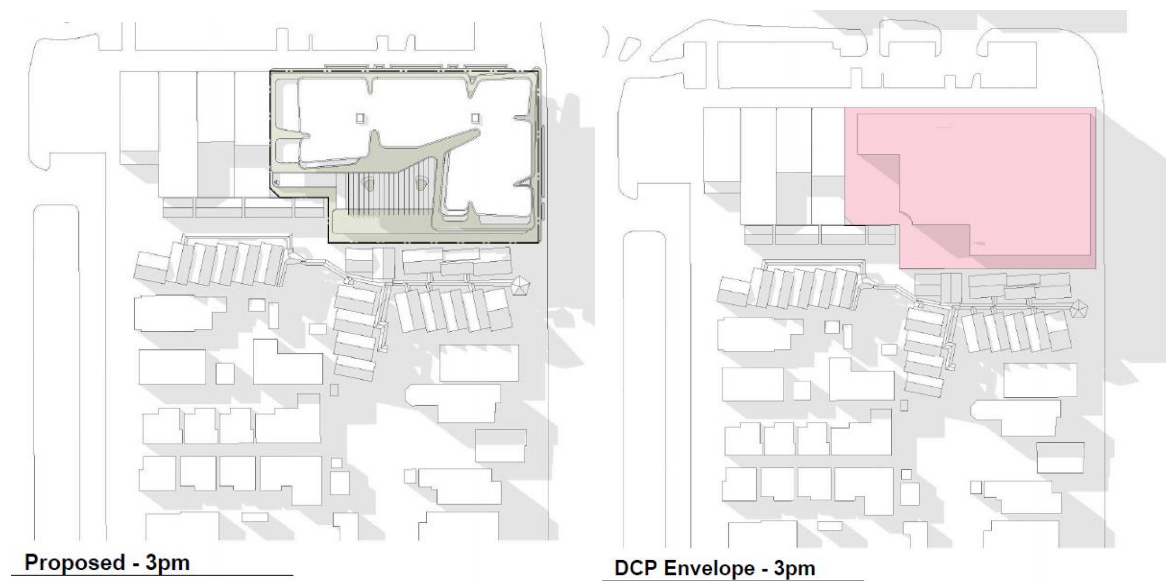
### 4.4.1 Solar Access

Shadow diagrams for the proposed development are submitted with the Development Application. These diagrams indicate the shadow cast by the proposed development at 9am, 12 noon and 3pm on the winter solstice (21 June).

A shadow analysis prepared by *Craft Architecture* comparing the overshadowing from the proposed development with the expected shadows from a LEP/DCP compliant scheme, is provided in **Figures 15 to 18**. The shadow diagrams indicate three scenarios, namely:

- the additional shadow cast by “architectural built form” only
- the additional shadow cast by “DCP envelope” only
- View from the sun

The analysis provided below identifies where shadowing occurs, shaded in grey.



**Figure 15** Shadowing impact at 9am on 21 June (Source: Craft Architecture)



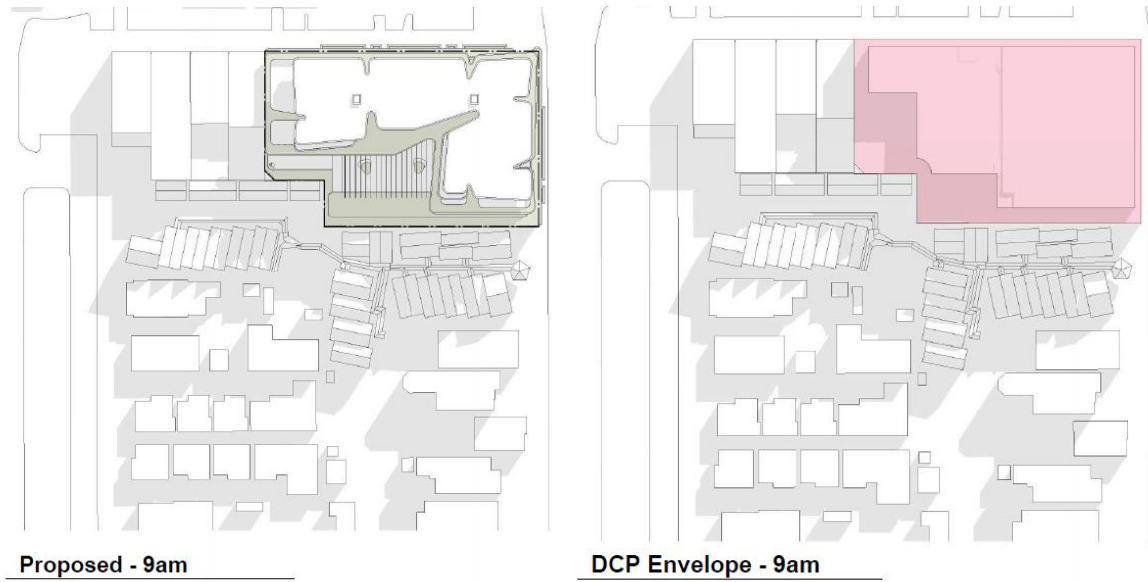


Figure 16 Shadowing impact at 12pm on 21 June (Source: Craft Architecture)

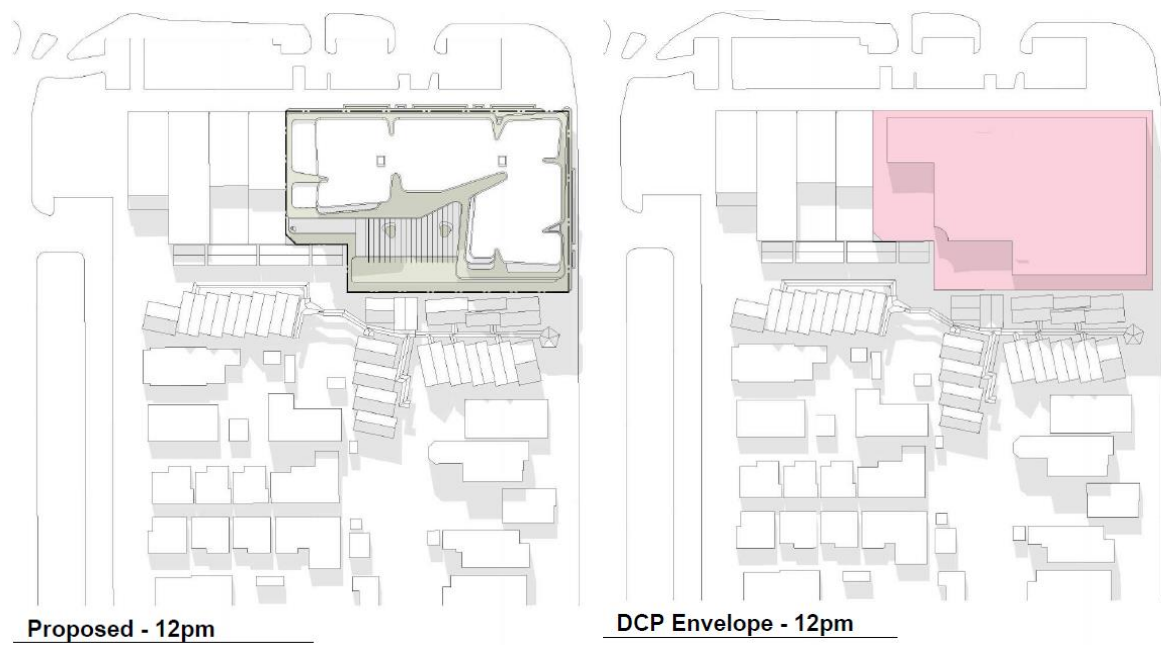
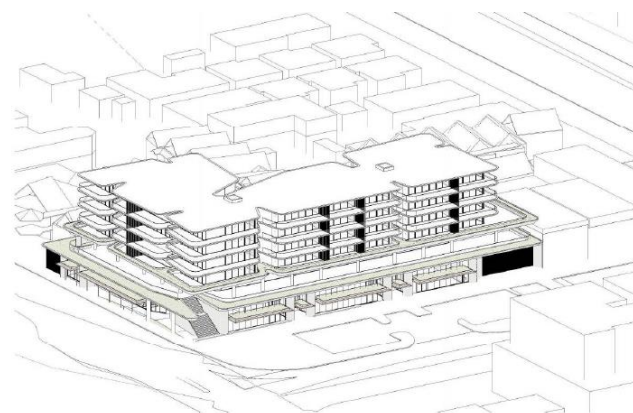


Figure 17 Shadowing impact at 3pm on 21 June (source: Craft Architecture)



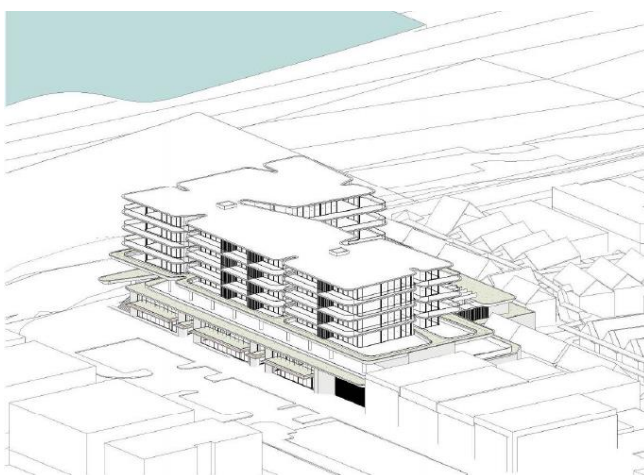




**Proposed - June 21, 9am**



**Proposed - June 21, 12pm**



**Proposed - June 21, 3pm**

**Figure 18** View from Sun at 9am, 12pm and 3pm (source: Craft Architecture)

As the above solar access analysis demonstrates, a significant portion of the overshadowing impact of the proposal at 9am on 21 June falls upon the driveway and buildings of the neighbouring property to the south. The shadow from the proposal at 12 midday will also primarily impact driveways and buildings rooves. The building's shadowing impact from 3pm will be predominantly on The Grand Parade and a section of Cook Park. The impact of the proposal on the neighbouring building to the south results from the DCP compliant building envelope (largely the podium level) rather than the residential levels.

The extent of additional overshadowing that is cast from the additional building height primarily will impact the driveway areas of the property to the south. At midday the additional height will have an impact, over and above that of a DCP compliant scheme, on the villa development to the south of the site, however, the majority of the impact once again falls upon the driveway and building roof. At 3pm on 21 June, the only shadow impact the proposed development will have on the property to the south is from the DCP compliant footprint. The impact from the additional height is entirely limited to a small area within Cook Park on the eastern side of The Grand Parade.

#### 4.4.2 Views

The proposed development, given its location and its height, may have an impact upon views towards Botany Bay from south-east facing apartments located in the shop top housing developments on the northern side of Ramsgate Road (No 152 Ramsgate Road, No 154-156 Ramsgate Road and No 158-162 Ramsgate Road).

The Land and Environment Court has established a Planning Principle for view sharing that can be applied to assess whether a development provides for reasonable view sharing. The Court established the following principle;

*“the notion of view sharing is invoked when a property enjoys existing views and a proposed development would share that view by taking some of it away for its own enjoyment. Taking it away cannot be called view sharing, although it may, in some circumstances, be quite reasonable”.*

The Planning Principle, set out in the decision of *Tenacity Consulting vs Warringah Council* [2004] NSW LEC 104, involves a four step process:

- Step 1 – This step is an assessment of views to be affected.
- Step 2 – This step is the to consider from what part of the property are the views obtained
- Step 3 – This step is an assessment of extent of the view impact.
- Step 4 – This final step is to provide an assessment of the reasonableness of the proposal that is causing the impact.

Table 8 considers the planning principle in respect of the proposed development.

Table 9 View Assessment	
Step	Consideration
Step 1	<p>There are three recently completed shop top housing developments on the northern side of Ramsgate Road that may be impacted by view loss from the proposal. Those three developments include several apartments with views to the south and south east. The apartments have views towards Botany Bay and beyond to Towra Point. <b>Figure 19</b> provides an elevated image above these developments towards Cook Park and beyond over Botany Bay.</p> <p>Some apartments on upper floors have much clearer views looking east down Ramsgate Road towards Botany Bay where they are not obscured by the line of street trees.</p>
Step 2	<p>The apartments with south facing living areas and balconies have views across Ramsgate Road towards the current Coles supermarket and carpark. <b>Figures 20-21</b> provide several photographs obtained from real estate marketing material for a selection of these south facing apartments. The photographs are from a range of apartments located on levels 2 to 5 of the developments at No 152, 154 and 158-162 Ramsgate Road. All of the views appear to be gained from either a balcony or a bedroom.</p> <p>The apartments on levels 2 and 3 do not have any significant views over the existing supermarket building and many have views obstructed by street trees. The apartment on level 5 has a partial view of water (Botany Bay) which is partially obscured by mature street trees and several large Norfolk Island Pines located along The Grand Parade.</p> <p>The upper level (levels 5 and 6) apartments of Nos 154-156 and Nos 158-162 are likely to be more significantly impacted. The top floor apartments of these buildings have balconies and living areas oriented towards the significant water views given their elevated position.</p>
Step 3	<p>This step requires consideration of the extent of view impact that the proposed development will have. The height of the proposal (roof at RL 31m) is significantly greater than the existing Coles supermarket (parapet at RL 25.6m) and therefore there will be some loss of the current views.</p> <p>For a majority of the apartments within the three shop top housing buildings, the extent of view loss will be negligible as those apartments do not currently have any views of Botany Bay. A small number of apartments (such as that represented in <b>Figure 22</b>) will have the</p>

**Table 9 View Assessment**

	current view towards the south and south east obstructed. Existing views looking east down Ramsgate Road will be unaffected by the proposal.
Step 4	<p>This step requires consideration of an assessment of the reasonableness of the proposal that is causing the view impact. The planning controls that apply to the subject site involve a MU1 Mixed Use zoning and currently permit buildings up to 20.5m in height. The DCP controls provide building envelope guidelines for building setbacks from street boundaries. Together the LEP and DCP controls allow for a building envelope that would be of the same height as the shop top housing buildings on the northern side of Ramsgate Road. The DCP provides for a building with a podium level up to 3 storeys and upper floors setback. The primary objectives of the DCP controls are to allow for solar access and to protect the amenity of adjoining low and medium density areas. Views are not a key driver of the DCP planning controls.</p> <p>It is reasonable for a development that is consistent with the LEP and DCP planning controls to obstruct water views enjoyed by nearby dwellings. Although the proposal involves a height that exceeds the LEP control by approximately 1.6m (excluding lift overrun), the additional height does not contribute to any additional loss of views of any consequence.</p>



**Figure 19** Elevated image of the water views from properties on Ramsgate Road towards the south and south-east.





**Figure 20** View from balcony of apartment on level 3 No 154 Ramsgate Road.



**Figure 21** View from bedroom and balcony of level 5 of No 158-162 Ramsgate Road





**Figure 22** View from balcony of apartment level 2 apartment at Nos 158-162 Ramsgate Road.

#### 4.4.3 Wind Impact

A Wind Impact Assessment has been prepared by *Vipac Engineers and Scientists Ltd* and is submitted with the application. The assessment has modelled the proposed development's impact on local wind conditions to determine whether there will be acceptable wind conditions at ground level and external areas on the upper levels of the building.

The report has predicated the following wind conditions at ground level of the building:

*“due to the proposed height above surrounding areas, the proposed development is particularly exposed to adverse westerly winds. However, the proposed open spaces from level 1 to level 2 allow the high down wash winds from façade to be released through these open levels and to reduce the wind speeds at the ground level. The proposed development has a setback tower design from level 3 upwards. As such the surrounding pedestrian areas at ground level are expected to be within walking comfort criterion or similar to the existing conditions”.*

At Level 1 of the building, the assessment has estimated:

*“plaza spaces are proposed at level 1 which feature food and beverage outlets and dining spaces in the north, east and south. Most of these spaces are recommended sitting wind environment. It is recommended that, as a minimum, 1.5m high windscreens at the outer perimeter of the seated areas are required or, as an alternative, the proposed landscaping along the marked locations, should be in the similar height. This could be a 1m high fixed planter with 0.5m high vegetation. More wind control measures (like localised wind breaks) might be needed which could be determined via a wind tunnel test.*

The findings of the wind assessment in respect of the proposed development are summarised as follows:

- wind conditions in the ground level footpath areas and accessways would be expected to be within **the walking comfort criterion**.
- Wind conditions in front of entrances would be expected to be within the **standing comfort criterion**,
- With recommendations, the open spaces at level 1 to level 3 would be expected to be within the recommended walking to **sitting comfort criterion**.

- With recommendations, the rooftop garden is expected to have wind conditions within the recommended walking comfort criterion.

#### 4.4.4 Aural & Visual Privacy

In terms of aural privacy, a noise impact assessment report has been prepared by *Renzo Tonin and Associates* and submitted with the application. This report indicates the proposal is capable of complying with the relevant provisions of the relevant assessment guidelines, being the EPA Industrial Noise Policy.

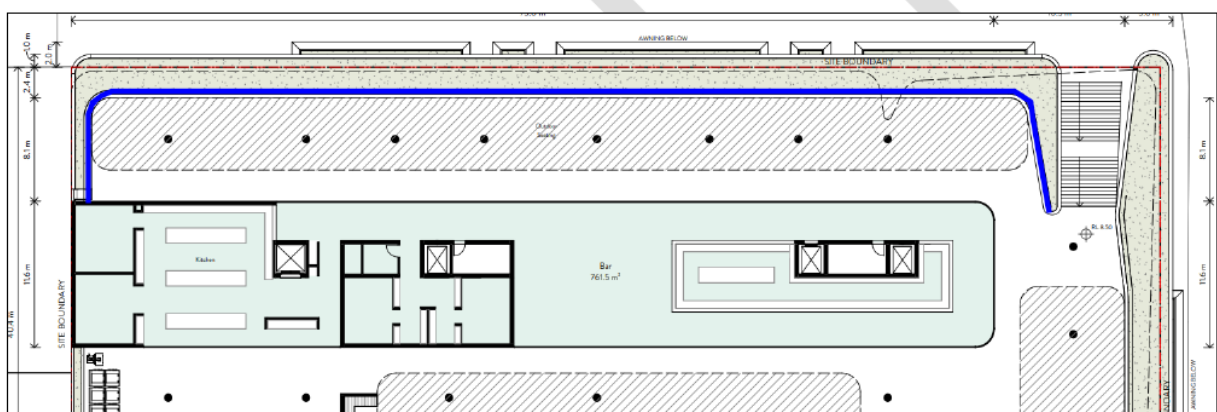
The proposed development has been designed to minimise, as far as practicable, potential for adverse noise impacts to the nearest residential receivers to the south of the site. Potential noise sources include;

- ground level retail,
- level 1 Food and Beverage premises,
- Level 2-5 residential apartments
- mechanical services plant and equipment, and
- loading dock,

The Acoustic Report provides a series of recommendations addressing the operational aspects of the proposal. These recommendations include matters relating to the design and construction to minimise adverse impacts and management issues regarding the use of certain areas. A number of these recommendations are considered in detail below.

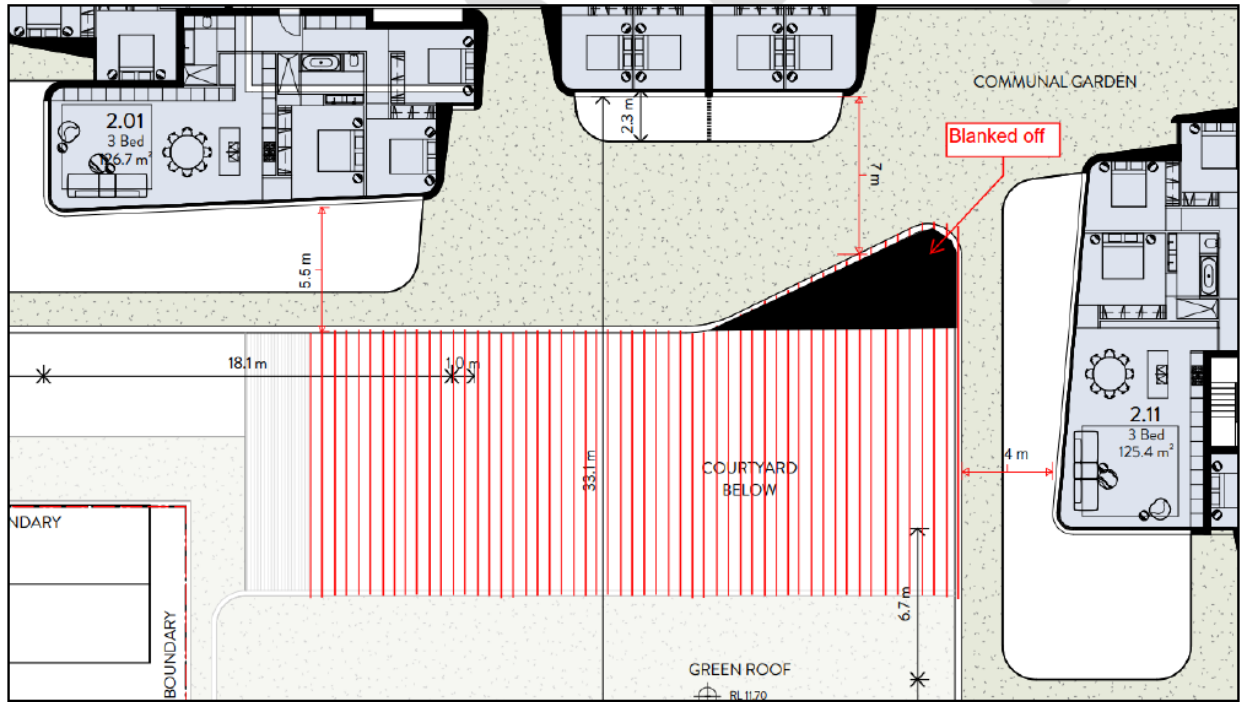
To minimise noise levels impacting residents of adjacent dwellings to the south, the loading dock and vehicular entry to the development will be located on the northern side of the building. Sources of external noise such plant and building services will be sited to avoid impacts to nearby residents. Use of the loading dock for deliveries will be limited to reduce potential for noise impacts on surrounding residents.

Potential noise impacts from use of the podium level food and drinks premises of the site will be controlled by the installation of noise screens as recommended by the acoustic engineer. Locations of the of the proposed noise screens that are recommended by the acoustic engineer are indicated in **Figures 23 and 24**.



**Figure 23** Recommended solid continuous noise screen along northern edge of Level 1 (Source Renzo Tonin and Associates)





**Figure 24** Recommended maximum opening area above courtyard and extent of overhead acoustic baffles (Source Renzo Ronin and Associates)

Other key recommendations provided in the Acoustic Report include:

- Retail spaces to cease operations by 6pm.
- The maximum capacity of alfresco seating for each tenancy shall be limited to 20 patrons at any given time. The seating shall be restricted to below the solid awning only.
- Background music within the tenancies shall be limited to 65 dB(A)L10 SPL (measured in the centre of the space). Speakers or amplification equipment shall be installed at least 1.5m from any openings proposed along the northern frontage.
- Early morning shoulder period (6am-7am) loading dock operations must be limited to one (1) truck (12.5 HRV) delivery.
- Evening period (6pm-10pm) loading dock operations must be limited to two (2) deliveries (1 x 12.5 HRV and 1 x van or 2 vans).

The Acoustic Report concludes that the proposed development is suitable from an acoustic viewpoint.

In terms of visual privacy impacts from the proposal, the development will provide measures to mitigate any significant adverse impact. In particular, the balconies, terraces and rooftop recreation area will be located and designed to minimise direct overlooking of the living areas and open space areas of the adjoining dwellings to the south. The proposal satisfies the objective of Part 4.4.5 of Rockdale DCP 2011.

## 4.5 ECONOMIC & SOCIAL IMPACTS

The proposed development will result in an increase in employment opportunities and economic stimulus within the Bayside LGA.



The proposed development will provide positive short term and long term employment outcomes. Short term employment outcome, associated with the construction of the mixed-use building, I estimated to generate approximately 180 direct jobs and 480 indirect jobs. The long term or operational benefits are associated with the ground floor retail venue and 1<sup>st</sup> floor food and drink premises. Operational job generation is anticipated to reach 150 jobs.

The site enjoys good access to commercial services, community facilities and public transport. The proposed development will utilise existing infrastructure including electricity, sewer, water and telecommunications services.

Undertaking the construction works will have some short-term positive economic impacts through employment generation, both direct employment and multiplier effects. Accordingly, it is considered that the proposed development is likely to have only positive social and economic impacts in the locality.

#### **4.5.1 Crime Prevention through Environmental Design**

The proposed development is considered to satisfy the four CPTED principles;

- surveillance,
- access control,
- territorial reinforcement and
- space management.

In particular, the design of the proposal provides both natural and electronic surveillance of the public areas in front of the site, carparking levels, internal communal areas and open food and drink premises with expansive open areas.

Access to certain parts of the building including the basement carpark will be restricted by access card/key to reduce potential for criminal behaviour. The overall management of the site will be governed by a building manager, to ensure routine building maintenance is carried out and graffiti is removed.

The proposal is considered to provide an acceptable response in respect of the four principles of crime prevention.

## **4.6 THE SUITABILITY OF THE SITE**

### **4.6.1 Access to Services**

The site is located in a highly accessible location that is within 2.1km of Brighton-le-Sands town centre, 3.4km of the Kogarah town centre and 4.5km south of Rockdale town centre.

As the site is within an established urban area, connections to electricity, sewer, water the telecommunications services are readily available.

A small electricity kiosk substation (Ausgrid Substation 10559) is located within the site's carpark to the west of the supermarket building. The proposal involves this substation being decommissioned, removed and replaced with new electricity infrastructure.

### **4.6.2 Parking and Access**

Vehicular access to the site for cars and bicycles is from the council carpark off Ramsgate Road. A set of two way ramps descend from ground level to Basement Level 1, containing 69 retail and 10 click and collect car parking spaces. An end of trip rooms and a locker room is also provided at this level for cyclists. Level 2 contains 109 retail





carparking spaces. Basement Level 3 provides 44 residential garages (88 resident spaces) 3 visitor spaces and residential storage.

Table 9 below provides the required and proposed car, motorcycle and bicycle spaces, based on the requirements of Rockdale DCP 2011.

Table 10 Parking Compliance		
Car Parking Requirement	Proposed	Complies
Speciality Retail: 1 space /40m <sup>2</sup> GFA 589.9m <sup>2</sup> = 14.7 (15) spaces	See below	See below
Supermarket: 1 space/25m <sup>2</sup> GFA 2270.4m <sup>2</sup> = 90.8 (91) spaces		
Food and beverage: 1 space /40m <sup>2</sup> GFA 867.4m <sup>2</sup> = 21.7 (22) spaces	See below	See below
Residential Flat Building: <ul style="list-style-type: none"> <li>1 space/ studio, 1 and 2 bedroom apartments</li> <li>2 spaces/ 3 bedrooms apartments or more</li> <li>Visitor parking/ 1 space per 5 dwellings</li> </ul> 4 x 2 bed = 8 resident parking 40 x 3 bed = 80 resident parking 44 Apartments = 8.8 (9) visitor parking = (97) spaces	See below	See below
Total Car Parking Requirement	Proposed	
225 spaces	279 spaces (including click and collect)	Yes
Motorcycle and Bicycle Parking Requirement	Proposed	
<u>Commercial Premises</u> 1 motorcycle space per 15 car spaces 188 retail parking = 12.5 (13)		
<u>Shop Top Housing</u> 1 motorcycle space per 15 car spaces 91 residential parking = 6.1 (7) spaces = 15 spaces	19 spaces	Yes
<u>Commercial Premises</u> 1 bicycle space per 150sqm GFA 1 bicycle space per 400sqm GFA provided for visitors 589.9m <sup>2</sup> speciality retail staff = 3.9 spaces 589.9m <sup>2</sup> speciality retail visitor = 1.5 spaces 2270.4m <sup>2</sup> supermarket staff = 15.1 spaces 2270.4m <sup>2</sup> supermarket visitor = 5.7 spaces	84 spaces	Yes



#### Table 10 Parking Compliance

*867.3m<sup>2</sup> food and beverage = 5.8 spaces*

*867.3m<sup>2</sup> food and beverage = 2.2 spaces*

*= 38.2 (39) spaces*

#### Shop Top Housing

*1 bicycle space per dwelling (for residents)*

*1 bicycle space per 10 dwellings (for visitors)*

*44 apartments (resident) = 44 spaces*

*44 apartments (visitor) = 4.4 spaces*

*= 44.4 (45) spaces*

*Total = 84 spaces*

A Traffic and Parking Assessment has been provided by *Transport and Traffic Planning Associates* and is submitted with the development application. The assessment confirms that the car park layout, including access ramp, proposed parking spaces, and aisle widths, are compliant with the relevant applicable design standards.

In addition to the above, a shared loading bay is provided on the ground level near the entrance to the basement carpark. The loading bay can accommodate trucks to service the commercial and food and drink premises, including waste collection. Details of the turning path assessment for Coles HRV delivery vehicles are provided in Appendix E of the Traffic and Parking Report prepared by *TTPA*.

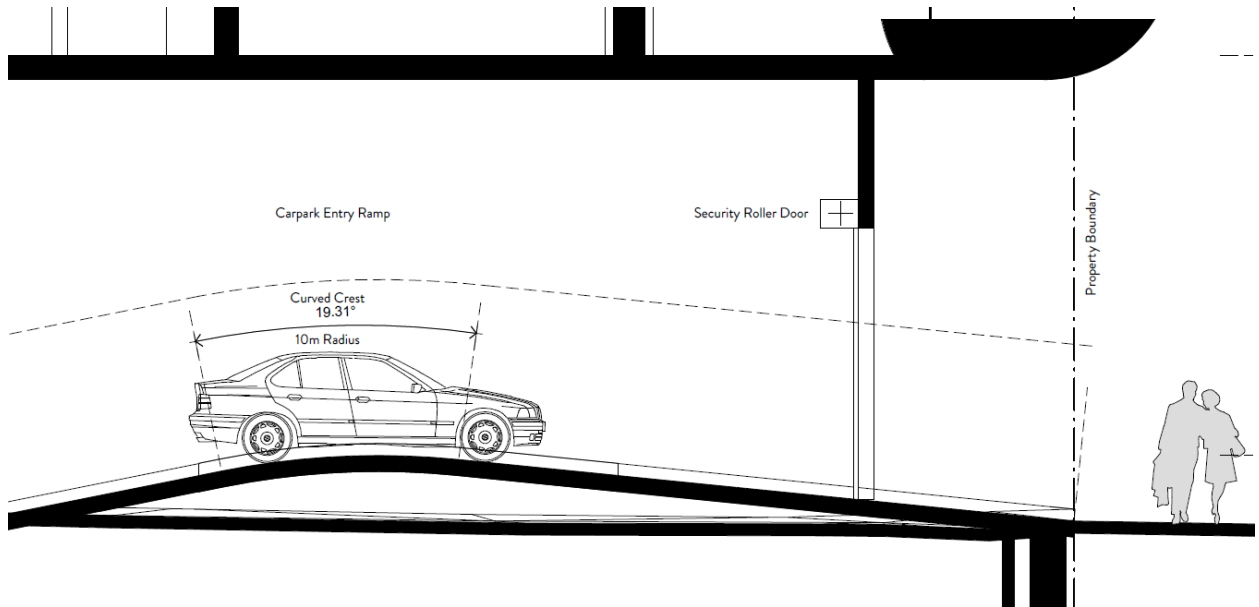
#### 4.6.3 Hazards

The site is located in an area subject to flooding.

Flood planning levels provided by Bayside Council indicate the site is affected by the 1% AEP flood (RL 3.0m) and the probable maximum flood (PMF) (RL 3.3m). The FPL for the site is the 1% AEP level plus a 0.5m freeboard being RL 3.5m.

The proposed development has provided all habitable floor levels above the FPL.

As can be seen from **Figure 25**, the basement carparking area is to be flood protected by a crest on the driveway at above the flood level.



**Figure 25** Design of vehicular entrance with crest to protect basement from flooding

The site is not in an area recognised by Council as being subject to bushfire, coastal erosion, tidal inundation or landslip, The proposed development is not likely to increase the likelihood of such hazards occurring and is considered appropriate in this instance.

## 4.7 THE PUBLIC INTEREST

The proposed development aligns with the objectives of the Zone MU1 Mixed Use in that it will provide a mix of compatible land uses in an accessible location. The proposal to provide residential accommodation within the Ramsgate Beach town centre, close to the shore of Botany Bay is consistent with the Council's strategic planning for the area.

The development will maintain a 2,355.4m<sup>2</sup> full line supermarket on the site, as well as providing for new retail uses a food and drink premises and 44 residential apartment. The proposed development has a high degree of façade articulation, modulation and integrated landscaping and will result in a high quality urban form that will be compliment the quality of development in the Ramsgate Beach town centre.

In light of the above, the proposal is considered to be in the public interest.



## 5. Conclusion

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This statement accompanies a development application for the construction of a nine storey mixed use development at 277 The Grand Parade, Ramsgate Beach. Specifically, the proposal comprises a ground level retail use, food and beverage premises, 44 residential apartments and three levels of basement carpark for 332 vehicles. The proposed development has been assessed having regard to Section 4.15 of the Environmental Planning and Assessment Act 1979.

The development will provide for the development of residential accommodation within close proximity to Sydney Airport, Sydney CBD and the Ramsgate Beach foreshore. The site is well positioned, in walking distance to the Brighton Le Sands CBD. This proposal provides a significant opportunity to increase the provision of infill residential housing in close to the shore of Botany Bay.

This statement establishes that the proposal aligns with the zone objectives and permissible land uses of Zone MU1 Mixed Use under Bayside Local Environmental Plan 2021. The proposal seeks variation to the height of building standard, and the breach will enable a superior massing arrangement with optimal façade articulation and is appropriate on this basis. Accordingly, a Clause 4.6 variation requests are provided at **Annexure C**.

The proposal will provide a building envelope and design that will enhance the appearance of the streetscape and is generally consistent with the controls and objectives of the Rockdale Development Control Plan 2011 and Apartment Design Guide. Where variations to controls are sought, these have been demonstrated throughout this Statement to provide a superior design outcome. Further, remaining consistent with the objectives of the controls and are acceptable on merit.

This SEE and associated documentation demonstrates that the development proposal can be delivered without any significant adverse impact on the natural or built environment, and also that there are tangible social and economic benefits to be delivered from the proposal.

Accordingly, the proposal is considered to be worthy of Council's support.





## ANNEXURE A

### State Environmental Planning Policy (Resilience and Hazards) 2021 Chapter 2 Coastal Management – Compliance Table



## SEPP (Resilience and Hazards) 2021 - Chapter 2 Coastal Management

Clause / Control	Requirement	Proposal	Complies?
2.10 Development on land within the coastal environment area	Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following—		
	(a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,	The proposed development having regard to its nature and form is unlikely to have an adverse impact on the integrity and resilience of the biophysical, hydrological and ecological environment.	Yes
	(b) coastal environmental values and natural coastal processes	The proposed development will not have an adverse impact on the coastal environmental values and natural processes.	Yes
	(c) the water quality of the marine estate (within the meaning of the <u>Marine Estate Management Act 2014</u> ), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,	The proposal will not have an adverse impact on water quality of the marine estate. The site is not located near a coastal lake identified in Schedule 1.	Yes
	(d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,	The proposal will not have an adverse impact on marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands or rock platforms.	Yes
	(e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,	The proposal will not have an adverse impact on existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public.	Yes
	(f) Aboriginal cultural heritage, practices and places,	The proposal will not have an adverse impact on Aboriginal cultural heritage, practices and places.	Yes
	(g) the use of the surf zone.	The proposal will not have an adverse impact on the use of the surf zone.	Yes
	(2) Development consent must not be granted to development on land to which this section applies unless the consent authority is satisfied that—		

## SEPP (Resilience and Hazards) 2021 - Chapter 2 Coastal Management

	(a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subsection (1), or	The design, siting and management of the proposal will ensure no adverse impacts as indicated above.	Yes
	(b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or	There are no adverse impacts that cannot be reasonably avoided.	Yes
	(c) if that impact cannot be minimised—the development will be managed to mitigate that impact.	There are no adverse impacts that cannot be minimised.	Yes
2.11 Development on land within the coastal use area	(1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority—		
	(a) has considered whether the proposed development is likely to cause an adverse impact on the following—		
	(i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,	The subject site does not share a boundary with the coastline and therefore will not have any adverse impacts in respect of access to these areas.	Yes
	(ii) overshadowing, wind funnelling and the loss of views from public places to foreshores	The proposal is not considered to have an adverse impact on overshadowing of the foreshore, contribute to wind funnelling or loss of views from public places.	Yes
	(iii) the visual amenity and scenic qualities of the coast, including coastal headlands,	The proposal is not considered to have an adverse impact on the visual amenity of the coast, including coastal headlands.	Yes
	(iv) Aboriginal cultural heritage, practices and places,	The proposal is not considered to have an adverse impact on Aboriginal cultural heritage, practices or places.	Yes
	(v) cultural and built environment heritage, and	The proposal is not considered to have an adverse impact on cultural or built environment heritage.	Yes
	(b) is satisfied that—		
	(i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or	Noting the responses to (i) to (v) above, the proposal is unlikely to have adverse impacts requiring management.	Yes

## SEPP (Resilience and Hazards) 2021 - Chapter 2 Coastal Management

(ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or	Noting the responses to (i) to (v) above, the proposal is unlikely to have adverse impact to be avoided.	Yes
(iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and	Noting the responses to (i) to (v) above, the proposal is unlikely to have adverse impact to be minimised.	Yes
(c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.	Having regard to the surrounding coastal and built environment along the western shore of Botany Bay from Dolls Point to Kyeemagh, the bulk, scale and size of the proposed development is appropriate.	Yes

## ANNEXURE B

### Bayside Local Environmental Plan 2021 Compliance Table



**Table 1 Bayside Local Environmental Plan – Compliance Table**

Clause / Control	Requirement	Proposal	Complies?
2.3 Zone Objectives & Land Use Table	<p>(2) The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.</p> <ul style="list-style-type: none"> <li>• To encourage a diversity of business, retail, office and light industrial land uses that generate employment opportunities.</li> <li>• To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.</li> <li>• To minimise conflict between land uses within this zone and land uses within adjoining zones.</li> <li>• To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.</li> <li>• To ensure built form and land uses are commensurate with the level of accessibility, to and from the zone, by public transport, walking and cycling.</li> </ul>	<p>The proposed development for the purpose of a mixed-use development, including a supermarket, food and drink premises (commercial premises) and residential flat building, is permissible in the MU1 zone.</p> <p>The proposal is consistent with the objectives of the MU1 zone as:</p> <ul style="list-style-type: none"> <li>• The proposal provides a mixture of compatible land uses.</li> <li>• The proposal provides an active street frontage along Ramsgate Road and The Grand Parade, providing an improved compared to the existing street activation.</li> <li>• The podium portion of the mixed use building contains non-residential land uses.</li> <li>• The proposal will integrate retail and residential accommodation land uses within in an accessible location and provide adequate parking for all modes of transport.</li> </ul>	Yes
2.7 Demolition requires development consent	The demolition of a building or work may be carried out only with development consent.	The proposal involves demolition of the existing supermarket building and related structures.	Yes
4.3 Height of Buildings	<p>(2) The height of a building on any land is not to exceed the maximum height shown for the land on the <a href="#">Height of Buildings Map</a>.</p> <p>20.5 metres</p>	The maximum height of the proposal is 22.7m (RL 26.2m) to the top of the lift overrun and is therefore non-compliant. A variation request pursuant to Clause 4.6 is provided at <b>Annexure C</b> .	No
4.4 Floor Space Ratio	<p>(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the <a href="#">Floor Space Ratio Map</a>.</p> <p>2:1 (Maximum GFA of 8,958m<sup>2</sup>)</p>	The proposal has a FSR of 2:1 based on a GFA of 8958.1m <sup>2</sup> .	Yes



**Table 1 Bayside Local Environmental Plan – Compliance Table**

5.10 Heritage Conservation	<p>(5) <b>Heritage assessment:</b> The consent authority may, before granting consent to any development—</p> <p>(a) on land on which a heritage item is located, or</p> <p>(b) on land that is within a heritage conservation area, or</p> <p>(c) on land that is within the vicinity of land referred to in paragraph (a) or (b),</p> <p>require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.</p>	<p>The site itself is not identified as an item of environmental heritage nor is the site within a heritage conservation area.</p> <p>However, the proposal is situated on land that is in the vicinity of Cook Park which is listed as a heritage item in Schedule 5 of Bayside Local Environmental Plan 2021.</p> <p>The proposal will not have any adverse impact upon the heritage significant parts of Cook Park.</p>	Yes
6.1 Acid Sulfate Soils	<p>(2) Development consent is required for the carrying out of works described in the table to this subclause on land shown on the <a href="#">Acid Sulfate Soils Map</a> as being of the class specified for those works.</p> <p><b>Class of land - 3</b></p> <p><b>Works</b> - Works more than 1 metre below the natural ground surface. Works by which the watertable is likely to be lowered more than 1 metre below the natural ground surface.</p> <p>(3) Development consent must not be granted under this clause for the carrying out of works unless an acid sulfate soils management plan has been prepared for the proposed works in accordance with the Acid Sulfate Soils Manual and has been provided to the consent authority.</p>	<p>The preliminary site investigation report provided with the application has considered presence of Acid Sulfate Soils beneath the site and found that the natural below 5m below ground level is considered to be Potential Acid Sulfate Soil (PASS). The report recommends that an ASSMP be prepared once specific details of the development are known, including final depths of disturbance. This can be dealt with by condition of consent.</p>	Yes
6.2 Earthworks	<p>(3) In deciding whether to grant development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters—</p>		
	<p>(a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,</p>	<p>A Geotechnical Report has been prepared by JK Geotechnics and has been submitted with the Development Application. The report makes recommendations regarding excavation techniques and earth retention</p>	Yes

**Table 1 Bayside Local Environmental Plan – Compliance Table**

		<p>and implementation of these recommendations will ensure no detrimental effect on local soil stability.</p> <p>A Stormwater Management Plan has been prepared by <i>SCP Engineers and Design Consultants</i> and is submitted with the Development Application. The drainage concept incorporates a 300 kL rainwater tank which is designed to Council requirements and ensures the development will not have a detrimental impact on drainage patterns.</p>	
	(b) the effect of the development on the likely future use or redevelopment of the land,	The proposed earthworks will facilitate the development of the site in a way that is consistent with the LEP zoning.	Yes
	(c) the quality of the fill or the soil to be excavated, or both,	The Geotechnical Report indicates the presence of some fill and soil contamination on the site. The proposal involves the removal of all contaminated fill and soil material.	Yes
	(d) the effect of the development on the existing and likely amenity of adjoining properties,	<p>The earthworks component of the development has the potential to have some short term impact on the amenity of adjoining development. The Geotechnical Report makes recommendations in relation to excavation methods which will be implemented to mitigate amenity impacts during construction.</p> <p>The proposed earthworks on the site are unlikely to have any adverse long terms impact on the amenity of adjoining properties.</p>	Yes
	(e) the source of any fill material and the destination of any excavated material,	No significant filling works are proposed. Excavated materials will be disposed at a licensed waste management facility.	Yes
	<p>(f) the likelihood of disturbing relics,</p> <p>(A <b>relic</b> means any deposit, artefact, object or material evidence that—</p> <p>(a) relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and (b) is of State or local heritage significance).</p>	The site is not identified as an area that would contain, or is likely to contain, relics of significance. The former Ramsgate Baths previously occupied the site and was demolished in the 1970s for the current Coles Supermarket. The likelihood of encountering relics is considered to be minimal. A standard condition of consent in relation to the discovery of significant relics is anticipated in this regard.	Yes

**Table 1 Bayside Local Environmental Plan – Compliance Table**

	(g) the proximity to, and potential for adverse impacts on, any watercourse, drinking water catchment or environmentally sensitive area,	The subject site is not proximate to, and is unlikely to have any adverse impact on, any waterway, drinking water catchment or environmentally sensitive area. The Stormwater Management Plan submitted with the development application confirms that the drainage concept satisfies the Council requirements in relation to hydrological design and water quality targets. The development will have no adverse impact on water quality or volumes in this regard.	Yes
	(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.	The proposal will be developed in accordance with the recommendations of the Geotechnical Report and Contamination Report to ensure that the proposed earthworks are carried out to manage potential adverse impacts.	Yes
6.3 Stormwater and water sensitive urban design	2) Before granting development consent to development on any land to which this Plan applies, the consent authority must be satisfied that—		
	(a) water sensitive urban design principles are incorporated into the design of the development, and	The proposal has been designed to comply with Council's requirements for development to incorporate WSUD principles.	Yes
	(b) riparian, stormwater and flooding measures are integrated as part of the development, and	The proposed development has included consideration of flooding and stormwater issues in its design as indicated in the Civil Works Report prepared by <i>SCP Engineers and Design Consultants</i> .	Yes
	(c) the stormwater management system includes all reasonable management actions to avoid adverse impacts on the land to which the development is to be carried out, adjoining properties, native bushland, waterways, receiving waters and groundwater systems, and	The Stormwater Management Plan and accompany Civil Works Report provides details on how the development will avoid adverse impacts on the site, adjoining sites, waterways, receiving waterways and groundwater system in the location.	Yes

**Table 1 Bayside Local Environmental Plan – Compliance Table**

	(d) if a potential adverse environmental impact cannot be feasibly avoided, the development minimises and mitigates the adverse impacts of stormwater runoff on adjoining properties, native bushland, waterways receiving waters and groundwater systems, and	The proposed development takes all reasonable steps to avoid potential adverse environmental impacts of stormwater runoff on adjoining properties, native bushland, waterways, receiving waters and groundwater systems.	Yes
	(e) the development is designed to maximise the use of water permeable surfaces on the site having regard to the soil characteristics affecting on-site infiltration of water.	Having regard to the current extent of hard paved surfaces on the site, the proposal will not increase the area of impervious surfaces and all rainwater will be directed to a rainwater tank located in the basement before entering the stormwater system.	Yes
6.9 Active street frontages	<p>(3) Development consent must not be granted to the erection of a building, or a change of use of a building, on land to which this clause applies unless the consent authority is satisfied that the building will have an active street frontage after its erection or change of use.</p> <p>(4) Despite subclause (3), an active street frontage is not required for any part of a building used for any of the following—</p> <p>(a) entrances and lobbies (including as part of mixed-use development),</p> <p>(b) access for fire services,</p> <p>(c) vehicle access.</p> <p>(5) For the purpose of this clause, a building has an <b>active street frontage</b> if all premises on the ground floor of the building facing the street are used for the purposes of one or more of the following—</p> <p>(a) business premises,</p> <p>(b) retail premises,</p> <p>(c) medical centre.</p>	<p>The LEP requires an active street frontage to both the Ramsgate Road and the Grand Parade frontage of the site.</p> <p>The proposed development provides an active street frontage to Ramsgate Road and The Grand Parade which is satisfied by all premises on the ground floor of the building facing the street being used for retail premises per sub-clause 5. On Ramsgate Road the design treatment is typical shopfront and to The Grand Parade, the treatment is a green wall.</p>	Yes
6.11 Essential services	<p>Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required—</p> <p>(a) the supply of water,</p> <p>(b) the supply of electricity,</p>	The existing site is currently serviced with water supply and a sewer connection (Sydney Water), electricity (Ausgrid), piped stormwater collection and vehicle access (Bayside Council).	Yes



**Table 1 Bayside Local Environmental Plan – Compliance Table**

	(c) the disposal and management of sewage, (d) stormwater drainage or on-site conservation, (e) suitable vehicular access.		
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## ANNEXURE C

### Clause 4.6 Variation Statement - Height of Buildings







## CLAUSE 4.6 VARIATION STATEMENT – MAXIMUM HEIGHT OF BUILDINGS (CLAUSE 4.3)

### 1. INTRODUCTION

This Variation Statement has been prepared in accordance with Clause 4.6 of Bayside Local Environmental Plan (BLEP) 2021 to accompany an application for demolition of existing buildings and structures and the construction of a six (6) storey mixed-use development, including car parking and associated earthworks and landscaping at No. 277 The Grand Parade, Ramsgate Beach.

### 2. MAXIMUM HEIGHT OF BUILDING

Clause 4.3(2) of *Bayside Local Environmental Plan 2021* relates to the maximum building height requirements and refers to the *Height of Buildings Map*. Building height is defined as:

*“building height (or height of building) means in relation to the height of a building in metres—the vertical distance from ground level (existing) to the highest point of the building including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like”.*

The relevant LEP map below identifies the subject site as having a maximum height of 20.5m.

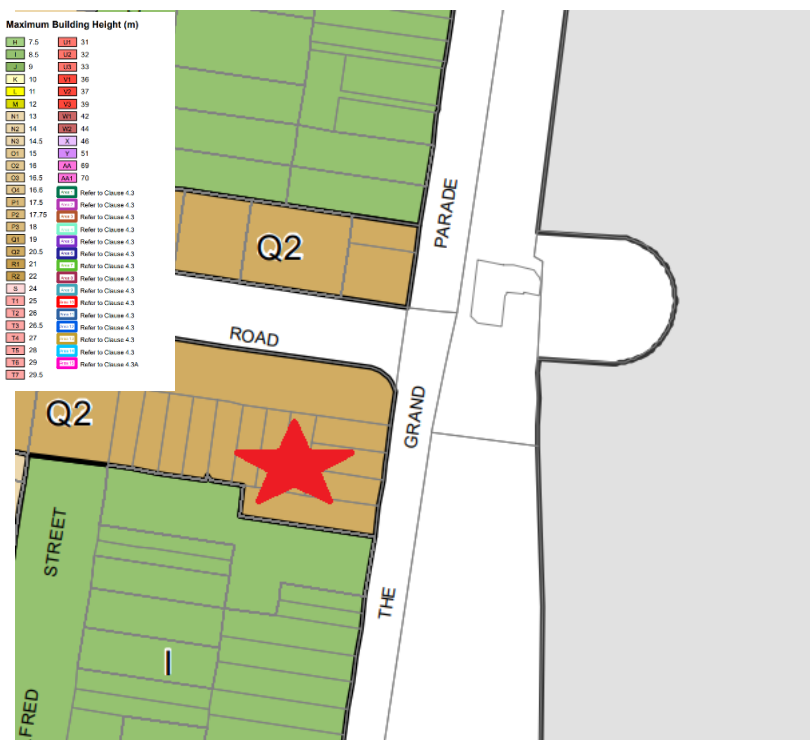


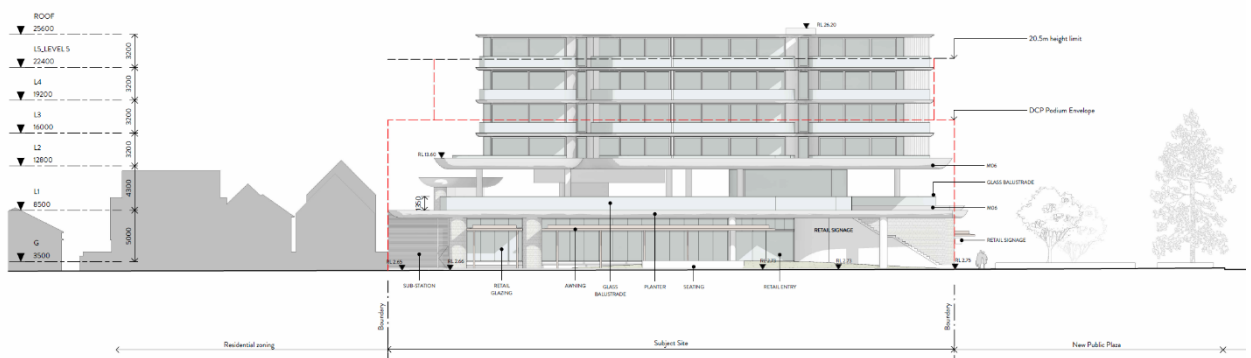
Figure 26 Bayside LEP 2021 - Height of Buildings map (site marked with star).



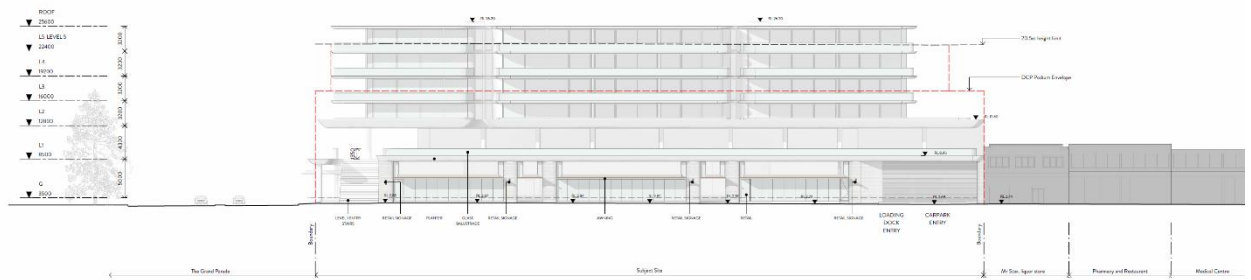
### 3. PROPOSED VARIATION

As indicated in the elevation included in Figures 24 and 25 below, the proposed upper most level and the lift overruns, central to the building, will attain a height of 23.46m and exceed the maximum height. The height breach is at maximum 2.96m. This results in a variation of 14.4%. The building height, excluding the lift overrun, exceeds the height limit by 2.36m or 11.5%.

Extracts from the architectural drawings showing the extent of non-compliance can be seen at **Figures 27 & 28** below.



**Figure 27** Eastern elevation of proposal indicating LEP 20.5m height limit (black dotted line)



**Figure 28** Northern elevation of proposal indicating the LEP 20.5m height limit (black dotted line)

### 4. CLAUSE 4.6 TO BAYSIDE LOCAL ENVIRONMENTAL PLAN 2021

The objectives and provisions of clause 4.6 are as follows:

#### 4.6 Exceptions to development standards

##### (1) The objectives of this clause are as follows—

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating—

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

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

(4) Development consent must not be granted for development that contravenes a development standard unless—

(a) the consent authority is satisfied that—

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

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

(b) the concurrence of the Planning Secretary has been obtained.

(5) In deciding whether to grant concurrence, the Planning Secretary must consider—

(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and

(b) the public benefit of maintaining the development standard, and

(c) any other matters required to be taken into consideration by the Planning Secretary before granting concurrence.

(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if—

(a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or

(b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.

(7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).

(8) This clause does not allow development consent to be granted for development that would contravene any of the following—

(a) a development standard for complying development,

(b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,

(c) clause 5.4,

(ca) clause 4.2A, 6.1 or 8.3.

(8A) (Repealed)

It is noted that Clause 4.3 is not “expressly excluded” from the operation of Clause 4.6.

Objective 1(a) of clause 4.6 is satisfied by the discretion granted to a consent authority by virtue of subclause 4.6(2) and the limitations to that discretion contained in subclauses (3) to (8). This submission will address the requirements of subclauses 4.6(3) & (4) in order to demonstrate to Council that the exception sought is consistent with the exercise of “an appropriate degree of flexibility” in applying the development standard, and is therefore consistent with objective.

1(a). In this regard, the extent of the discretion afforded by subclause 4.6(2) is not numerically limited, in contrast with the development standards referred to in subclause 4.6(6).

Objective 1(b) of Clause 4.6 is addressed later in this request.

As described at Section 3 of this written request, the proposal has a maximum building height of 23.46m (RL 26.2m) and it is hereby requested that a variation to this development standard be granted pursuant to Clause 4.6 so as to permit a maximum building height of 23.46m which equates to a numerical variation of 2.96m.

## **5. THAT COMPLIANCE WITH THE DEVELOPMENT STANDARD IS UNREASONABLE OR UNNECESSARY IN THE CIRCUMSTANCES OF THE CASE (CLAUSE 4.6(3)(a))**

In *Wehbe V Pittwater Council* (2007) NSW LEC 827 Preston CJ sets out ways of establishing that compliance with a development standard is unreasonable or unnecessary. This list is not exhaustive. It states, inter alia:

*“An objection under SEPP 1 may be well founded and be consistent with the aims set out in clause 3 of the Policy in a variety of ways. The most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard”.*

The Judgment goes on to state that:

*“The rationale is that development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives. Compliance with a development standard is fixed as the usual means by which the relevant environmental or planning objective is able to be achieved. However, if the proposed development proffers an alternative means of achieving the objective strict compliance with the standard would be unnecessary (it is achieved anyway) and unreasonable (no purpose would be served).”*

Preston CJ in the Judgment then expressed the view that there are 5 different ways in which an objection may be well founded and that approval of the objection may be consistent with the aims of the policy, as follows (with emphasis placed on number 1 for the purposes of this Clause 4.6 variation [our underline]):

- *The objectives of the standard are achieved notwithstanding non-compliance with the standard;*
- *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
- *The underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*
- *The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*
- *The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard that would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.*

Relevantly, in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 (paragraph 16), Preston CJ makes reference to *Wehbe* and states:

*"...Although that was said in the context of an objection under State Environmental Planning Policy No 1 – Development*

*Standards to compliance with a development standard, the discussion is equally applicable to a written request under cl 4.6 demonstrating that compliance with a development standard is unreasonable or unnecessary".*



Compliance with the maximum building height development standard is considered to be unreasonable and unnecessary as the objectives of that standard are achieved for the reasons set out in this statement. For the same reasons, the objection is considered to be well-founded as per the first method underlined above.

Notably, under Clause 4.6(4)(a)(ii) a consent authority must now be satisfied that the contravention of a development standard will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out. Clause 4.6(4)(a)(ii) is addressed in Section 7 below.

## **6. SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS (CLAUSE 4.6(3)(b))**

Having regard to Clause 4.6(3)(b) and the need to demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard. Specifically, Preston CJ in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 (paragraph 24) states:

*"The environmental planning grounds relied on in the written request under cl 4.6 must be "sufficient". There are two respects in which the written request needs to be "sufficient". First, the environmental planning grounds advanced in the written request must be sufficient "to justify contravening the development standard". The focus of cl 4.6(3)(b) is on the aspect or element of the development that contravenes the development standard, not on the development as a whole, and why that contravention is justified on environmental planning grounds. The environmental planning grounds advanced in the written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole: see *Four2Five Pty Ltd v Ashfield Council* [2015] NSWCA 248 at [15]. Second, the written request must demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard so as to enable the consent authority to be satisfied under cl 4.6(4)(a)(i) that the written request has adequately addressed this matter: see *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 at [31]."*



The assessment of this numerical non-compliance is also guided by the recent decisions of the NSW LEC in *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 whereby Justice Pain ratified the decision of Commissioner Pearson and in *Moskovich v Waverley Council* [2016] NSWLEC 1015.

The following environmental planning grounds are submitted to justify contravening the maximum building height:

- 1) The height variation can be partly attributed to the need to provide adequate floor to ceiling clearance for a full line supermarket which has a pre-determined requirement for more than 4m clearance necessary for the functional and operational needs of the business. The retention of a full line supermarket on the site provides significant benefits for the public interest compared with development that does not have the same functional needs that may comply with the height limit.
- 2) The upper level of the podium has been designed to achieve the highest level of solar access to the food and beverage premises. High levels of solar access are critical to this facility and this has been achieved through increased floor to floor height in order that the sun angle can penetrate these levels. This affects the overall building height.
- 3) The proposed development will be elevated above the existing ground level by 0.76m to accommodate a development that will be protected for all flood events up to the design flood level (1%AEP) affecting the site.
- 4) The height variation is relatively minimal, exceeding the numeric control by 2.96m (14.4%), measured from the lift overrun and 2.36m (11.5%), measured from the roof. If the proposed development was not required to be raised by 0.76m to accommodate the FPL, the height exceedance would be 2.2m (10.7%), measured from the lift overrun and 1.6m (7.8%), measured from the roof. Therefore, the roof line of the proposal would provide a 7.8% height exceedance, less than 10% and therefore minor.
- 5) In accordance with BLEP 2021, The Brighton Le Sands centre along Bay Street permits building heights of up to 51m on the corner of The Grand Parade and Bay Street. Along this same street, a 28m height allowance is permitted adjacent to low/medium density residentially zoned land with a maximum allowable building height of 8.5m. The impacts caused by the numeric building height exceedance of 2.96m, resulting in a total building height of 23.46m (including lift overrun), would be negligible compared to the impacts of a 28m building adjacent to single and double storey dwellings along Bay Street.
- 6) The height breach allows for the allowable floor space to be redistributed to upper floors of the building that will achieve superior amenity to a height compliant scheme. The alternative height compliant scheme would involve larger building floorplates closer to the site's side and rear boundaries. Thus, providing an adverse outcome for neighbouring properties, particularly the dwellings that share a common southern boundary.
- 7) The proposed development provides increased infill housing on the site which will satisfy a local need for well-located housing stock and diversity in the Bayside LGA. Compliance with the numeric height standard would result in the reduction of 11 residential units located on the top floor of the development.
- 8) The non-residential uses within the development that contribute to the height non-compliance will provide for significant jobs growth in the locality, representing a wide range of skill sets, that will contribute to local economic growth.
- 9) The additional building height allows for a significantly reduced footprint above the podium level which incorporates significant side setbacks, well in excess of the minimum requirements under the DCP. This has spatial and amenity benefits that can be directly linked to the proposed height breach.





- 10) It is considered there is an absence of any impact of the proposed non-compliance on the amenity of the environmental values of the locality, the amenity of future building occupants and on the character of the area. Specifically, the accompanying shadow analysis indicates the extent of non-compliance creates no unreasonable additional adverse overshadowing to neighbouring properties during the winter solstice. In essence, the additional height has enabled a massing of the built form in a manner that provides for greater than required setbacks at the mid-section of the southern part of the building. This results in a significant reduction in shadow impact. Also, the height breach does not result in any significant view impacts over and above a compliant scheme.
- 11) The proposed development meets the objectives of the development standard and meets the objectives of the MU1 Mixed Use zone (as further detailed below).
- 12) The proposed development achieves the objects of Section 1.3 of the EP&A Act, specifically:
  - a) The proposal promotes the orderly and economic use and development of land through the redevelopment of an underutilised site for a high-quality commercial development containing a 44 residential apartments, full line supermarket and a food and beverage premises (s1.3(c)),
  - b) Despite the height variation, the proposed development will not adversely impact the heritage significance of the heritage item in the vicinity of the site (s1.3(f)), and
  - c) The proposed development promotes good design and amenity of the built environment through a well considered design which is in response to its setting and context (s1.3(g)).

The above environmental planning grounds are not general propositions. They are unique circumstances to the proposed development. The additional height will facilitate a high-quality development with excellent levels of internal amenity that does not prejudice the character or appearance of the local streetscape or levels of residential amenity enjoyed by neighbouring properties.

The merits of the proposal on “environmental planning grounds” needs to be balanced with the burden that strict compliance places on the site and whether strict compliance will result in a sufficient outcome. The development has been designed to provide a high quality urban outcome, with the building designed so as to minimise impact on the views, privacy or amenity of neighbouring properties. The non-compliance has no perceptible adverse impact on the streetscape as it reads as part of a cohesive, high quality development.

To require strict compliance would therefore result in an unreasonable burden on the development with no demonstrable built form or amenity benefits.

It is noted that in *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*, Preston CJ clarified what items a Clause 4.6 does and does not need to satisfy. Importantly, there does not need to be a “better” planning outcome:

*“87. The second way is in an error because it finds no basis in cl 4.6. Clause 4.6 does not directly or indirectly establish a test that the non-compliant development should have a neutral or beneficial effect relative to a compliant development. This test is also inconsistent with objective (d) of the height development standard in cl 4.3(1) of minimising the impacts of new development on adjoining or nearby properties from disruption of views or visual intrusion. Compliance with the height development standard might be unreasonable or unnecessary if the noncompliant development achieves this objective of minimising view loss or visual intrusion. It is not necessary, contrary to what the Commissioner held, that the non-compliant development have no view loss or less view loss than a compliant development.”*



88. The second matter was in cl 4.6(3)(b). I find that the Commissioner applied the wrong test in considering this matter by requiring that the development, which contravened the height development standard, result in a "better environmental planning outcome for the site" relative to a development that complies with the height development standard (in [141] and [142] of the judgment). Clause 4.6 does not directly or indirectly establish this test. The requirement in cl 4.6(3)(b) is that there are sufficient environmental planning grounds to justify contravening the development standard, not that the development that contravenes the development standard have a better environmental planning outcome than a development that complies with the development standard".

For the reasons listed above, it is considered that there are sufficient environmental planning grounds to support a variation to height of building standard, particularly when one considers the benefits associated with locating residential floor space to the uppermost levels of the building, where it will achieve excellent levels of residential amenity.

## **7. THE APPLICANT'S WRITTEN REQUEST HAS ADEQUATELY ADDRESSED THE MATTERS REQUIRED TO BE DEMONSTRATED BY SUBCLAUSE (3), (Clause 4.6(4)(A)(I))**

*Preston CJ in Initial Action Pty Ltd v Woollahra Municipal Council* details how Clause 4.6(4)(a) needs to be addressed (paragraphs 15 and 26 are rephrased below):

The first opinion of satisfaction, in clause 4.6(4)(a)(i), is that a written request seeking to justify the contravention of the development standard has adequately addressed the matters required to be demonstrated by clause 4.6(3). These matters are twofold: first, that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case (clause 4.6(3)(a)) and, secondly, that there are sufficient environmental planning grounds to justify contravening the development standard (clause 4.6(3)(b)). This written request has addressed Clause 4.6(3)(a) in Section 4 above (and furthermore in terms of meeting the objectives of the development standard, this is addressed in 8a below). Clause 4.6(3)(b) is addressed in Section 6 above.

The second opinion of satisfaction, in clause 4.6(4)(a)(ii), is that the proposed development will be in the public interest because it is consistent with the objectives of the particular development standard that is contravened and the objectives for development for the zone in which the development is proposed to be carried out. The second opinion of satisfaction under cl 4.6(4)(a)(ii) differs from the first opinion of satisfaction under clause 4.6(4)(a)(i) in that the consent authority, or the Court on appeal, must be directly satisfied about the matter in clause 4.6(4)(a)(ii), not indirectly satisfied that the applicant's written request has adequately addressed the matter in clause 4.6(4)(a)(ii). The matters in Clause 4.6(4)(a)(ii) are addressed in Section 8 below.

## **8. THE PROPOSED DEVELOPMENT WILL BE IN THE PUBLIC INTEREST BECAUSE IT IS CONSISTENT WITH THE OBJECTIVES OF THE PARTICULAR STANDARD AND THE OBJECTIVES FOR DEVELOPMENT WITHIN THE ZONE IN WHICH THE DEVELOPMENT IS PROPOSED TO BE CARRIED OUT (CLAUSE 4.6(4)(a)(ii))**

### **8a. Objectives of Development Standard**

In order to address the requirements of Subclause 4.6(4)(a)(ii), the objectives of Clause 8.6 are addressed below.

Objective (a) to ensure that building height is consistent with the desired future character of an area,

A significant driver for the proposed building height has been the intention to provide a food and beverage premises that maximises solar access opportunities and the retention of a full-line supermarket on the site. Both of these important elements of the building have contributed towards the height variation on the site. These important economic drivers are consistent with the desire for Ramsgate Beach to become an attractive and desirable location for dining and entertainment at an appropriate scale. It is considered that height non-compliance is consistent with the desired future character of the Ramsgate Beach precinct which seeks to provide a community and tourist hub. Existing development to the north is six storeys in height and has established a scale for the town centre that the



proposal will achieve consistency with. The planning controls envisage 6 storey development, the outcome for the proposal is six storeys with some additional height attributable to flood affectation and functional needs for the non-residential uses at the lower two levels.

Objective (b) To minimise visual impact of new development, disruption of views, loss of privacy and loss of solar access to existing development.

As demonstrated within the Statement of Environmental Effects, the proposed development does not have any significant adverse impacts on views, privacy or solar access to land that is within the public domain or private property.

Objective (c) To nominate heights that will provide an appropriate transition in built form and land use intensity.

Despite the height non-compliance, the design of the proposal provides for a superior architectural design and response to the public domain that supports a better transition from the MU1 Mixed Use zone to the R2 Low Density Residential Zone to the south of the site. That is achieved by providing for a floor plate and tower that is more efficient and setback further from the southern side boundary than a compliant development.

#### **8b. Objectives of the Zone**

Clause 4.6(4)(a)(ii) also requires that the consent authority be satisfied that the development is in the public interest because it is consistent with relevant zone objectives. The objectives of the Zone MU1 are as follows:

*To encourage a diversity of business, retail, office and light industrial land uses that generate employment opportunities.*

- *To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.*
- *To ensure built form and land uses are commensurate with the level of accessibility, to and from the zone, by public transport, walking and cycling.*

The proposed development is consistent with the objectives of Zone MU1 in that:

- The proposal will provide a mixture of compatible retail and residential land uses suitable for the local and wider community;
- The proposal will provide for the greater activation of the Ramsgate Road frontage through the provision of several retail shops and urban design treatments.
- Conflict to adjoining land uses will be minimised in the siting, bulk and scale of the proposed development that prioritises adequate separation to adjacent low/medium density residential land uses.
- The proposal incorporates a podium at the ground and first floor level that will be for non-residential land uses.
- The retail employment opportunities will complement the community needs in a highly accessible location;

#### **9. THE CONCURRENCE OF THE SECRETARY HAS BEEN OBTAINED (CLAUSE 4.6(4)(b))**

The second precondition in cl 4.6(4) that must be satisfied before the consent authority can exercise the power to grant development consent for development that contravenes the development standard is that the concurrence of the Planning Secretary has been obtained (cl 4.6(4)(b)). Under clause 55 of the *Environmental Planning and Assessment*



*Regulation 2021*, the Secretary has given written notice, attached to the Planning Circular PS 18-003 issued on 5 May 2020, to each consent authority, that it may assume the Secretary's concurrence for exceptions to development standards in respect of applications made under cl 4.6, subject to the conditions in the table in the notice.

#### **10. WHETHER CONTRAVENTION OF THE DEVELOPMENT STANDARD RAISES ANY MATTER OF SIGNIFICANCE FOR STATE OR REGIONAL ENVIRONMENTAL PLANNING (CLAUSE 4.6 (5)(a))**

There is no identified outcome which would be deleterious to planning matters of State or regional significance that would result because of varying the development standard as proposed under the subject application.

#### **11. THE PUBLIC BENEFIT OF MAINTAINING THE DEVELOPMENT STANDARD (CLAUSE 4.6(5)(b))**

As detailed in this submission there are no unreasonable impacts that will result from the proposed variation to the required building height. As such there is no public benefit in maintaining strict compliance with the development standard. Overall, the public benefit is improved by the departure from the numeric height standard; as adequate ceiling heights are provided to the full line supermarket and food and beverage premises and infill residential units are maximised contributing to housing stock in the Bayside LGA.

The proposal seeks a maximum height of 23.46m or a variation of 2.96m (14.4%) under clause 4.3(2) of the *Bayside Local Environmental Plan 2021*.

Whilst the proposed building height exceeds the maximum permitted on the site, the proposed development is consistent with the objectives of the development standard and the objectives for development of the Zone in which the development is proposed to be carried out. It is the proposed development's consistency with the objectives of the development standard and the objectives of the zone that make the proposed development in the public interest.

#### **12. CONCLUSION**

This written request has been prepared in relation to the proposed variation to the building height development standard contained in *Bayside Local Environmental Plan 2021*.

Despite the non-compliance with the height of buildings development standard, the proposed built form is compatible with the existing and desired character of the locality as anticipated by the planning controls under the *Bayside Local Environmental Plan 2021* and *Rockdale Development Control Plan 2011*.

It has been demonstrated that the proposed development sits comfortably with the locality and provides an appropriate built form that is compatible with the varied height of buildings in the locality, particularly along Bay Street. Furthermore, the proposed development will not have an unreasonable adverse impact on the amenity of adjoining properties.

The request explains that, with the proposed variation, the development satisfies the objectives of the standard and the objectives of the Zone MU1 Mixed Use. It further explains why it is therefore unreasonable and unnecessary to require strict compliance with the height of buildings development standard. In addition, this request demonstrates there are sufficient site specific environmental planning grounds to justify the variation, and therefore the proposal is considered to be in the public interest.



## ANNEXURE D


### Apartment Design Guide – (Compliance Table)





Clause / Control	Requirement	Proposal	Complies?										
Part 3 Siting the development													
3D Communal Open Space	<p>1. Communal open space has a minimum area equal to 25% of the site.</p> <p>2. 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 9 am and 3 pm on 21 June (mid-winter).</p>	<p>Communal open space (COS) provided for the residential portion of the mixed use building is largely located on Level 2. The community garden contains an approximate area of 296m<sup>2</sup>.</p> <p>Further justification regarding this non-compliance is provided in <b>Section 4.2.7</b> of this report.</p>	On Merit										
3E Deep Soil Zones	<p>1. Deep soil zones are to meet the following minimum requirements</p> <table><tr><th>Site Area</th><th>Minimum Dimension</th><th>Deep Soil Zone</th></tr><tr><td>Less than 650m2</td><td>-</td><td rowspan="3">7% of the site area</td></tr><tr><td>650m2 to 1,500m2</td><td>3m</td></tr><tr><td>Above 1,500m2</td><td>6m</td></tr></table>	Site Area	Minimum Dimension	Deep Soil Zone	Less than 650m2	-	7% of the site area	650m2 to 1,500m2	3m	Above 1,500m2	6m	<p>The subject site has an area of 4,479m<sup>2</sup> and therefore a minimum 7% deep soil area is required, with a minimum dimension of 6m.</p> <p>The proposed development provides largely zero front and side setbacks at the ground floor. The remaining extent of the ground level that does not comprise buildings contains hardstand areas facilitating vehicular access to the site and loading zones. Consequently, above ground landscaping has been provided and no deep soil zone is provided.</p> <p>Whilst non-compliant with this requirement, the proposal provides considerable soft landscaped area throughout the site equating to 2,281.2m<sup>2</sup> or 50%. Whilst technically non-compliant with the deep soil requirement, the site arrangement and topography limits strict compliance. That is, the proposed basement is provided across three basement levels. The location, siting and size of this basement is constrained and can only be located in the current position to provide sufficient parking to residents, employees and visitors. Further, the DCP requires commercial buildings on the podium be constructed to the site boundary with regard to front and side setbacks. This reduces available site area at ground level for landscaping and deep soil zones.</p> <p>Further justification regarding this non-compliance is provided in <b>Section 4.2.7</b> of this report.</p>	On merit
Site Area	Minimum Dimension	Deep Soil Zone											
Less than 650m2	-	7% of the site area											
650m2 to 1,500m2	3m												
Above 1,500m2	6m												



Clause / Control	Requirement	Proposal	Complies?												
3F Visual privacy	<div>1. 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:</div> <table><tr><th>Building height</th><th>Habitable rooms and balconies</th><th>Non-habitable rooms</th></tr><tr><td>Up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr><tr><td>Up to 25m (5-8 storeys)</td><td>9m</td><td>4.5m</td></tr><tr><td>Over 25m (9+ storeys)</td><td>12m</td><td>6m</td></tr></table> <div>No building separation is necessary where building types incorporate blank party walls. Typically, this occurs along a main street or at podium levels within centres.</div> <div>An additional 3m in separation is required for development at a zone interface. The additional 3m separation would be required along the southern (side) boundary and rear boundaries.</div>	Building height	Habitable rooms and balconies	Non-habitable rooms	Up to 12m (4 storeys)	6m	3m	Up to 25m (5-8 storeys)	9m	4.5m	Over 25m (9+ storeys)	12m	6m	<div>The site has a dual frontage and irregular in shape. The logical side and rear boundaries of the site are depicted below.</div> <div></div> <div>(Blue – Front, Grey – Side, Orange – Rear)</div> <div>The proposed separation distances from habitable and non-habitable rooms with respect to the side and rear boundaries comply, with the exception of Units 1, 2, 10 and 11 on Level 2. The building separation, measured from the terrace edge to the side boundary is 1.8m (Unit 1/2) 6.3m and 7.3m respectively. This distance is required to be 9m as the terrace is considered habitable.</div>	On merit
Building height	Habitable rooms and balconies	Non-habitable rooms													
Up to 12m (4 storeys)	6m	3m													
Up to 25m (5-8 storeys)	9m	4.5m													
Over 25m (9+ storeys)	12m	6m													
3J Bicycle and car Parking	<div>1. For development in the following locations:</div> <div><ul style="list-style-type: none"><li>on sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan Area; or</li><li>on land zoned, and sites within 400 metres of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre</li></ul></div> <div>the minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments (GTTGD), or the</div>	<div>Not applicable. Rockdale DCP parking rates apply in which the proposal is compliant.</div>	Refer to Annexure E												

Clause / Control	Requirement	Proposal	Complies?								
4A Solar Access and Daylight	car parking requirement prescribed by the relevant council, whichever is less.										
	<p>1. Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas</p> <p>3. A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter.</p>	<p>31 apartments (70%) will achieve 2+ hours of solar access during mid-winter.</p> <p>12 apartments (27%) will receive less than 2 hours of solar access during mid-winter.</p> <p>1 apartment (2%) will receive no direct sunlight.</p>	<p>Yes</p> <p>Yes</p>								
4B Natural Ventilation	<p>1. At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten 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> <p>2. Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.</p>	<p>28 of 44 apartments (64%) achieve cross ventilation as shown on the architectural plans.</p> <p>Refer to the architectural plans.</p>	<p>Yes</p> <p>Yes</p>								
4C Ceiling Height	<p>1. Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</p> <table><tr><th colspan="2">Minimum ceiling height</th></tr><tr><td>Habitable rooms</td><td>2.7m</td></tr><tr><td>Non-habitable rooms</td><td>2.4m</td></tr><tr><td>Two storey apartments</td><td>2.7m for main living area and 2.4m for second floor where its area does not exceeds 50% of the apartment area.</td></tr></table>	Minimum ceiling height		Habitable rooms	2.7m	Non-habitable rooms	2.4m	Two storey apartments	2.7m for main living area and 2.4m for second floor where its area does not exceeds 50% of the apartment area.	<p>The proposal will achieve a minimum floor to ceiling height of 2.7m to habitable rooms throughout the development.</p>	<p>Yes</p>
Minimum ceiling height											
Habitable rooms	2.7m										
Non-habitable rooms	2.4m										
Two storey apartments	2.7m for main living area and 2.4m for second floor where its area does not exceeds 50% of the apartment area.										

Clause / Control		Requirement	Proposal	Complies?										
4D Apartment Layout		<table><tr><td>If located in mixed use areas</td><td>3.3m for ground and first floor to promote future flexibility of use.</td></tr></table>	If located in mixed use areas	3.3m for ground and first floor to promote future flexibility of use.										
	If located in mixed use areas	3.3m for ground and first floor to promote future flexibility of use.												
		1. Apartments are required to have the following minimum internal areas:	All apartments exceed the requirement as shown on the architectural plans.	Yes										
		<table><tr><th>Apartment type</th><th>Minimum internal area</th></tr><tr><td>Studio</td><td>35m<sup>2</sup></td></tr><tr><td>1 bedroom</td><td>50m<sup>2</sup></td></tr><tr><td>2 Bedroom</td><td>70m<sup>2</sup></td></tr><tr><td>3 Bedroom</td><td>90m<sup>2</sup></td></tr></table>	Apartment type	Minimum internal area	Studio	35m <sup>2</sup>	1 bedroom	50m <sup>2</sup>	2 Bedroom	70m <sup>2</sup>	3 Bedroom	90m <sup>2</sup>		
	Apartment type	Minimum internal area												
	Studio	35m <sup>2</sup>												
	1 bedroom	50m <sup>2</sup>												
	2 Bedroom	70m <sup>2</sup>												
	3 Bedroom	90m <sup>2</sup>												
		The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m <sup>2</sup> each.		Yes										
		A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m <sup>2</sup> each.		Yes										
		2. 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	The proposal complies with this requirement per the architectural plans.	Yes										
	1. Habitable room depths are limited to a maximum of 2.5 x the ceiling height.	The proposal complies with this requirement per the architectural plans.	Yes											
	2. In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window		Yes											
	1. Master bedrooms have a minimum area of 10m <sup>2</sup> and other bedrooms 9m <sup>2</sup> (excluding wardrobe space)	Each habitable room has a sufficiently sized windows for solar access and natural ventilation.	Yes											
	2. Bedrooms have a minimum dimension of 3m (excluding wardrobe space)		Yes											

Clause / Control	Requirement	Proposal	Complies?														
4E Open Space	<p>3. Living rooms or combined living/dining rooms have a minimum width of:</p> <ul style="list-style-type: none"><li>3.6m for studio and 1 bedroom apartments</li><li>4m for 2 and 3 bedroom apartments</li></ul> <p>4. The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts.</p>	<p>Dimensions provided on the submitted plan set demonstrate that rooms are appropriately proportioned to comply with the numeric requirements of the ADG and to permit entry of sunlight and natural ventilation throughout internal spaces.</p> <p>Dimensions indicated on plans demonstrate that living area depths comply with numeric requirements, as measured from an opening.</p> <p>Refer to plan set which demonstrates that each bedroom is sized to comply with the numeric requirements of the AGD.</p> <p>As above.</p> <p>Each living room has a minimum dimension which accords with the ADG to allow for varied furniture layouts.</p> <p>Refer to architectural plans which demonstrates compliance.</p>	<p>Yes</p>														
	<p>All apartments are required to have primary balconies as follows:</p> <table><tr><th>Dwelling type</th><th>Minimum area</th><th>Minimum depth</th></tr><tr><td>Studio</td><td>4m2</td><td>-</td></tr><tr><td>1 bedroom</td><td>8m2</td><td>2m</td></tr><tr><td>2 Bedroom</td><td>10m2</td><td>2m</td></tr><tr><td>3 Bedroom +</td><td>12m2</td><td>2.4m</td></tr></table>	Dwelling type	Minimum area	Minimum depth	Studio	4m2	-	1 bedroom	8m2	2m	2 Bedroom	10m2	2m	3 Bedroom +	12m2	2.4m	<p>Each apartment is provided with an area of private open space in the form of a balcony/terrace.</p> <p>All private open space areas are in excess of the minimum area and depth requirements for 2 and 3 bedroom apartments.</p>
Dwelling type	Minimum area	Minimum depth															
Studio	4m2	-															
1 bedroom	8m2	2m															
2 Bedroom	10m2	2m															
3 Bedroom +	12m2	2.4m															

Clause / Control	Requirement	Proposal	Complies?										
	<p>The minimum balcony depth to be counted as contributing to the balcony area is 1m.</p> <p>2. For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m<sup>2</sup> and a minimum depth of 3m</p>	<p>Apartments are only located on the tower.</p>	<p>Yes</p>										
4F Common Circulation Space	<p>1. The maximum number of apartments off a circulation core on a single level is eight.</p> <p><i>Where design criteria 1 is not achieved, no more than 12 apartments should be provided off a circulation core on a single level</i></p>	<p>A Maximum of 11 apartments are provided on each floor.</p> <p>Units 1-4 and Units 5-11 will be accessed from separate circulation core's across each level.</p>	<p>Yes</p>										
4G Storage	<p>1. In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <table><tr><th>Dwelling type</th><th>Storage volume</th></tr><tr><td>Studio</td><td>4m<sup>3</sup></td></tr><tr><td>1 bedroom</td><td>6m<sup>3</sup></td></tr><tr><td>2 Bedroom</td><td>8m<sup>3</sup></td></tr><tr><td>3+ Bedroom</td><td>10m<sup>3</sup></td></tr></table> <p>At least 50% of the required storage is to be located within the apartment</p>	Dwelling type	Storage volume	Studio	4m <sup>3</sup>	1 bedroom	6m <sup>3</sup>	2 Bedroom	8m <sup>3</sup>	3+ Bedroom	10m <sup>3</sup>	<p>The proposal is compliant as shown in the architectural set.</p> <p>Additional storage for each unit is provided in basement carpark B3.</p>	<p>Yes</p>
Dwelling type	Storage volume												
Studio	4m <sup>3</sup>												
1 bedroom	6m <sup>3</sup>												
2 Bedroom	8m <sup>3</sup>												
3+ Bedroom	10m <sup>3</sup>												

## ANNEXURE E

### Rockdale Development Control Plan 2011 - Compliance Table





**Table 2 Rockdale Development Control Plan 2011 - Compliance Table**

**Part 4 General Principles for Development**

Clause / Control	Requirement	Proposal	Complies?
<b>4.1 Site Planning</b>			
<b>4.1.1 Views and vistas</b>	1. Development must consider any significant views to, from and across the site.	The proposed development has considered the potential impact of the proposal on significant public and private views across the site.	Yes
	2. Development must retain existing views to Botany Bay, and where possible enhance views through site planning and building design.	The proposal will have no impact on any public views of Botany Bay and will have a minor impact on some private views from south-facing apartments in recently constructed developments on the northern side of Ramsgate Road. The impact is acceptable when considered in light of the building envelope controls that apply to the site. This is dealt with in detail in this SEE.	Yes
	3. Development on highly visible sites, such as ridgelines, must be carefully designed so that it complements the character of the area and its skyline.	The subject site is a highly visible site from The Grand Parade and Ramsgate Road. The proposed design will provide a high quality architectural response to this corner site and will be provided with superior detailing and finishes.	Yes
	4. View corridors to landmarks and significant heritage items must be protected where possible. Applicants may be required to prepare photo montages of the proposed development to illustrate the impact on views.	The proposed development will not impede any significant view corridors to landmarks or heritage items.	Yes
	5. Building forms and setbacks permit views from public streets and open spaces. In particular, views from public open spaces to the bay and district are preserved.	The design of the proposal will maintain public views down Ramsgate Road towards Cook Park, its Norfolk Island Pine trees and Botany Bay.	Yes
	6. Roof forms on the low side of streets are well articulated to allow public views and add interest to the scenic outlook. Large, flat expansive roofs with vents, air conditioning units and similar structures are inappropriate.	The flat articulated roof form is considered appropriate for the site. The appearance of breaks in the buildings façade are extended to the roof form to assist in reducing bulk and scale.	Yes

**Table 2 Rockdale Development Control Plan 2011 - Compliance Table**

	7. Building forms enable a sharing of views with surrounding residences, particularly from the main habitable rooms of surrounding residences.	The proposal has been designed to enable the partial sharing of views with nearby apartment buildings on the northern side of Ramsgate Road.	Yes
4.1.2 Heritage Conservation	2. A heritage impact statement may be required for development adjacent to or within the vicinity of a heritage item.	The subject site is opposite Cook Park which is heritage listed. However, Grand Parade separates the properties and the proposal will have no adverse impacts on that land. Accordingly, a heritage impact statement is not considered necessary.	Yes
	17. Any proposed development located adjacent to or nearby a heritage item must not have an adverse impact on the heritage item including its setting and curtilage.	As above.	Yes
	18. Development adjacent to a heritage item must be designed: a. to be of a similar scale and proportion so that the item or place of heritage significance is not dominated or overwhelmed, and b. to pay particular attention to the design elements such as the style and pitch of roofs, parapet walls, proportions of window and door openings and external materials and colours.	As above.	Yes
	19. Where new development is proposed adjacent to a heritage item in a street of buildings similar to the heritage item, then the new development must maintain the historic streetscape pattern.	Not applicable.	N/A
4.1.3 Water Management	<u>Stormwater Management</u> 1. Development must comply with former Rockdale Council's Technical Specification – Stormwater Management which provides detail of drainage requirements for different development types. Consultation with Council is recommended.	The proposed development will comply with the relevant technical requirements – refer to the Stormwater Management Plan and Report prepared by <i>SCP Engineers and Development Consultants</i> .	Yes
	2. Water Sensitive Urban Design (WSUD) principles are to be incorporated into the design of stormwater drainage, on-site retention and detention and landscaping and in the design of development.	The development has taken WSUD principles into consideration. Refer to the Stormwater Management Plan and Report prepared by <i>SCP Engineers and Development Consultants</i> .	Yes

Table 2 Rockdale Development Control Plan 2011 - Compliance Table

	<p><u>Flood Risk Management</u></p> <p>3. Development must comply with former Rockdale Council's – Flood Management Policy which provides guidelines of controlling developments in different flood risk areas. It should be read in conjunction with the NSW Government's 'Floodplain Development Manual 2005'.</p> <p>4. The filling of land up to the 1:100 Average Recurrence Interval (ARI) flood level (or flood storage area if determined) is not permitted, unless specifically directed by Council in very special and limited locations. Filling of land above the 1:100 ARI up to the Probable Maximum Flood (PMF) (or in flood fringe) is discouraged however it will be considered providing it does not adversely impact upon flood behaviour.</p> <p>5. Development should not adversely increase the potential flood affectation on other development or properties, either individually or in combination with the cumulative impact of similar developments likely to occur within the same catchment.</p> <p>6. The impact of flooding and flood liability is to be managed, to ensure the development does not divert the flood waters, nor interfere with flood water storage or the natural functions of waterways. It must not adversely impact upon flood behaviour.</p>	<p>The site is flood affected in the 1% ARI. Flood affectation is minimal as outlined in Flood Impact Assessment by SCP.</p> <p>The development is compliant with the Flood Development Manual 2005.</p> <p>The filling of land up to the 1:100 ARI is not proposed.</p> <p>The site is subject to flooding due to localised ponding, not overland flows. There will be no flood impacts to adjoining properties as a result of the proposed development.</p> <p>A 100m<sup>3</sup> flood storage tank is proposed to offset flood storage. Pits will be located along the proposed driveway entrance. The minimum habitable floor level (ground level) has been raised to RL 3.5m (including freeboard).</p>	<p>Yes</p>
	<p><u>Water Conservation</u></p> <p>8. Residential development is to demonstrate compliance with the Building Sustainability Index (BASIX).</p> <p>9. All new commercial and industrial development is to demonstrate the measures proposed, using water sensitive urban design principles to reduce water consumption.</p> <p>a. Development is to include provisions for the retention and reuse of stormwater for non-potable purposes, and consideration should be given to dual reticulation for non-potable water use such as the irrigation of landscaped areas, car washing, toilet flushing, cooling tower.</p>	<p>The residential component of the proposed development is BASIX compliant, as demonstrated in the BASIX certificate.</p> <p>The development will comply with these requirements. Refer to Section 3.3 of the ESD report prepared by <i>BCA Energy</i>.</p>	<p>Yes</p>

**Table 2 Rockdale Development Control Plan 2011 - Compliance Table**

	<p>b. Water efficient appliances and devices must meet the minimum standards defined by the Water Efficiency Labelling and Standards (WELS) Scheme and be detailed on plans. The minimum standards are:</p> <ul style="list-style-type: none"> <li>• 4 star taps and 3 star shower head roses;</li> <li>• 4 star dual flush toilets; and</li> <li>• 3 star urinals</li> </ul>		
	<p><u>Water Quality</u></p> <p>10. Measures to control pollutants in stormwater discharge from development sites are to be included in any development. (Refer to Council's Technical Specification – Stormwater Management for details of design criteria for pollutant control).</p>	The proposed development will take all reasonable steps to prevent stormwater pollution during the construction phase. Refer to the Soil and Water Management Plan submitted with the application.	Yes
	<p>11. Runoff entering directly to waterways or bushland is to be treated to reduce erosion and sedimentation, nutrient and seed dispersal.</p>	Stormwater runoff from the site will be treated to ensure no unacceptable loss of water quality entering Botany Bay.	Yes
	<p><u>Groundwater Protection</u></p> <p>12. Operating practices and technology must be employed to prevent contamination of groundwater.</p>	As recommended by the Geotechnical Report prepared by <i>JK Geotechnics</i> , measures will be put in place to avoid any unreasonable contamination of groundwater.	Yes
	<p>13. Development which has high potential risk to groundwater, e.g. development in the Botany Sands Aquifer must submit a geotechnical report to address how possible impacts on groundwater are minimised.</p>	Refer to the Geotechnical Report prepared by <i>JK Geotechnics</i> ,	Yes
	<p>14. Certain types of development in areas subject to the Botany Sands Aquifer may be considered as Integrated Development and must be referred to the relevant State Government Authority</p>	The development will require dewatering of the site and an Integrated approval will be required from Water NSW under the Water Management Act 2000.	Yes
4.1.4 Soil Management	<p>1. Development must minimise any soil loss from the site to reduce impacts of sedimentation on waterways.</p>	The proposed development will incorporate appropriate measures to prevent loss of soil and sediment into the stormwater system. Refer to the Soil and Water Management Plan submitted with the application.	Yes

**Table 2 Rockdale Development Control Plan 2011 - Compliance Table**

	2. Development that involves site disturbance is to provide an erosion and sediment control plan which details the proposed method of soil management and its implementation. Such details are to be in accordance with The Blue Book – Managing Urban Stormwater: Soils & Construction by Landcom.	Refer to the Soil and Water Management Plan submitted with the application.	Yes
	3. Development is to minimise site disturbance, including impacts on vegetation and significant trees and the need for cut and fill.	The proposal will require excavation of the site for two levels of basement carparking and removal of the existing trees on the site. There are no significant site features requiring retention.	Yes
4.1.5 Contaminated Land	1. Development on land that is or has previously been used for a purpose which is likely to have contaminated the site is to follow the procedures and guidelines contained in State Environmental Planning Policy 55 – Remediation of Land.	A Stage 1 Contamination Report prepared by <i>JK Environments</i> is provided with the development application. The report recommends further testing and a DSR to be prepared before the commencement of work on the site.	Yes
4.1.7 Tree Preservation	1. Council consent is required to undertake tree work including removing, pruning, cutting down, lopping, and ringbarking of any tree if the tree: <ul style="list-style-type: none"> <li>• is more than 3 metres tall, or</li> <li>• has a circumference in excess of 300mm at a height of 1 metre above the ground.</li> </ul>	Consent is sought for the removal of the existing trees on the site.	Yes
	2. Council consent can be granted either by way of development consent or by a permit.	Consent for tree removal is sought.	Yes
	4. Existing significant trees and vegetation are incorporated into proposed landscape treatment. An arborist report may be required for a development that impacts on the health of significant trees.	All trees on the site, primarily around the perimeter of the carpark are proposed to be removed. The tree removal is unavoidable and new landscaping of the site will offset the impacts of any tree loss.	Yes
	5. Building setbacks preserve existing significant trees and vegetation and allow for new planting. Where significant mature trees and vegetation are to be retained, buildings are located at least 3.0m from the base of the tree to minimise root damage.	There are no significant trees or other vegetation on the site suitable for retention.	Yes

**Table 2 Rockdale Development Control Plan 2011 - Compliance Table**

4.1.9 Lot size and consolidation	<p><u>Lot Size and Minimum Site Frontage</u></p> <p>1. The development must satisfy the relevant minimum lot size and minimum site frontage requirements specified below: Mixed use For all development of 4 storeys or greater, a minimum frontage width of 18m is required.</p>	<p>The site provides a primary and secondary frontage width greater than 18m.</p> <p>The site comprises several lots that share a continuous frontage on Ramsgate Road and The Grand Parade.</p>	Yes
4.2 Streetscape and site context			
<u>Site context</u>	<p>1. Development is to respond and sensitively relate to the broader urban context including topography, block patterns and subdivision, street alignments, landscape, views and the patterns of development within the area.</p>	The proposed development provides an appropriate design response to the surrounding context, particularly the street alignment, views and block pattern.	Yes
	<p>2. Development adjoining land use zone boundaries should provide a transition in form, considering elements such as height, scale, appearance and setbacks.</p>	The proposed development provides an appropriate transition to the low-rise medium density development on the site's southern boundary	Yes
	<p>3. Buildings addressing or bordering public open space must relate positively to it through the provision of windows, openings, access points and outlook. Overshadowing of public spaces must be minimised.</p>	The development does not directly adjoin Cook Park on the eastern side of The Grand Parade, however, the proposal will provide an appropriate design treatment to the eastern elevation facing the park. Overshadowing of Cook Park will be minor.	Yes
	<p><u>Streetscape Character</u></p> <p>4. The building design and use of materials, roof pitch and architectural features and styles must have regard to those of surrounding buildings to ensure a cohesive streetscape.</p>	The proposed building will be a contemporary architectural design that provides an appropriate built form for the site and its context.	Yes
	<p>5. Building setbacks from the street boundary are to be consistent with prevailing setbacks of adjoining and nearby buildings.</p>	The proposed building setbacks from The Grand Parade and Ramsgate Road are compliant with the DCP requirements.	Yes
	<p>6. Buildings on corner sites are to be articulated to address each street frontage and are to define prominent corners.</p>	The design will provide appropriate level of articulation	Yes



**Table 2 Rockdale Development Control Plan 2011 - Compliance Table**

	7. Access to garages should not necessitate a major alteration of the natural ground level at the front of the allotment. The front yard is to remain at natural ground level and be landscaped to enhance the front elevation.	Access to the basement carpark will be from the public carparking area adjacent to Ramsgate Road. Finished levels will be determined based on the Flood Planning Levels provided by Council.	Yes
<u>Pedestrian Environment</u>	10. Residential buildings adjacent to the street must address the street by having a front door and/or living room or kitchen window addressing the street. The frontage of buildings and their entries are to be readily apparent from the street.	Not applicable	N/A
	11. Buildings are designed to overlook streets and other public areas to provide casual surveillance. Buildings adjacent to a public area must have at least one habitable room window with an outlook to that area.	The proposal provides extensive opportunities (from windows, courtyards, balconies) for overlooking the public realm including Cook Park, The Grand Parade and Ramsgate Road.	Yes
	12. Pedestrian and cycle thoroughfares are reinforced as safe routes through: <ul style="list-style-type: none"> <li>• appropriate lighting,</li> <li>• casual surveillance from the street,</li> <li>• minimised opportunities for concealment,</li> <li>• landscaping which allows clear sight-lines between buildings and the street,</li> <li>• avoidance of blind corners.</li> </ul>	The proposal will not diminish existing opportunities for pedestrian and cycling along Ramsgate Road. The proposal will enhance the opportunities and amenity for pedestrian mobility between the Ramsgate Beach town centre and Botany Bay foreshore through the provision of end of trip areas within the basement carpark and activation of the street frontage.	Yes
	13. Site planning, buildings, fences, landscaping and other features clearly define public, common, semi-private and private space.	The proposal will utilise design features and materials/finishes to provide cues to distinguish between public, common, semi-private spaces.	Yes
	14. Vehicle entries are discrete and minimise conflicts with pedestrians	The proposal will consolidate vehicle access into a single location on Ramsgate Road and aim to minimise potential conflicts with pedestrians.	Yes
	15. Where possible, development is to take advantage of opportunities to provide driveway access from rear laneways.	Not applicable.	N/A

**Table 2 Rockdale Development Control Plan 2011 - Compliance Table**

**4.3 Landscape planning and design**

4.3.1 Open Space and Landscape design	1. Development must comply with Council's Technical Specification – Landscape.	The proposed landscape design has been informed by Council's technical specification.	Yes
	2. Council requires a Landscape Plan prepared by a qualified Landscape Architect to be included with development applications for all developments except single dwelling houses and secondary dwellings.	A Landscape Plan has been prepared by <i>Site Design +Studios</i> .	Yes
	3. Significant existing trees and natural features such as rock formations should be retained and incorporated into the design of the development wherever possible	There are no significant trees or natural features on the site that require retention.	Yes
	4. The amount of hard surface area is to be minimised to reduce runoff by: a. directing run-off from the overland flow of rainwater to pervious surfaces such as garden beds, and b. utilising semi-pervious paving materials wherever possible.	The existing site has 100% hard surface area. The proposal provides for retention of the amount of hard surface on the site. The volume of runoff from the site will not be increased.	Yes
	5. Landscape must relate to building scale and assist integration of the development with the existing street character.	Future landscaping of the site will be appropriate for the proposed use of the site as a mixed-use development with publicly accessible entertainment areas.	Yes
	6. Planting design solutions are to: a. provide shaded areas in summer, especially to west facing windows and open car parking areas; b. provide screening for visually obtrusive land uses or building elements; c. provide vegetation and tree cover within large expense of car parking areas; d. provide privacy between dwellings; e. not cause overshadowing of solar collectors on rooftops;	The proposed landscaping design and planting will be appropriate to provide acceptable amenity for building occupants and to soften the appearance of the building when viewed from the public domain.  The proposed landscaping, particularly on Level 1 in the food and drink premises is prioritised in the courtyard to provide partial shade.	Yes

**Table 2 Rockdale Development Control Plan 2011 - Compliance Table**

	<p>f. incorporate plant species in locations and in densities appropriate for their expected size at maturity;</p> <p>g. rely primarily on plants that have a low water demand and nil or low fertilizer requirements; and</p> <p>h. use appropriate indigenous plant species wherever possible.</p>		
	7. Trees must be planted within properties to maximise tree cover.	The proposal involves the planting of new trees on the podium (ground and first level) and replacement street trees in the public domain along the Ramsgate Road frontage.	Yes
	8. Landscaped areas, as defined in Bayside LEP, must be provided at the following rates :10% for mixed use and shop top housing	The proposed development provides more than 2,281.2 sqm of landscaped areas. 50% of the site area is landscaped.	Yes
	9. At least 20% of the front setback area of a residential development is to be provided as landscaped area. If it is provided between driveways/pathways and side boundaries, it must have a minimum width of 1m.	The proposed development is for a mixed use building, comprising commercial land uses on the ground and first floor. As such, it would be unreasonable to apply a residential control to the ground floor commercial use.	N/A
	10. Landscaped areas should adjoin the landscaped area of neighbouring properties so as to provide for a contiguous corridor of landscape and vegetation.	There are no landscaped areas on adjoining sites than can be connected. The existing landscaping does not provide such connectivity.	N/A
	11. Where a basement car park protrudes above ground level and is not wrapped in residential or retail uses, the walls are to be screened with appropriate treatments, such as planting.	The proposed basement parking will not protrude above ground level.	Yes
	12. With the exception of development applications for single dwellings, street trees are to be provided in accordance with Council's Street Tree Masterplan	The proposal seeks to provide replacement street trees in the Ramsgate Road frontage.	Yes
	13. Council requires the footpath area adjacent to the site to be restored at the time of the development. This includes grading, trimming and the planting of suitable turf and trees.	The proposal involves an upgrade to the existing public domain area around the site, including the restoration of the footpath area.	Yes

**Table 2 Rockdale Development Control Plan 2011 - Compliance Table**

	14. Development must comply with the streetscape requirements in relevant public domain plans, such as Wolli Creek and Bonar Street Precinct Public Domain Plan and Technical Manual.	The streetscape requirements applying to Ramsgate Beach will be followed in the design of the public domain upgrade works.	Yes
4.3.2 Private Open Space	1. Each dwelling must be provided with a minimum private open space area as specified in the following table: Residential Flat Buildings / Shop Top Housing <ul style="list-style-type: none"> <li>- as per recommended external area for the relevant apartment type set out in Part 3 of the Residential Flat Design Code</li> <li>- minimum depth of 2m</li> </ul>	Private open space has been provided in accordance with Section 4E of the ADG. Refer to <b>Annexure D</b> .	Yes
	2. Private open space is to be clearly defined for private use through planting, fencing or landscape features.	Private open space for each unit is provided via a balcony. Each balcony is defined by appropriate balustrading to delineate between private and communal open space in the case of Level 2.	Yes
	3. Development should take advantage of opportunities to provide north-facing private open space to achieve comfortable year-round use.	POS areas with a northerly aspect have been prioritised. Only 4 POS areas do not, to any extent, face north.	Yes
	4. Private open space must take account of the visual and acoustic privacy of its occupants and neighbours. Development must ensure that the usability of private open space of adjoining buildings is not reduced through overlooking and overshadowing.	The POS areas are largely located along the northern and eastern façade that look onto Ramsgate Road and The Grand Parade. POS areas have been generously setback from the southern site boundary due to the low density residential land use that abuts this boundary. A minimum 7.3m setback from the POS area to the southern boundary is achieved to minimise overlooking and overshadowing impacts.	Yes
	6. For residential flat building and shoptop housing, private open space is to be provided for each dwelling in the form of balconies, roof terraces or in the case of ground floor units, courtyards. The primary private open space of each unit must directly connect to the living area.	No ground floor units proposed. PPOS areas are provided in the form of balconies accessed directly from the living area.	Yes

**Table 2 Rockdale Development Control Plan 2011 - Compliance Table**

	<p>7. Balcony design is to:</p> <ul style="list-style-type: none"> <li>a. maximise habitability;</li> <li>b. provide privacy, e.g. the use of adjustable screens; and</li> <li>c. provide for a variety of uses, including clothes drying in open air.</li> </ul>	<p>Balconies will maximise habitability in providing a generous space in terms of square meterage and dimensions. The proposed balconies are able to accommodate clothes drying racks and outdoor furniture. Privacy is maximised. Privacy screens will be implemented where balconies associated with different units abut.</p>	Yes
4.3.3 Communal Open Space	<p>1. A primary communal open space area of adequate dimensions must be provided for use by all residents, for</p> <ul style="list-style-type: none"> <li>a. multi dwelling housing which has 12 or more dwellings;</li> <li>b. residential flat buildings which has 12 or more dwellings; and</li> <li>c. shoptop housing of a mixed use development which has 12 or more dwellings.</li> </ul>	<p>The proposed development is for shop top housing of 44 dwellings.</p>	Yes
	<p>2. The development must provide a communal area for the benefits of its residents at the rate of 5m<sup>2</sup> for each dwelling within the development. Where a development is unable to reasonably meet this minimum requirement (or a development containing less than 12 dwellings) an equivalent area of additional private open space is to be provided for each dwelling</p>	<p>44 dwellings are proposed, requiring a communal open space area of 220m<sup>2</sup>.</p> <p>The proposed communal open space area provided on the Level 2 community garden is 296m<sup>2</sup>.</p>	Yes
	<p>3. Communal areas should:</p> <ul style="list-style-type: none"> <li>a. contribute positively to the amenity of the development,</li> <li>b. be conceived as part of the overall design of the building,</li> <li>c. be north facing and receive adequate solar access,</li> <li>d. have a minimum area of 40% that has sunlight at 1pm on 21 June,</li> <li>e. be clearly defined to distinguish between communal and private open space,</li> <li>f. be of dimensions to suit the proposed use and requirements of the occupants,</li> <li>g. provide for a range of recreational uses and activities, act as a catalyst for social interaction, and be supplemented with seating and shading,</li> </ul>	<p>The proposed communal garden on Level 2:</p> <ul style="list-style-type: none"> <li>- is appropriately landscaped to provide shade and aesthetic value;</li> <li>- comprises durable materials such as pavers and synthetic turf;</li> <li>- receives sunlight to at minimum 40% of the communal garden at 1pm on the winter solstice;</li> <li>- is clearly distinguished from private open space on Level 2 through appropriate landscape intervention;</li> <li>- provides appropriate dimensions to facilitate diversity in uses; and</li> <li>- is linked to the overall on site drainage detention system.</li> </ul>	Yes

**Table 2 Rockdale Development Control Plan 2011 - Compliance Table**

	<p>h. be cost effective to maintain, and</p> <p>i. contribute to stormwater management and be integrated with the on-site drainage detention system.</p>		
	<p>4. Any internal communal area must have regard to its relationship to outdoor communal areas. It should be designed to provide for a range of uses such as meetings, leisure, recreational and sporting activities. In this respect it may be appropriate to incorporate kitchenette and toilet facilities.</p>	No internal communal open space areas are proposed.	N/A
	<p>5. Communal open space may be accommodated on a podium or roof in a residential mixed use building provided it has adequate amenity and convenient access.</p>	Communal open space is provided on Level 2 within the podium. The proposed communal garden is well located, easily accessible, provides for a range of uses and received adequate solar access.	Yes
<b>4.4 Sustainable building design</b>			
4.4.1 Energy Efficiency	<p><u>Retail, commercial and industrial development</u></p> <p>2. A report on energy and water efficiency is to be submitted with the development application for any building works with a construction cost of \$1,000,000 or more. The report must address the following:</p> <p>a. compliance with the current BCA</p> <p>b. re-use of existing buildings or building design capable of adaptation in the longer term</p> <p>c. passive solar design principles used to avoid the need for additional heating and cooling</p> <p>d. substitution of non-renewable fuels for renewable fuels such as solar hot water heating,</p> <p>e. use of recycled building materials,</p> <p>f. use of materials that are non-polluting in manufacture, use and in disposal,</p>	The proposed development is a highly energy efficient building that will achieve all requirements of the DCP. Refer to the ESD report prepared by <i>BCA Energy</i> .	Yes

**Table 2 Rockdale Development Control Plan 2011 - Compliance Table**

	<p>g. use of building articulation (courtyards and light wells) that allow daylight into ground and first floor levels,</p> <p>h. use of windows that can be opened rather than skylights as a means of providing natural light and ventilation,</p> <p>i. use of roof lights and vents to internal service rooms at roof top level to minimise reliance on artificial light and ventilation,</p> <p>j. use of advanced air conditioning systems and new technologies such as chilled beam air conditioning and waste heat recovery systems for larger buildings</p> <p>k. the principles of passive design and the properties of thermal mass, glazing and insulation</p> <p>l. incorporate water conservation measures as referred to in section 4.1.3 Water Management of this DCP.</p>		
4.4.2 Solar Access	<p>1. Development must be designed and sited to minimise the extent of shadows that it casts on:</p> <ul style="list-style-type: none"> <li>• private and communal open space within the development;</li> <li>• private and communal open space of adjoining dwellings;</li> <li>• public open space such as parkland and bushland reserves;</li> <li>• solar collectors of adjoining development; and</li> <li>• habitable rooms within the development and in adjoining developments.</li> </ul>	<p>Adequate solar access is achieved to communal open space.</p> <p>70% of units receive 2+ hours of solar access during the winter solstice.</p> <p>27% of units receive less than 2 hours of solar access during the winter solstice.</p> <p>2% of units receive no direct sunlight during the winter solstice.</p> <p>Adjoining development, particularly to the south remains to receive adequate solar access.</p>	Yes
	<p>2. Building form, separation and plan layout facilitates good solar access to internal and external living spaces.</p>	<p>The proposed development has been purposely designed to achieve high levels of solar access to residential apartments within the podium level. This has been achieved through a combination of floor to ceiling height and setbacks.</p>	Yes
	<p>3. Buildings must be sited to reduce overshadowing on adjoining properties by increasing setbacks, staggering of design, variations in roof form and/or reducing building bulk and height.</p>	<p>The proposed building has implemented the following measures to minimise overshadowing:</p> <ul style="list-style-type: none"> <li>- A minimum setback from POS areas to the southern side boundary is 6.3m.</li> </ul>	Yes



Table 2 Rockdale Development Control Plan 2011 - Compliance Table

		<ul style="list-style-type: none"> <li>- The podium (Levels 2-5) is reduced in bulk and scale and sited towards the northern and eastern site frontages to reduce impacts to adjoining residential properties.</li> <li>- The roof design is flat with lift overruns and solar panelling located along the northern extent of the roof to reduce the potential for overshadowing to properties to the south.</li> </ul>	
	<p>4. Development must have adequate solar access as per the following standards. Where existing adjoining properties currently receive less sunlight than these standards, sunlight must not be reduced by more than 20%.</p> <p><u>Residential flat buildings and shop top housing</u></p> <p>b. Living rooms and private open spaces for at least 70% of apartments in a development and adjoining properties should receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid winter.</p> <p>5. Shadow diagrams are to be submitted with the development application for any building of two or more storeys to illustrate the impact on adjoining properties and/or the public domain.</p> <p>6. The diagrams should provide information relating to the effect of the proposed development at 9 a.m., 12 p.m. and 3 p.m. on</p> <p>a. 21 June (mid-winter),</p> <p>b. 21 December (mid-summer) and c. 21 March/September (equinox).</p> <p>d. where a significant level of overshadowing occurs, elevational shadow diagrams are to be submitted. The diagrams show where shadows fall on walls containing windows of adjoining buildings.</p>	<p>Solar access diagrams indicate shadowing impacts, particularly to the residential properties to the south, are reduced when compared to those facilitated by the DCP envelope.</p> <p>70% of units receive 2+ hours of solar access during the winter solstice. 27% of units receive less than 2 hours of solar access during the winter solstice.</p> <p>2% of units receive no direct sunlight during the winter solstice.</p> <p>Shadow diagrams have been submitted with this development application by Craft Architecture.</p>	Yes
4.4.3 Natural lighting and ventilation	1. Buildings must comply with the following minimum ceiling heights to facilitate adequate natural lighting and ventilation	The proposal complies with all minimum floor to ceiling heights.	Yes

Table 2 Rockdale Development Control Plan 2011 - Compliance Table

	Development type	Minimum height Habitable space	Minimum height Non-habitable space		
	Residential	2.7m	2.4m		
	Retail and commercial	3.3m	2.4m		
	First floor of a mixed use building	3.3m	2.4m		
	2. Buildings must be designed to maximise opportunities for cross flow ventilation by providing clear breeze paths and shallow building depths. The maximum internal plan depth of a residential apartment should be 18m from glass line to glass line. Developments that propose greater than 18m must demonstrate how satisfactory daylight and natural ventilation is achieved.			The proposal will achieve levels of cross ventilation appropriate to the uses. The maximum internal plan depth for a residential unit is approximately 14m.	Yes
	3. Windows that can open and which are designed to provide controlled air flow must be installed.			Achieved.	Yes
	4. Office premises must be designed to receive natural light and ventilation. Office floor plates are to have a depth of no greater than 20m if dual aspect, or 10m if single aspect.			Not applicable	N/A
	5. Office spaces should be designed, through orientation and the inclusion of environmental control devices, to achieve maximum daylight without compromising the internal amenity through glare or heat gain from direct sunlight			Not applicable	N/A
	6. On deep sites, courtyards and light wells should be provided on the lower levels of mixed use and commercial buildings to achieve natural lighting of every level and cross ventilation and/or stack effect ventilation.			The proposed courtyard/communal garden is located on Level 2, above the podium. This has been designed to minimally impact opportunities for natural lighting and cross ventilation.	Yes

**Table 2 Rockdale Development Control Plan 2011 - Compliance Table**

4.4.4 Glazing	1. Areas of glazing are located to avoid energy loss and unwanted energy gain.	On the tower, the proposal involves glazing oriented to maximise views, natural ventilation, minimise acoustic impacts and surveillance of public areas.	Yes
	2. Development provides appropriate sun protection during summer for glazed areas facing north, west and east. Extensive areas of glazing that are unprotected from sun during summer are not permitted. Shading devices include eaves, awnings, balconies, pergolas, external louvers, and projecting sunshades. Unprotected tinted windows are not acceptable	The proposed development includes external and internal design elements to control sun protection including ground level awnings and roofs over POS balconies.	Yes
4.4.5 Visual and Acoustic Privacy	<u>Visual Privacy</u> 1. The windows of a habitable room with a direct sightline to the windows of a habitable room of an adjacent dwelling and located within 9.0m: a. are sufficiently off-set to preclude views into the windows of the adjacent building; or b. have sill heights of 1.7m above floor level; or c. have fixed obscure glazing in any part of the window below 1.7m above floor level.	Windows of habitable rooms (particularly from the residential flat building) have been located and oriented to avoid unreasonable overlooking of nearby and adjoining properties.	Yes
	2. Balconies, terraces, rooftop recreation areas and the like should be located to minimise overlooking of an adjoining property's open space or windows. Techniques such as recessing, screens or landscaping may be used to prevent direct views into habitable rooms or private open space of adjacent dwellings.	The design of the proposal includes features to mitigate overlooking of the windows and open space of adjoining properties. Design interventions include privacy screens in POS area and perimeter landscaping on the tower.	Yes
	3. The use of the roof top area for recreational purposes is permissible subject to the following: a. internal stair access must be provided to the roof top area from within the building; and b. the usable area of roof must be set back at least 1500mm from the edge of the building. Other devices such as privacy Offset Windows	The rooftop area will not be used for recreational purposes.	N/A

**Table 2 Rockdale Development Control Plan 2011 - Compliance Table**

	screens and planter boxes should be incorporated to protect the visual and acoustic amenity of neighbouring properties.		
	<u>Acoustic Privacy</u> 4. The location of driveways, open space and recreation areas and ancillary facilities external to the dwelling must be carefully planned to ensure minimal noise impact on adjoining residential properties	The design of the proposed development has configured potential sources of noise away from sensitive areas of adjoining properties.	Yes
	5. Bedrooms of one dwelling should not share walls with living rooms or garages of adjacent dwellings. Bedrooms of one dwelling may share walls with living rooms of adjacent dwellings provided appropriate acoustic measures are documented.	Not applicable	N/A
	6. Where party walls are provided they must be carried to the underside of the roof.	Not applicable	N/A
	7. All residential development except dwelling houses are to be insulated and to have an Impact Isolation between floors to achieve an Acoustical Star Rating of 5 in accordance with the standards prescribed by the Association of Australian Acoustical Consultants (AAAC). An Acoustic Report is to be submitted at Development Application stage & post construction stage to ensure that the above standards have been achieved.	Refer to Acoustic report prepared by Renzo Tonin and Associates	Yes
	8. In attached dwellings and multi-unit development the internal layout should consider acoustic privacy, by locating circulation spaces and non-habitable rooms adjacent to party walls.	Not applicable	N/A

**Table 2 Rockdale Development Control Plan 2011 - Compliance Table**

	<p><u>Building Separation</u></p> <p>9. For residential flat buildings and shop-top housing, the building separation for internal courtyards and between adjoining sites increases in proportion to building height in accordance with the following minimum dimensions:</p> <table> <tr> <th>Height</th><th>Between habitable rooms and balconies</th><th>Between habitable rooms/ balconies and non-habitable rooms</th><th>Between non-habitable rooms</th></tr> <tr> <td>Three to four storeys (12m)</td><td>12m</td><td>9m</td><td>6m</td></tr> <tr> <td>Five to eight storeys (25m)</td><td>18m</td><td>13m</td><td>9m</td></tr> <tr> <td>Nine storeys and above (over 25m)</td><td>24m</td><td>18m</td><td>12m</td></tr> </table>	Height	Between habitable rooms and balconies	Between habitable rooms/ balconies and non-habitable rooms	Between non-habitable rooms	Three to four storeys (12m)	12m	9m	6m	Five to eight storeys (25m)	18m	13m	9m	Nine storeys and above (over 25m)	24m	18m	12m	<p>The proposed development is for shop top housing. The building is 6 storeys and under 25m.</p> <p>Blank walls along the southern and western façade of the tower that do not contain any windows or doors are considered non-habitable.</p> <p>There are minor non-compliances in building separation between habitable-habitable and habitable-non-habitable rooms/balconies.</p> <p>Despite this non-compliance with the DCP , compliance is still achieved in relation to Section 3F of the ADG (refer <b>Annexure D</b>).</p> <p>A DCP variation is provided in Section 4.2.9.</p>	Justified
Height	Between habitable rooms and balconies	Between habitable rooms/ balconies and non-habitable rooms	Between non-habitable rooms																
Three to four storeys (12m)	12m	9m	6m																
Five to eight storeys (25m)	18m	13m	9m																
Nine storeys and above (over 25m)	24m	18m	12m																
	<p>10. Zero building separation is permitted for residential flat buildings in mixed use areas where the development is a street wall building type with party walls.</p>	Not applicable	N/A																
4.4.6 Noise impact	<p>1. Where development must comply with the Australian Standard 2021 – 2000 Acoustic – Aircraft Noise, in relation to interior noise levels, the applicant is to provide an Acoustic report prepared by a suitably qualified Noise Consultant to advise on appropriate measures to be incorporated into the design of the building so it will meet this standard.</p> <p><i>Note: Applicants are warned that in some areas severely affected by aircraft noise, the difficulties in satisfying this standard may, in practice, preclude the proposed development. It is therefore suggested that for areas exceeding ANEF 30, prospective applicants seek expert advice</i></p>	Refer to the Acoustic Report prepared by <i>Renzo Tonin and Associates</i> for details of proposed noise mitigation measures.	Yes																

**Table 2 Rockdale Development Control Plan 2011 - Compliance Table**

	<i>from a Noise Consultant before committing themselves financially to their project.</i>		
	2. Details of any mitigation measures must be included with the Development Application submission. The mitigation measure must be consistent with the BASIX certificate.	The Acoustic Report prepared by <i>Renzo Tonin and Associates</i> proposes a series of mitigation measures to be incorporated into the development in order to minimise adverse noise impacts to sensitive receivers.	Yes
	3. Non-residential development is not to adversely affect the amenity of adjacent residential development as a result of noise, hours of operation and/or service deliveries.	Refer to the Acoustic Report prepared by <i>Renzo Tonin and Associates</i> for details of proposed noise mitigation measures.	Yes
	4. External walls facing potential sources of noise are to be constructed of materials with good sound insulating quality and have no large openings that would transmit noise.	The construction of the proposal will involve external walls that are insulated to protect the amenity of occupants. Refer to the Acoustic Report prepared by <i>Renzo Tonin and Associates</i> for details of proposed noise mitigation measures	Yes
	5. The building plan, walls, windows, doors and roof are to be designed to reduce intrusive noise levels from potential sources of noise emanating from adjacent non-residential uses, such as: <ul style="list-style-type: none"> <li>a. having a thinner building width fronting the noise source and containing non-habitable spaces;</li> <li>b. orientating noise sensitive rooms, including living, dining and bedrooms, away from the noise source.</li> </ul>	The construction of the proposal will involve external walls that are insulated to protect the amenity of occupants. Refer to the Acoustic Report prepared by <i>Renzo Tonin and Associates</i> for details of proposed noise mitigation measures	Yes
	6. Balconies and other external building elements are to be located, designed and treated to minimise noise infiltration.	The external building elements of the proposed residential development (such as balconies and terraces) will provide noise protection measures. Refer to the Acoustic Report prepared by <i>Renzo Tonin and Associates</i> for details of proposed noise mitigation measures.	Yes

**Table 2 Rockdale Development Control Plan 2011 - Compliance Table**

	7. Where new windows face potential sources of noise, they are required to be fitted with noise attenuating glass to minimise the impact of background noise from non-compatible development.	The external building elements of the proposed residential tower (such as balconies and terraces) will provide noise protection measures. Refer to the Acoustic Report prepared by <i>Renzo Tonin and Associates</i> for details of proposed noise mitigation measures.	Yes
	8. Design landscaping of communal and private open space to create a buffer between new residential development and adjacent potential sources of noise.	The outdoor parts of the building such as the terrace and communal garden (on levels 1 and 2 respectively) will be provided with landscaping and acoustic screening to limit the impact of external traffic noise.	Yes
	9. Residential flat buildings are to be designed to minimise any potential conflicts with existing industrial uses in terms of acoustic and visual privacy: a. the setback of any proposed residential building from the boundary of any adjoining industrial premises is to be a minimum of 5m. b. single aspect apartments facing and within 10m of industrial/ warehouse uses are to be avoided.	The site is bordered to the west by commercial buildings, not industrial.	N/A
4.4.7 Wind Impact	1. Buildings must be designed and proportioned to consider the wind generation effects.	The design of the building has taken account of local wind conditions and proposed mitigation measures to ensure that acceptable impacts.	Yes
	2. Buildings of 5 or more storeys in height (or over 16 m) require wind tunnel testing, irrespective of whether they are built to the street frontage or not, which demonstrates the following: a. in open areas to which people have access, the annual maximum gust speed should not exceed 23 metres per second, which is the speed at which people begin to be blown over; b. in walkways, pedestrian transit areas, streets where pedestrians do not generally stop, sit, stand, window shop and the like, annual maximum gust speed should not exceed 16 metres per second; c. in areas where pedestrians are involved in stationary short exposure activities such as window shopping, standing or sitting (including areas such as bus stops, public open space and private open space), the annual maximum gust speed should not exceed 13 metres per second;	The proposal has been reviewed by suitably qualified wind engineers and they have provided recommendations including subjecting the proposal to wind tunnel testing. Refer to Wind Report prepared by <i>Vipac Engineers and Scientists</i> .	Yes



**Table 2 Rockdale Development Control Plan 2011 - Compliance Table**

	d. in areas for stationary long-exposure activity, such as outdoor dining, the annual maximum gust speed should not exceed 10 metres per second.										
4.5 Social Equity											
4.5.1 Housing Diversity and Choice	1. Residential flat buildings and shoptop housing are to comply with the following dwelling mix: <table><tr><th>Dwelling type</th><th>Of total dwellings</th></tr><tr><td>3 bedroom and/or more</td><td>10%-20%</td></tr><tr><td>2 bedroom</td><td>50%-75%</td></tr><tr><td>1 bedroom and/or studio</td><td>10%-30%</td></tr></table>	Dwelling type	Of total dwellings	3 bedroom and/or more	10%-20%	2 bedroom	50%-75%	1 bedroom and/or studio	10%-30%	40 x 3 bedroom units are proposed (91%). 4 x 2 bedroom units are proposed (9%). No 1 bedroom units are proposed.	Yes
	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.	The required dwelling mix outlined above should be refined as: <ul style="list-style-type: none"><li>- The site is well services by public transport, is located in a small commercial hub that is considered ancillary to the Brighton Le Sands town centre along The Grand Parade.</li><li>- There are a number of existing services in the local area to justify bigger apartment styles, particularly schools.</li><li>- The site is conveniently located close to Sydney Airport and Sydney CBD.</li></ul> Therefore, the site is considered a prominent opportunity to increase densities via infill development.	Yes								
	4. For multi-dwelling housing, residential flat buildings and shoptop housing, adaptable housing complying with AS 4299 is to be provided in accordance with the following:	4.4 (5) units are required to be adaptable. 9 Units in total are adaptable, Units 3,6 and 8 on Levels 2-4.	Yes								

Table 2 Rockdale Development Control Plan 2011 - Compliance Table

	<table><tr><th>No of dwellings in development</th><th>No of adaptable dwellings required</th></tr><tr><td>less than 10</td><td>1</td></tr><tr><td>10 - 30</td><td>2</td></tr><tr><td>more than 30</td><td>10%</td></tr></table>	No of dwellings in development	No of adaptable dwellings required	less than 10	1	10 - 30	2	more than 30	10%		
No of dwellings in development	No of adaptable dwellings required										
less than 10	1										
10 - 30	2										
more than 30	10%										
	5. For residential flat buildings and shoptop housing, development is to provide barrier free access to at least 20% of dwellings.	8.8 (9) units are required to provide barrier free access. All 9 accessible units provide barrier free access.	Yes								
4.5.2 Equitable access	1. The siting, design and construction of premises available to the public are to ensure an appropriate level of accessibility, so that all people can enter and use the premises. Access is to meet the requirements of the <i>Disability Discrimination Act</i> , the relevant Australian standards and the Building Code of Australia.	Access arrangements for the proposed development have been designed to satisfy the relevant accessibility requirements. Refer to Access Report prepared by <i>MBC Group</i> .	Yes								
	2. An Access Report may be required to be submitted with a development application for development other than single dwellings and dual occupancies. <i>Note: Compliance with this DCP, the Australian Standards and the Building Code of Australia does not necessarily guarantee that a development will meet the full requirements of the DDA. Applicants should make the necessary enquiries to ensure that all aspects of the DDA legislation are met.</i>	An Access Report prepared by <i>MBC Group</i> is provided with the application.	Yes								
4.6 Car parking, access and movement											

**Table 2 Rockdale Development Control Plan 2011 - Compliance Table**

	<p><u>Parking rates</u></p> <p>1. Development is to provide on site parking in accordance with the rates specified in the DCP. Where a parking rate has not been specified in the table, the RTA Guide to Traffic Generating Developments shall be used to calculate the parking requirements for the proposed development. Alternatively, a parking study may be used to determine the parking, subject to prior approval by Council.</p>	<p>Refer to Traffic Report prepared by <i>TTPA</i> and Section 4.6.2 of this report.</p>	<p>Yes</p>
	<p>2. Shared parking concession for mixed use development</p> <p>A shared parking concession allows parking to be shared within the development based on the temporal parking demand between uses. Assessing the parking requirement for a development using a shared parking concession aims to provide the development with a more efficient parking supply, which ultimately provides a more sustainable development.</p> <p>a. The applicant must provide justification for all temporal parking demand assumptions applied within the Shared Parking Register;</p> <p>b. All residential parking shall be freely accessible to residents at all times and not used for any other use on the site;</p> <p>c. All land uses and subsequent peak parking demand periods must be included within the Shared Parking Register;</p> <p>d. The minimum parking requirement as per the Shared Parking Register is the absolute minimum and should not necessarily be the acceptable minimum provided on-site. Consideration must be taken into account for future changes of use within the development and conservative variations within the peak times; and</p> <p>e. Council may request further information to justify the proposed developments parking assumptions used within the Shared Parking Register.</p> <p>f. Developments that use shared parking concessions to reduce the parking provision of a development may be restricted from the future Strata Title subdivision of the tenancies involved in the shared parking</p>	<p>Refer to Traffic Report prepared by <i>TTPA</i> for consideration of the parking demand of the proposed development .</p>	<p>Yes</p>

**Table 2 Rockdale Development Control Plan 2011 - Compliance Table**

	<p>arrangements. Note: An example template to be used by applicants who wish to apply for a shared parking concession is available in the Technical Specification for Traffic, Parking, and Access.</p>		
	<p>3. Travel Demand Management Concession - A 20% reduction of the 'non-residential' component of the parking requirement shall be applied to any development within the Rockdale Town Centre and Wolli Creek Town Centre.</p>	Not applicable	N/A
	<p>4. Parking provisions for "change of use" developments Where a development involves a change of use that would generate a greater car parking requirement than the previous development, additional parking is required to be provided equivalent to the difference between the two parking requirements. This approach results in the calculation of a historical deficiency in parking that is then applied as a credit to the parking calculation for the new use.</p> <p>Additional parking requirements are exempt for all change of use development involving commercial uses on existing sites that are less than 100m<sup>2</sup> GFA.</p>	Not applicable	N/A
	<p>5. Parking provisions for 'alterations and additions' to existing development</p> <p>Where a development involves alterations and additions, additional parking is required to be provided equivalent to the increase in gross floor area, number of seats, number of beds, or whichever specific unit upon which car parking demand is measured. This approach results in the calculation of a historical deficiency in parking that is then applied as a credit to the parking calculation for the expanded use.</p> <p>In the case of substantial alterations and additions that effectively involve the virtual reconstruction of a building, the historical deficiency will not be permitted to be credited to the parking calculation.</p>	Not applicable	N/A

**Table 2 Rockdale Development Control Plan 2011 - Compliance Table**

	Additional parking requirements are exempt for all alterations and additions development involving commercial uses on existing sites that increase gross floor area by not more than 80m <sup>2</sup> . Alterations and additions to existing premises in Bexley Town Centre will not be required to provide additional car parking provided the gross floor area of the premises is not increased by more than 75% and it is not otherwise possible to provide the parking on site.		
	<p><u>6. Prior Contributions</u></p> <p>Where a contribution has previously been made to Council towards the provision of car in respect of a particular property, such contribution shall be taken into account when assessing the parking requirement for any redevelopment of the land</p>	Not applicable – no evidence of any prior contributions being made to Council for provision of additional public parking in the vicinity of the site.	N/A
	<p><u>Car Park Location and Design</u></p> <p>7. Vehicle access points and parking areas are to be:</p> <ul style="list-style-type: none"> <li>a. easily accessible and recognisable to motorists</li> <li>b. located to minimise traffic hazards and the potential for vehicles to queue on public roads</li> <li>c. not located off the primary frontage of a development where a secondary frontage exists</li> <li>d. located to minimise the loss of on-street car parking and to minimise the number of access points. Multiple driveway crossings are not permitted.</li> <li>e. designed to minimise conflict with pedestrians, particularly in locations with heavy pedestrian traffic such as shopping centres.</li> </ul>	The proposed development provides for vehicle access and parking areas that will be convenient for visitors and staff of the supermarket and food and beverage outlets. Ample parking and garages are provided for residents of the building. There will be placement of directional signage to ensure that drivers and pedestrians can easily locate parking spaces. All vehicle access into the development will be from Ramsgate Road. No vehicle access is proposed from The Grand Parade.	Yes
	8. Car parking and service/delivery areas are to be located so that they do not visually dominate either the development or the public domain.	Service and loading space for the proposed supermarket and food and beverage premises will be well located within the building so that they do not dominate the streetscape.	Yes

**Table 2 Rockdale Development Control Plan 2011 - Compliance Table**

	<p>9. Carparking areas must be well lit, well laid out and facilitate convenient manoeuvring into and out of spaces and should have a legible circulation pattern with adequate signage.</p>	<p>The proposed car parking areas have been designed to comply with relevant Australian standards for car parking. Refer to Traffic and Parking report submitted with the application.</p>	<p>Yes</p>
	<p>10. The following developments shall be designed with internal manoeuvring areas so that vehicles can enter and exit the site in a forward direction:</p> <ul style="list-style-type: none"> <li>a. developments of four or more dwellings</li> <li>b. child-care centres</li> <li>c. developments with vehicle access from a classified road</li> <li>d. industrial development, and</li> <li>e. other street locations where Council considers it necessary,</li> </ul>	<p>The development has been designed so that vehicles can enter and exist in a forward direction. The loading dock at ground level contains a turn table to facilitate vehicle manoeuvring in the site.</p>	<p>Yes</p>
	<p>11. Basement car parking is to be:</p> <ul style="list-style-type: none"> <li>a. adequately ventilated, preferably through natural ventilation;</li> <li>b. located within the building footprint. Construction must be carried out in a way to enable deep soil planting to be provided on the site;</li> <li>c. located fully below natural ground level. Where site conditions mean that this is unachievable, the maximum basement projection above natural ground level is to be 1m at any point on the site, or in flood prone areas, to the minimum floor level required by Council;</li> <li>d. designed for safe and convenient pedestrian movement and to include separate pedestrian access points to the building that are clearly defined and easily negotiated; and e. provided with daylight where feasible.</li> </ul>	<p>The proposed basement parking levels (B1, B2 and B3) will comply with these requirements where relevant.</p>	<p>Yes</p>
	<p>12. The widths of access driveways shall comply with Council's Technical Specifications.</p>	<p>The design of the proposed vehicle entry driveway into the development will comply with Council's design requirements.</p>	<p>Yes</p>

**Table 2 Rockdale Development Control Plan 2011 - Compliance Table**

13. For development on land fronting a Classified Road, the applicant must demonstrate that the development would not conflict with the traffic flow by reason of vehicles entering or leaving the site, or from parking congestion. Where available, all vehicular access to the land must be by way of a service lane or road other than the Classified Road.	Although the site has frontage to The Grand Parade, all vehicle access will be via the public parking area parallel to Ramsgate Road. Ramsgate Road is not a classified road.	Yes
14. All car parking for residential flat buildings is to be provided within a basement car park, with the exception of any required accessible or visitor parking which may be provided at-grade.	The residential flat building portion of the development is provided with basement carparking at B3.	N/A
15. Mechanical parking systems may be supported subject to compliance with the requirements from Council's Technical Specifications.	The proposal does not involve the use of mechanical parking stackers or the like.	Yes
16. All visitor car parking must be clearly marked, and must not be behind a security shutter unless an intercom system is provided for access.	The nature of the proposal involves parking for customers and staff of the retail, food/beverage outlets and visitors to the residential units. The parking for these different uses will be appropriately identified by signage and the like and will be freely accessible and managed.	Yes
17. Parking spaces for people with a disability are to be provided in close proximity to lifts or access points.	Accessible spaces, in accordance with Council's requirements, will be provided on level B1 in locations that are accessible to lifts and building entry points.	Yes
18. Garage doors must be treated as an integrated element of the building design	Any shutters across the vehicle entry points to the building will complement the building design in terms of its appearance and the materials/finishes.	Yes
19. Where building uses will require the provision of loading facilities they are to be designed in such a way as to permit all loading and unloading to take place wholly within the site and prevent conflict with pedestrian and vehicular movement within or surrounding the site.	All loading facilities for the building (supermarket and food and beverage outlet) will be located within the site on B1 for click and collect and Ground Floor for larger deliveries.	Yes



**Table 2 Rockdale Development Control Plan 2011 - Compliance Table**

	<p><u>Car Wash Facilities</u></p> <p>20. For buildings with 5 dwellings or more, at least one visitor car parking space is to be equipped with car wash facilities which has a cold water tap and is connected to the sewer system.</p>	Noted.	Yes
	<p><u>Pedestrian Access and Sustainable Transport</u></p> <p>21. Pedestrian access within a development must be legible and separated from vehicular access wherever possible.</p>	The development proposes separate pedestrian and vehicular entrances. Pedestrian access to the building will be clearly identifiable and legible from the public areas surrounding the site.	Yes
	<p>22. Provide safe and convenient pedestrian access from car parking and other public areas, with well-coordinated signage, lighting, security, direct paths of travel with stairs and disabled access ramps.</p>	The development will provide both safe and convenient access for pedestrians from the carpark into other parts of the building through the use of directional signage, lighting, CCTV and other means.	Yes
	<p>23. Provide legible bicycle access between the cycle network and bicycle parking areas, which does not create conflict with pedestrian traffic.</p>	Bicycle access into the building will be provided and there will be spaces provided for recreation bicycle riders and bicycles belonging to staff and visitors.	Yes
	<p>24. All bicycle parking is to be secure and, where provided within the public domain, must be designed to minimise obstruction of pedestrian movement.</p>	Secure bicycle parking is proposed to be provided within the basement carpark.	Yes
	<p>25. Design of bicycle parking is to cater to the various users of the development and their differing modes of bicycle parking required, such as:</p> <ul style="list-style-type: none"> <li>a. parking for employees or residents, and</li> <li>b. visitor parking, which is conveniently located preferably in areas which provide passive surveillance at ground level.</li> </ul>	The proposal will comply with this requirement, Refer to the Architectural Plans and Traffic Report submitted with the application. Bicycle parking is provided in all three basement levels to service residents, employees and visitors.	Yes
	<p>26. Where bicycle parking is to be provided for residents in basement car parks, it is to be in the form of individual bicycle lockers or within a caged or gated secure area.</p>	Bicycle parking for residents in B3 is located in secure garages.	Yes

**Table 2 Rockdale Development Control Plan 2011 - Compliance Table**

	27. Bicycle parking for non-residential development is to be provided as bike racks within publicly accessible areas or within the parking area.	Bicycle parking for non-residential development in B1 and B2 is provided in the form of publicly accessible racks.	Yes
	28. New developments must maintain and enhance existing pedestrian, cycle and public transport networks including bus stops.	The proposal will maintain the existing pedestrian, cycle and public transport network in the area, particularly along The Grand Parade.	Yes
	29. Design initiatives which promote sustainable transport are encouraged and can include: a. small car parking spaces b. dedicated communal or shared car spaces c. bicycle exchanges or communal bicycles d. dedicated and convenient motorcycle and scooter parking	The proposal provides for and encourage the use of sustainable transport.	Yes
	30. Applicants of larger developments should liaise with Council and transport organisations regarding public transport opportunities such as shuttle bus services or new bus stops.	As part of the DA assessment process, if Council identifies opportunities for better use of public transport (such as ride share, car hire, etc), those opportunities should be discussed with the applicant.	Yes
	31. Use ground surfaces throughout the pedestrian network that are slip-resistant, traversable by wheelchairs and indicate changes of grade by use of materials which provide a visual and tactile contrast.	The development will be fully accessible and utilise appropriate devices to improve accessibility.	Yes
4.7 Site facilities			
	<u>Air Conditioning and Communication Structures</u> 1. Satellite dishes, TV antennas, air conditioning units and any ancillary structures: a. are not visually intrusive to the streetscape; b. are located in positions that have a minimal impact on the amenity of adjoining properties and neighbouring lands; and c. do not have a negative impact on the architectural character of the building to which they are attached.	Where the proposal involves the need to erect satellite dishes, TV antennas, air conditioning plant and other ancillary structures, these will be located in such a way to not adversely impact the streetscape or impact the amenity of adjoining properties.	Yes

**Table 2 Rockdale Development Control Plan 2011 - Compliance Table**

	2. For each building comprising more than 2 dwellings, a master TV antenna or satellite dish is to be provided. Individual antennas or dishes may not be placed on balconies or verandahs.	Noted	Yes
	<u>Waste Storage and Recycling Facilities</u> 3. Development must comply with Council's Technical Specification – Waste Minimisation and Management regarding construction waste and on going management of waste facilities.	The proposal will comply with Council's requirements regarding the management of waste at both the construction phase and the operation stage of the development.	Yes
	4. Waste must be minimised through source separation of waste, reuse and recycling by ensuring appropriate storage and collection facilities.	Appropriate facilities will be provided to comply with this requirement. Refer to the Operational Waste Management Plan submitted with the application.	Yes
	5. Waste storage areas/facilities must be appropriately located so that they are easily accessed by tenants and do not have negative impacts on the streetscape or the residential amenity of occupants and neighbours with regards to smell, visual appearance or noise disturbance.	The proposal will provide an appropriate designed and located waste management area for the storage and collection of waste and recycling containers. Refer to the Operational Waste Management Plan submitted with the application.	Yes
	6. Development must incorporate convenient access for waste collection.	The development will provide for the satisfactory collection of waste by a private waste contractor. Refer to the Operational Waste Management Plan submitted with the application.	Yes
	7. For mixed uses, industrial and other non-residential uses, waste storage facilities should be designed to cater for different needs of multiple tenants as well as future changes in uses.	Refer to the Operational Waste Management Plan submitted with the application.	Yes
	<u>Service Lines/Cables</u> 8. Substation facilities must meet Energy Australia's requirements and if able to be viewed from the street, must be screened by landscaping to a height of at least 1.5m.  <i>Note: Energy Australia requires that buildings maintain clearances to high voltage electricity supply cables, and therefore may require a developer</i>	The proposed development has been designed to satisfy the requirements of Ausgrid. A replacement location for the existing electricity substation has been identified.	Yes

**Table 2 Rockdale Development Control Plan 2011 - Compliance Table**

	<i>to place high voltage cables underground in any location at no cost to Council or Energy Australia.</i>		
	9. In Wolli Creek and Bonar Street precincts, the developer is required to relocate underground electricity cables on the frontages at no cost to Council. 10. Internal communication cabling must be installed for telephone, internet and cable television uses.	Not applicable	N/A
	<u>Laundry Facilities and Drying Areas</u> 11. Laundry facilities are to be incorporated into each dwelling unit.	Appropriate laundry facilities will be located in each unit.	Yes
	13. Design should allow residents to hang clothes to dry in an open and preferably sunny part of the site.	Compliance solar access to POS will allow future residents to dry clothes in a sunny part of each unit.	Yes
	<u>Storage Areas</u> 18. For residential flat buildings and shop top housing, a minimum of 10m <sup>3</sup> storage area must be provided for each apartment. The storage area is to be exclusive of bedroom wardrobes, kitchen cupboards and services. At least 50% of the required storage within each apartment must be accessible from either the hall or living area.	10m <sup>3</sup> of storage in kitchen and bedrooms has been provided in all 44 units. Further storage external to units has been provided in the B3 basement carpark.	Yes
	<u>Hot Water Systems</u> 19. All hot water systems/units located on the balcony of a dwelling must be encased in a recessed box on the balcony with the lid/cover of the box designed to blend in with the building. All associated pipe work is to be concealed.	Hot water systems for each unit will be appropriately concealed.	Yes
<b>Part 5 – Building Types</b>			

**Table 2 Rockdale Development Control Plan 2011 - Compliance Table**

5.3 Mixed Use	<u>Development Setbacks</u> Front setbacks 1. Front setbacks must define a coherent alignment to the public domain and accentuate street corners.	The proposal provides an appropriate front setback and treatment for the corner of The Grand Parade and Ramsgate Road.	Yes
	2. Development is to be built to the street alignment with a zero setback. The uppermost floor level may be set back. If there is a predominant parapet line in the street, a setback from this line may be required to achieve a cohesive streetscape.	The podium component of the proposal has been aligned to the street boundary to Ramsgate Road. The upper floors of the building have been set back in accordance with this requirement. Given the site context and proposed residential use from Level 2 to Level 5, a street wall up to the upper level is not considered appropriate.	Yes
	3. Development on a busy road is to have a zero setback for at least the first three levels. A setback may be provided above the third level to ameliorate the impact of traffic noise and pollution.	As the development does not immediately address Ramsgate Road, and is separated by a Council carpark, Ramsgate Road is not considered a busy road for the purposes of applying this control. A zero setback has been provided at ground floor to The Grand Parade, with the exception of the supermarket entrance which is setback 3m. The first-floor food and drink premises is setback approximately 2.8m from the site boundary onto the Grand Parade. This has been executed to reduce noise and traffic impacts from the Grand Parade. The commercial uses of the ground and first floor are considerably different. The delineation in the buildings-built form is vital to distinguish these alternate land uses.	Yes
	Side and rear setbacks 4. For minimum side and rear setbacks for shoptop housing refer to 5.2 Residential flat buildings of this DCP.	Refer below.	Yes
	<u>Section 5.2 – Side and Rear Setbacks for Shop Top Housing</u>	Street setbacks do not apply.  Given the unique shape and characteristics of the site (corner site), there is debate regarding the appointment of the side and rear site boundaries. The front, side and rear lot boundaries are identified below.	Yes

Table 2 Rockdale Development Control Plan 2011 - Compliance Table

Setback	Requirement
	to be consistent with the prevailing setback along the street within the range of 3-9m
Street Setbacks	secondary street/lane 3-5m
	min 3m for buildings up to three storeys
Side Setback	min 4.5m for all levels for buildings more than three storeys
Rear Setback	min of 12m or 15% length of site, whichever is the greater



(Blue – Front, Grey – Side, Orange – Rear)

The arrangement of side and rear boundaries, as identified above is justified as follows:

- Lot 8 DP 10747 is the southernmost lot located in the site boundary. The southern side boundary allocated to the site is also the logical side boundary for Lot 8 DP 10747.
- Lot 55 DP 613007 is the westernmost lot located in the site boundary. The western side boundary allocated to the site is also the logical side boundary for Lot 55 DP 613007.
- The rear setbacks for the site, are the logical rear setbacks for Lot 8 DP 10747, Lot 55 DP 613007 and Lot 6 DP 11037.

The side setbacks provided along the western and southern site boundaries far exceed the minimum setback standards.

Table 2 Rockdale Development Control Plan 2011 - Compliance Table

		<p>The rear setback associated with the southernmost rear site boundary far exceeds the minimum setback requirement of 24m under Part 7 of the DCP.</p> <p>The rear setback associated with the northern most rear site boundary is impacted by Units 1 and 2. However, given the unconventional shape of the site, the western side and northern rear boundaries overlap. Given the land use immediately west of the site is commercial, containing a multi-level commercial building built to the side setback, impacts are negligible.</p> <p>Rear and side setback compliance has been far exceeded along the southern side and rear boundaries, where the site abuts existing townhouses. These townhouses achieve minimal separation from the shared boundary.</p> <p>Further site specific setback controls in Section 7.4 of RDCP.</p>	Justified
Building Uses	<p><u>Ground level uses</u></p> <p>8. Building uses fronting the public domain at ground level are to be active uses wherever possible.</p>	Retail land uses are proposed at ground level to provide active use of these spaces.	Yes
	9. Residential uses are prohibited on the ground floor with the exception of access to upper level residential uses.	No residential uses are proposed on the ground level of the building.	Yes
	10. Access to upper level uses does not occupy more than 20% of the ground floor frontage	The ground level will provide stair and lift access up to the food and beverage outlets on level 1. These do not occupy more than 20% of the ground floor frontage.	Yes
	11. Development on a site that has a sloping frontage is to be designed to step with the longitudinal grade of the street.	Not applicable as the site is level.	N/A



**Table 2 Rockdale Development Control Plan 2011 - Compliance Table**

	12. Where non-active uses, including building services and loading docks, are located on ground level, they must be 'wrapped' in retail or commercial uses at the street frontage	The ground floor frontage will only have minimal amount of non-active uses. Retail uses will predominantly occupy the ground floor.  The loading dock is located behind the retail uses, largely concealed from the street frontage.	Yes
	13. Any development which contains above ground car parking must 'wrap' the car parking with active building uses on any street frontage. All above ground car parking must be internal to the building; no at-grade car parking is permitted.	No car parking is proposed above ground level.	Yes
Retail	Retail 14. A minimum of 10% of the gross floor area of a mixed use development is to be for retail and/or commercial uses.	The proposal provides a mixed-use development comprising retail, commercial and tourist accommodation. The proportion of retail and commercial floor space exceeds 10%.	Yes
	15. Retail premises are to be regularly shaped with minimal intrusions from building services and circulation. All retail premises must have internal access to the loading dock if provided	The proposed ground floor supermarket satisfies this requirement. Refer to the Architectural Plans submitted with the application.	Yes
	16. Retail premises of less than 200m <sup>2</sup> must have a depth to width ratio between 1:1 and 3:1.	One of the retail premises along Ramsgate Road has an area less than 200m <sup>2</sup> . The depth to width ratio is between 1:1 and 3:1.	Yes
	17. Upper level commercial uses are encouraged in all centres, particularly fronting classified roads and higher order retail streets. Commercial spaces are designed for maximum flexibility of use and adaptability through co-location of services and regular floor plans.	The proposed food and beverage outlets on level 1 of the building will ensure a highly flexible area for a variety of uses.	Yes
	18. Commercial premises over 200sqm must provide staff toilets and showering facilities within the premises to encourage bicycle usage as well as amenity for staff.	End of trip facilities for cyclists is provided in the basement level of the building.	Yes
	19. Commercial premises under 200m <sup>2</sup> must have internal access to staff toilets and showering facilities and such facilities may be shared with other tenancies.	Not applicable.	Yes

**Table 2 Rockdale Development Control Plan 2011 - Compliance Table**

	20. Consideration is to be given to horizontal as well as vertical separation of uses in larger developments. Design solutions include separate commercial and residential towers with separate street address	The proposal involves separate entry points between the supermarket and the food and drink premises.  The commercial and residential use of the building are delineated through the implantation of the podium and tower.	Yes
	21. In buildings which contain more than three floors of commercial or retail space, separate access and circulation to commercial and residential spaces is required, including the separation of residential and commercial car parking where possible.	Not applicable.	N/A
	24. All shop top housing must address at least one street frontage, and have its main access off the primary street frontage and not a public internal circulation space.	All units are accessible via a vehicular access point from the public carpark along Ramsgate Road. Pedestrian access to residents will be provided via the ground floor lobbies adjacent to the retail spaces. The shop top housing addresses Ramsgate Road.	Yes
	25. The building must be designed to minimise potential impacts of commercial uses (eg restaurants and bars) on the amenity of residential users.	There will be minimal building use conflict between the commercial podium and residential tower levels. A series of mitigation measures will be implemented including separate access points and restricted lift access to residential levels.	Yes
Building Design	26. Façade and roof design is to comply with relevant controls in Section 5.2 Residential Flat Buildings of this DCP.	The design of the building roof and façade have followed the relevant DCP requirements where relevant.	Yes
	27. Blank party walls should be avoided and some modelling is to be provided to party walls.	Not applicable	N/A
	28. Adjacent to a highway or railway line, the building articulation is to be a lightly modelled street wall building using recessed balconies, expressed openings, projecting sills, roof overhangs and the like.	The proposed building is not adjacent to a highway or railway line.	Yes
	29. On retail streets, the building articulation is to be a heavily modelled street wall building, using projecting and/or recessed balconies, expressed window openings, deep reveals, roof overhangs and the like.	The design of the building form and particularly the use of upper floor articulation has satisfied the DCP requirements. Refer to the Architectural Plans submitted with the development application.	Yes

**Table 2 Rockdale Development Control Plan 2011 - Compliance Table**

	30. Floors of a building above the sixth floor may have the building wall predominantly set back from the street boundary with projecting balconies or rooms.	The proposed building does not contain a sixth floor.	Yes
	31. Where buildings are situated on a corner site, they have greater visual prominence and are to be designed to respond to street geometry, topography and sightlines. The façade treatment at the corner is to be designed to differentiate it from the street facades	The proposal provides both an interesting and modulated street façade and provides for an appropriate corner treatment in respect to the residential tower elements. Refer to the Architectural Plans submitted with the development application.	Yes
	32. The massing of a building on a corner site is to be distributed to enhance the street corner	The proposal provides for an appropriate design response in respect of the distribution of massing around the corner of The Grand Parade and Ramsgate Road.	Yes
Public Domain Interface	<u>Ground floor articulation</u> 33. Building design avoids dead spots at ground floor level, such as car parking frontages, blank walls and recessed spaces.	The design of the proposal at ground level has attempted to minimise excessive blank walls and recessed spaces. The proposal has focused on providing active retail uses at ground level.	Yes
	34. Areas of blank façade for structural and articulation purposes are only permitted with a width of no greater than 600mm.	Noted.	Yes
	35. Finer construction detailing and more textural materials, such as face brick, stone and timber, are encouraged at ground floor to add richness to the pedestrian experience of the built environment.	The proposal provides for a varied palette of materials and finishes for the treatment of the ground level façade.	Yes
	36. For major retail developments including supermarkets and discount department stores, such stores are to avoid having any blank wall fronting the street frontage. Any blank walls are to be 'wrapped' by specialty shops fronting the public domain	The proposal provides for a retail use along the Ramsgate Road frontage in front of the supermarket. The Grand Parade frontage will be provided as a Green Wall.	Yes
	37. Operable shopfronts for cafes and restaurants are encouraged to promote lively interaction between the public and private domains.	The retail space fronting onto Ramsgate Road will have an operable shopfront.	Yes

**Table 2 Rockdale Development Control Plan 2011 - Compliance Table**

Arcades, laneways and through site links	<u>Visual Connection</u> 42. Development includes display windows with clear glazing to ground floor retail and commercial premises with a maximum window sill height of 700mm. Glazing is not to be frosted or otherwise obscured at eye level; between the heights of 0.7-2.1m.	Noted.	Yes
	43. Upper level building uses are to be designed so that they overlook the public domain particularly where continuous awnings are not provided, allowing opportunities for casual surveillance.	Awnings are provided along ground level retail. Upper levels have been designed to maximise passive surveillance onto Ramsgate Road and The Grand Parade.	Yes
	44. All ground floor lobbies are to have direct visual connection with the street, with clear sight lines.	Both ground floor lobbies are accessed from the Ramsgate Road frontage and provide clear sight lines of the shopfronts and public domain.	Yes
	45. Security features at ground level complement the design of the façade and allow window shopping and the spill of light into the street out of business hours.	Security features will be implemented including passive surveillance, CCTV and appropriate lighting of the public domain.	Yes
	46. Roller shutters over windows and entry doors are not permitted.	Noted.	Yes
	47. New through site links should be connected with existing and proposed through block lanes, arcades and pedestrian ways and opposite other through site links	Not applicable.	N/A
	48. Existing arcades and walkways must be retained or replaced when a site is redeveloped.	Not applicable	N/A

**Table 2 Rockdale Development Control Plan 2011 - Compliance Table**

	<p>49. Pedestrian through site links and arcades are to:</p> <ul style="list-style-type: none"> <li>a. have active frontages,</li> <li>b. be clear and direct throughways for pedestrians,</li> <li>c. have a minimum width of 3.5m non-leasable space clear of all obstructions (including columns, stairs and escalators),</li> <li>d. where practicable, have access to natural light for at least 50% of their length,</li> <li>e. where air conditioned, have clear glazed entry doors comprising at least 50% of the entrance</li> </ul>	<p>Not applicable as there is no through site connection to the property to the south.</p>	<p>N/A</p>
	<p>50. Consider supplementing walkways and arcades with outdoor areas such as courtyards and outdoor rooms.</p>	<p>Not applicable to the site as there is no through site connection to the adjacent property to the south.</p>	<p>N/A</p>
	<p>51. Laneways that form part of the pedestrian network are to:</p> <ul style="list-style-type: none"> <li>a. have as a minimum 50% active frontage to the lane. Development on narrow lots may vary this requirement.</li> <li>b. have separate and clearly articulated vehicle access points and building entrances to avoid pedestrian and vehicular conflicts</li> <li>c. have service areas that are unobtrusive. Preferably orientate service areas perpendicular to lane frontage.</li> </ul>	<p>Not applicable to the subject site</p>	<p>N/A</p>
	<p>52. In Ramsgate Centre, to facilitate service and pedestrian access, a new laneway is to be provided between Dillon Street and Meurants Lane along the rear property boundary of business properties fronting Rocky Point Road. The proposed laneway is 6m in width and is to be achieved through dedication to Council at the rear of the properties at 236-290 Rocky Point Road, Ramsgate.</p> <p>The applicant is to indicate how any temporary access to properties on Rocky Point Road can be converted to retail uses once the lane is constructed and access is gained to development from the lane.</p>	<p>Not applicable to the subject site.</p>	<p>N/A</p>

**Table 2 Rockdale Development Control Plan 2011 - Compliance Table**

Awnings	53. Continuous awnings are to be provided to all retail streets. and are to provide protection from both sun and rain.	An awning will be provided over the northern facade of the development.	Yes
	54. Awnings meet the following requirements: a. minimum soffit height of 3.3m; b. maximum fascia height of 600mm; c. minimum setback from edge of kerb of 600mm; and d. maximum step of 900mm on sloping sites, which must not compromise environmental protection	A compliant awning will be provided on the northern façade of the building.	Yes
	55. Awning height provides continuity with adjoining properties and follows the street gradient. It is to be of sufficient depth to provide good shade and shelter to pedestrians.	There is currently no continuous awning between the Coles supermarket and the group of shops to the west of the site. A new awning will be provided to link those shops.	Yes
	56. Under awning lighting is included, either recessed into the soffit of the awning or wall mounted on the building.	Lighting will be provided.	Yes
	57. Variation in the awning treatment at lobbies and entries to upper level building uses is encouraged to improve the legibility of the building	Variation in the awning design will be provided.	Yes
Parking	58. Where a building contains residential and non-residential uses, separate lift access must be provided from basement car parking to the residential and non-residential areas.	Two separate lifts and stairways will provide sperate access to for residential tower and commercial podium component of mixed use building.	Yes
	59. Residential parking spaces must be secure and separate from non-residential vehicle parking and servicing areas.	Residential parking spaces are solely located on B3 which will only be accessible to residents.	Yes

**7.4 Ramsgate Beach Commercial Area**

**Table 2 Rockdale Development Control Plan 2011 - Compliance Table**

Carparking	1. Where the water table restricts excavation for basement carparking necessary to meet the carparking requirements in Part 4.6, at grade parking is permitted at the rear of the site.	The Geotechnical Report has not indicated any concerns with providing three levels of basement carparking on this site. All parking will be provided within the basement levels of the building.	Yes
	2. At-grade parking is not to be visible from the street frontage, except for a single access driveway, and it is to be located behind active retail uses which are at least 12m deep and address the street frontage.	No at grade parking is proposed.	Yes
	3. A landscape screen is to be provided between any open at-grade parking and adjoining residential properties.	No at grade parking is proposed.	Yes
Built Form and Setbacks	4. All developments are to express a 3 storey podium along Ramsgate Road which is to be built to the front property boundary.	The proposal provides a 2-storey podium built to Ramsgate Road. However, the increased height (5m) of the ground floor retail premises, as requested by Coles, will result in a podium of a similar height to 3 storeys.	Yes
	5. To create variation and articulation in street frontage facades, the levels of buildings above the podium should be setback at least 2m from the front property boundary	The upper floors of the residential tower provide for more than a 2m setback to the front property boundary.	Yes
	6. The podium of all developments is to be built to the side boundary at the street frontage, except where vehicle or pedestrian access to the development is provided along the side boundary. Where this is required, the podium may be setback from the side boundary up to 4.5m.	The ground level of the podium is built to the front and southern side setback. This is considered acceptable given the site has a dual frontage. The upper level of the podium is setback at maximum 4.5m from the side boundaries. This has been achieved to reduce overshadowing and acoustic impacts.	Yes
	7. The levels of all buildings above the podium are to have a side setback of 4.5m on sites with a street frontage width greater than 30m, and 3m on sites with a street frontage width less than 30m.	The side setbacks associated with the residential tower achieve a side setback greater than 4.5m.	Yes
	8. For development situated on the southern side of Ramsgate Road, any part of a building above the 4th floor must provide a minimum rear setback of 24m.	The southern rear setback, above the 4 <sup>th</sup> floor, is well in excess of 24m. The northern rear setback, above the 4 <sup>th</sup> floor, is not compliant with the 24m rear setback control.	Justified

**Table 2 Rockdale Development Control Plan 2011 - Compliance Table**

		A DCP variation is provided in Section 4.2.10.	
Streetscape	9. The Ramsgate Road facade of any development is to be heavily articulated with variations to the building edge and is to include a high proportion of balconies and avoid large expanses of blank walls.	The front façade of the proposed building facing onto Ramsgate Road will be heavily articulated. Refer to the Architectural Plans.	Yes
	10. Developments should respond to the Centre's beachside location by using a variety of environmental protection elements such as screens and louvres and a palette of materials which create a sense of lightness and openness and evoke a beachside feel.	The proposal provides for a development that will respond to the beachside feel of the location and will exhibit a very "Mediterranean" feel with open terraces, swimming pool and the use of classic white in the palette of external finishes.	Yes
	11. For buildings with a width at the street frontage greater than 30m, the facade of the levels of building above the podium is to be broken with significant recesses. These are to be at intervals no greater than 24m and are to give the impression of breaks between buildings. They should be at least 4.5m wide and 3m deep.	The proposal provides for a heavily articulated northern frontage at the upper levels of the residential tower to create the impression of breaks in the building appearance. Refer to the Architectural Plans submitted with the application	Yes